INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR 2016

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

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DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR 2016

WEDNESDAY, FEBRUARY 11, 2015

INDIAN HEALTH SERVICE

WITNESSES

DR. YVETTE ROUBIDEAUX, SENIOR ADVISOR TO THE SECRETARY FOR AMERICAN INDIANS AND ALASKA NATIVES

ROBERT McSWAIN, ACTING DIRECTOR, DEPARTMENT OF HEALTH AND HUMAN SERVICES, INDIAN HEALTH SERVICE

OPENING REMARKS OF CHAIRMAN CALVERT

Mr. CALVERT. Good morning. The Committee will come to order.

Good morning. Welcome to the oversight hearing on the fiscal year 2016 budget for the Indian Health Service. Since this is the first hearing of this Subcommittee in the 114th Congress, let me take a moment to congratulate the new Ranking Minority Member of this Subcommittee, Representative Betty McCollum of Minnesota. Betty, you have been a respected leader on this Subcommittee for some time, and I am very much looking forward to continuing to work with you in this Congress, particularly on the many nonpartisan issues under this Subcommittee's jurisdiction such as Indian Health.

Let me also take a moment to congratulate and welcome the newest members of our Subcommittee—not all of them are here—Representative Mark Amodei of Nevada, I guess we will forget about the sage grouse since he is not here today—Representative Steve Israel of New York, Representative Evan Jenkins of West Virginia, Representative Derek Kilmer of Washington. As many of your know, Mr. Kilmer's predecessor, Norm Dicks, was the cornerstone of this Subcommittee for more than 30 years and his leadership can still be felt today. For example, in fiscal year 2009, Chairman Dicks placed a renewed emphasis on Indian health in this Subcommittee that has continued through the three successive chairmen. In fact, since 2010, the Indian Health Service budget as a percentage of the Subcommittee's total budget has grown from 13 percent to over 15 percent today.

The President's 2016 proposal would push this ratio to 16 percent by increasing the Indian Health's discretionary budget by $461 million, of which $147 million is to keep pace with medical inflation, population growth, salary and benefit costs in order to maintain current levels of service. Fifty-five million is to keep pace

with the rising contract support costs, $18 million is to keep pace with the additional staffing costs from new expanded facilities, $35 million is to reduce a critical maintenance backlog that currently stands at $460 million, $100 million is to keep up efforts to complete the $2 billion Health Care Facilities Priority Construction List, and another $35 million is to address the $1.9 billion sanitation facilities backlog.

Two years ago, then-Chairman Simpson convened an oversight hearing to determine whether funding increases in recent years for the Indian Health Service were making a difference. The answer was a resounding yes, but that more needed to be done. Clearly, the 2016 budget proposes to do just that.

However, like the majority of my colleagues in Congress, I am disappointed that the increase proposed in fiscal year 2016 for Indian Health Service and many other agencies are not offset by responsible cuts to lower-priority spending elsewhere on both the discretionary and mandatory sides of the budget. For the majority of us in Congress, the goal here is to reduce the national debt, not add to it.

Nevertheless, there is no doubt that most of us, if not all of us on this subcommittee, agree that funding for Indian Health Service remains a priority in this bill, and we will continue to work with our Subcommittee's allocation to balance funding for Indian Health with other programs in this bill in order to pass an appropriation bill that fairly reflects the priorities of the Congress.

We are pleased to be joined today by Dr. Yvette Roubideaux, now the Senior Advisor to the Secretary of American Indians and Alaska Natives, who had previously been at the helm of Indian Health Service for several years and now patiently awaits re-nomination by the President and confirmation by the Senate.

We are also joined today by Mr. Robert McSwain, now Acting Director of the IHS, and formerly the Deputy Director. Mr. McSwain also served as Director of the IHS from 2007 to 2009.

We thank you both for being here this morning. I look forward to working with you today and over the coming months to review this budget request and to determine which of your priorities can be met in light of the Subcommittee's more limited allocation.

Before we turn to Dr. Roubideaux, let me first ask our distinguished Ranking Member, Ms. McCollum, for any opening remarks she may wish to make.

OPENING REMARKS OF MS. MCCOLLUM

Ms. MCCOLLUM. Thank you, Mr. Chair. I am looking forward to serving in this capacity. Our colleagues, I want to make sure that the colleague who made this possible for me by his retirement, Mr. Moran, remains in retirement, and one of the things he said is you have to keep the quote up. So gentlemen, I will not do this all the time but here is the quote for the day. It is short and sweet.

Mr. SIMPSON. I expect it every hearing.

Ms. MCCOLLUM. I do not think you are going to get it at every one, and we will see how you like this one.

"It is an old error of man to forget to put quotation marks when he borrows from a woman's brain." That is from Anna Spencer, who was an American educator, feminist, Unitarian minister—oh,

you got it. It is sinking in. We are a band of brothers and sisters on this Committee, so thank you, Mr. Chairman, for your kind words, and I look forward to working with you and all the members of this Committee because this bill does fund things that are so vital to our communities, our Nation and to its people. It is our moral and legal responsibility to provide for the health care for Native Americans, and this is something that we all take very seriously. So I would really like to join Chairman Calvert in welcoming Dr. Roubideaux and Mr. McSwain to the Subcommittee this morning.

As we kick off our hearings for the fiscal year 2016 budget request, I would also like to extend a warm welcome to the new members who are here and the returning members. I am very glad to have Ms. Pingree here to fill in when I cannot be here because of other duty assignments as part of this Congress.

So as you point out, Mr. Chairman, it is the history of this subcommittee to seek an approach on issues in a bipartisan fashion. Indian Health is an area where we have been tremendously successful and I am confident we will work together in the years to come as we face the challenges in Indian Country. These truly are our greatest successes.

Our support for federal treaty obligations in the past has allowed us to make considerable progress in addressing health, social, and educational needs throughout Indian Country. But we know as a Committee and as an Administration and as Americans, there is much more work to be done.

The fiscal year 2016 Indian Health Service budget request includes $5.1 billion in discretionary funding. That is an increase of $460.6 million over last year's levels. Within the proposed increase, $146.3 million would pay for additional funds to simply maintain the current levels of medical care. The remaining $313.3 million would allow us to expand services and pay for some of the health care needs that are currently unmet balances.

This is an ambitious proposal, and I am encouraged by the support of the Administration and my colleagues on this Committee for addressing the needs within Indian Country.

This budget request contains $55 million for contract support costs, an area of great concern for tribal leaders, for me and many of the people on this Committee. My partner on the Native American Caucus, Mr. Cole, has been a great champion on this.

While I am pleased that the Administration is no longer proposing caps to contract support, I am concerned that unless we also provide mandatory funding for direct services, there will be an inequity among tribes within their health care needs, so I hope to discuss this issue with you more later.

I first want to focus on the disparities in mental health, outcomes and available care in Native America communities, and this is something that we heard firsthand again when we were in Navajo and Hopi country. Native Americans experience post-traumatic stress disorder at more than twice the rate of the general population. Native Americans are more likely to serve as veterans. They experience domestic violence at a higher rate than the general population, and they carry the historical trauma of the Native American experience in this country. Access to mental health and chem-

ical dependency services remains a critical issue I instead to focus on with this Committee.

A study of the Substance Abuse and Mental Health Services Administration indicates 11.5 percent of Native Americans have unmet needs for mental health treatment, and the suicide rate is the second leading cause of death for Native American youth ages 10—ages 10—to 34.

So I was pleased to see that the budget included $25 million for the Tribal Behavioral Health Initiative for Native Youth, and I am interested in hearing more about that.

I was also happy to see that the request made strategic investments in information technology implementation, to fully integrate electronic medical records. There is a lot of work IHS needs to do with that with working with insurance companies and third-party reimbursements. I'll want to hear more on the Defense Committee, on which many of us sit, about how you are integrating with the Department of Defense and Veterans Affairs with your mental health records.

So Mr. Chairman, I want to thank you for holding this hearing. I look forward to working with you and all the members on this Committee, and as we build healthy tribal community nations and Native communities, we build a healthier America. Thank you.

Mr. CALVERT. Thank you, and Doctor, you are recognized for your opening statement.

OPENING REMARKS OF DR. ROUBIDEAUX

Dr. ROUBIDEAUX. Great. Thank you so much, Chairman Calvert and Ranking Member McCollum and members of the Committee, I am Dr. Yvette Roubideaux, Senior Advisor to the Secretary for American Indians and Alaska Natives, and with me today is Mr. Robert McSwain, Acting Director of the Indian Health Service, and we are pleased to provide testimony on the President's proposed fiscal year 2016 budget for the Indian Health Service.

Since 2008, IHS appropriations have increased by 39 percent, thanks in part due to the efforts of your Committee, and these investments are making substantial impact on the quantity and the quality of health care we are able to provide to American Indians and Alaska Natives.

This budget proposes to continue that progress by increasing the budget by $461 million to a level of $5.1 billion, which if appropriated would increase the IHS budget to 53 percent since 2008.

This budget continues the Administration's commitment to improving health care for American Indians and Alaska Natives, and I know you share that commitment as well.

The fiscal year 2016 President's budget proposes a number of increases, first, a $147 million increase to help address medical inflation, population growth and pay costs to help maintain current services. It also addresses a top tribal priority by proposing an overall $70 million increase to the Purchase and Referred Care program, formerly known as Contract Health Services—so thank you for helping us change the name—which will help us fund more referrals for patients and result in more programs funding more than Priority I or life-or-limb services. My testimony mentioned that we

have gone from four programs funding more than life-or-limb to now 41 of 69 programs funding more than life-or-limb referrals.

The recent increases in PRC has also enabled the Catastrophic Health Emergency Fund, or CHEF fund, to reimburse high-cost cases submitted through mid-September rather than only through June, as in the past.

The budget proposes an additional $25 million for the IHS to expand its successful Methamphetamine and Suicide Prevention Initiative to increase the number of child and adolescent behavioral health professionals who will provide direct services and implement youth-based programming as a part of the President's Generation Indigenous Initiative. The budget also includes other increases focusing on improving access to affordable health care with improving third-party collections and helping IHS continue to achieve Meaningful Use of its Electronic Health record.

The budget proposes to reauthorize the successful Special Diabetes Program for Indians, or SDPI, for another 3 years at the current $150 million funding level to continue progress because it has demonstrated that we can prevent and treat diabetes in the American Indian and Alaska Native population.

The budget also includes significant investments in IHS facilities including increases for maintenance and improvement, sanitation facility construction, and health care facility construction, which will help us make significant progress on our priority list.

The budget also proposes $18 million to fund additional staffing for all three of the newly constructed facilities that are planned to be opened prior to or in fiscal year 2016.

A top priority for the Indian Health Service is to strengthen our partnership with tribes. I truly believe that the only way that we are going to improve the health of our communities is to work in partnership with them, and this includes honoring and supporting tribal self-determination and tribal self-governance. That is why I am pleased to inform you that the budget includes a two-part, long term approach to funding contract support costs, which is the result of our tribal consultation that you requested last year on a long-term solution for contract support cost appropriations.

The first part of the budget is full funding of the estimated CSC need in fiscal year 2016, for which the budget requests an increase of $55 million. The second part of the approach is a proposal to reclassify CSC as mandatory, rather than discretionary, starting in fiscal year 2017, after we do tribal consultation in fiscal year 2016 and in work with you in Congress. The proposal is significant because it is the top recommendation from the tribes to fully fund contract support costs separately from the services budget, and that was a top recommendation that all tribes agreed that they want full funding of contract support costs but not at the expense of the rest of the budget, and so that is why this accomplishes that separation. IHS has also worked in partnership with tribes to improve estimates of contract support cost needs and the agency's business practices related to CSC funding. The proposal to reclassify CSC as a mandatory appropriation helps us continue progress on this issue, and we look forward to working with you on this proposed approach.

IHS has also made progress on past contract support cost claims with offers extended on 1,219 claims and settlements on 883 claims for a total value of $679 million.

So in summary, this fiscal year 2016 President's budget helps continue progress on improving quality and access to health care, changing and improving the Indian Health Service, and strengthens our partnership with tribes.

I appreciate all your efforts to helping ensure a healthier future for American Indians and Alaska Natives.

Thank you, and we are happy to answer questions you may have.

[The statement of Yvette Roubideaux follows:]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT

OF

YVETTE ROUBIDEAUX, M.D., M.P.H.

SENIOR ADVISOR TO THE SECRETARY FOR AMERICAN INDIANS AND ALASKA NATIVES

BEFORE THE

HOUSE SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES

APPROPRIATIONS HEARING

ON

THE PRESIDENT'S FY 2016 PROPOSED BUDGET

FOR THE

INDIAN HEALTH SERVICE

February 11, 2015

STATEMENT OF THE INDIAN HEALTH SERVICE

Mr. Chairman and Members of the Subcommittee:

Good morning. I am Dr. Yvette Roubideaux, Senior Advisor to the Secretary for American Indians and Alaska Natives. I am pleased to provide testimony on the President's proposed FY 2016 budget for the IHS and to describe our accomplishments that show the budgets enacted in recent years have made a difference in helping us address our agency mission to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives (AI/ANs) to the highest level.

The IHS is an agency within the Department of Health and Human Services (HHS) that provides a comprehensive health service delivery system for approximately 2.2 million AI/ANs from 566 federally recognized Tribes in 35 states. The IHS system consists of 12 Area offices, which are further divided into 170 Service Units that provide care at the local level. Health services are provided directly by the IHS, through Tribally contracted and operated health programs, through services purchased from private providers, and through contracts and grants awarded to urban Indian health programs.

As an agency we are committed to ensuring a healthier future for all AI/AN people, and the IHS budget is critical to our progress in accomplishing this. Since 2008, IHS appropriations have increased by 39 percent, thanks in part to your committee, and these investments are making a substantial impact in the quantity and quality of health care we are able to provide to AI/ANs. The FY 2016 President's budget proposes to increase the IHS budget to $5.1 billion, which will add $461 million to the FY 2015 enacted funding level, and if appropriated, will increase the IHS budget by 53 percent since FY 2008.

The funding increases proposed in the President's budget are part of an "all of government" approach to addressing Tribal needs, with a particular focus on AI/AN youth. For the IHS, the increases will help us improve the quality of and access to care for the patients we serve by expanding access to priority health care services that our patients need, which will result in better quality and health outcomes.

The FY 2016 President's Budget proposes current services increases totaling $147 million, which are critical to maintain services of our IHS and Tribal hospitals and clinics, help address medical inflation, population growth and pay costs, and ensure continued support of services that are vital to improving health outcomes.

The FY 2016 President's Budget also addresses a top Tribal priority by proposing an overall $70 million increase to the Purchased/Referred Care (PRC) budget, formerly known as Contract Health Services. This increase includes $43.6 million in medical inflation, $1.2 million in additional staffing for new facilities and a $25 million program increase. PRC funding has increased almost every year since 2008 (58 percent overall), which has allowed some of the IHS and Tribally-managed PRC programs to approve referrals in priority categories other than Medical Priority I – Emergent or Acutely Urgent Care Services (life or limb), including some preventive care services, thus increasing access to patient care services. In 2009, only four IHS-operated PRC programs were able to fund referrals that met PRC Medical Priority I. In FY 2013, 23 IHS-operated PRC programs were able to purchase services beyond Medical Priority I. This number increased to 41 of 69 IHS-operated PRC programs with the PRC increase in FY 2014. The recent increases in PRC have also enabled the Catastrophic Health Emergency Fund (CHEF) to reimburse high cost cases submitted through mid-September, rather than only through June as in the past.

The FY 2016 President's Budget proposes an additional $25 million for the IHS to expand its successful Methamphetamine and Suicide Prevention Initiative (MPSI) to increase the number of child and adolescent behavioral health professionals who will provide direct services and implement youth based programming at IHS, Tribal, and IHS-funded Urban Indian health programs, school based health centers, or youth based programs. This funding will enable the hiring of more behavioral health providers specializing in child, adolescent, and family services, which will improve access to behavioral health prevention treatment services for AI/AN youth. This expansion of the MSPI is the central focus of the Tribal Behavioral Health Initiative for Native Youth, which is part of the President's comprehensive Generation Indigenous Initiative to remove barriers to success and to create opportunities for Native youth and reflects a collaborative effort between the IHS and the Substance Abuse and Mental Health Services Administration.

The IHS and Tribes have made progress in improving behavioral health over the past few years with both the MSPI and the Domestic Violence Prevention Initiative (DVPI). The MSPI has funded 130 IHS, Tribal, and urban community developed programs since 2009 that have provided over 500,000 evidence-based and practice-based youth encounters in the first five years of MSPI implementation. The successes of the MSPI highlight the effective use culturally appropriate interventions and supportive environments, such as identification with Native culture, increased social connectedness, and discussing problems with friends or family, emotional health, and connectedness to family, consistent with the scientific literature on prevention of suicide and substance abuse among AI/AN youth. The increase in services is significant

and as a result the percent of individuals receiving depression screening in IHS and Tribal facilities increased from 35% in FY 2008 to 66% in FY 2014.

The DVPI currently funds 57 projects focusing on prevention, intervention, and treatment of domestic and sexual violence. Together these services have resulted in 50,500 direct service encounters, more than 38,000 referrals, and the delivery of over 600 forensic evidence collection kits submitted to federal, state, and Tribal law enforcement. These are vital services. According to a 2014 Centers for Disease Control and Prevention report, American Indian women residing on Indian reservations suffer domestic and sexual violence at rates far exceeding women of other ethnicities and locations. Native women are over 2.5 times more likely to be raped or sexually assaulted compared to other women in the U.S.

The FY 2016 President's budget also includes other increases focused on improving access to affordable health care. With the Affordable Care Act's Health Insurance Marketplaces and the Medicaid expansion, IHS has the potential to increase revenues to support more services through third party reimbursements when it provides services to eligible American Indians and Alaska Natives with other health insurance coverage. The FY 2016 President's budget includes a $10 million funding increase to improve third party billing and collections at IHS and Tribally operated facilities. Having more patients who are Medicaid beneficiaries or have private insurance is one part of increasing revenues for our hospitals and clinics. Improving our business practices to ensure timely and accurate billing, monitoring of open receivables, and follow up on unpaid bills is another critical component on which IHS has made progress. In FY 2014, IHS third party collections increased by $39 million, mainly due to improvements in business practices and from increased third party reimbursements from patients with health coverage.

Another important component necessary to improving quality and ensuring better outcomes for our patients is an effective, state-of-the-art health information technology system that helps us measure outcomes and provide better patient care. That is why we continue to upgrade the capabilities of our IHS Resource and Patient Management System (RPMS), which includes IHS' Electronic Health Record (EHR). The FY 2016 President's budget will help IHS to comply with the requirements for the 201S EHR Certification and Stage 3 Meaningful Use (MU), through an increase in funding of $10 million. Participation in MU is critical for the agency since it promotes activities to improve quality and penalties in Medicare payments will occur if IHS does not participate.

IHS has implemented several major upgrades related to MU initiative. The IHS was an early adopter of EHR technology and achieved certification for Stage 1 MU, resulting in the IHS and Tribal health systems receiving over $120 million to date from the MU incentives. IHS recently received certification for the 2014 Certified EHR and is developing upgrades that will include the ability to achieve MU Stage 2, which includes the ability to share records between facilities, have patients view their health records online, and even have patients send direct secure email to providers. IHS is also preparing to implement ICD-10 which can now proceed since IHS met the 2014 EHR Certification requirements. The IHS RPMS team is currently conducting testing of ICD-10 software upgrades with four sites and with external payers. We are on track to meet the ICD-10 implementation date of October 1, 2015 and plan to begin upgrading local RPMS systems in June.

Another successful program that is helping us improve the provision of quality health care is our Special Diabetes Program for Indians (SDPI). The FY 2016 President's budget proposes to reauthorize the SDPI for another 3 years at the current $150 million funding level to continue progress in preventing and treating diabetes in the AI/AN population. This program has shown that, in partnership with our communities, we can prevent and treat diabetes in Indian country with innovative and culturally appropriate activities. The most recent SDPI data reflect improvements in diabetes care throughout our system. For example, the rate of increase in diabetes prevalence in adults is slowing and there is almost no increase in diabetes prevalence in youth. In addition, the most recent outcomes paper for the SDPI Diabetes Prevention Program (DPP) suggests that the DPP may reduce new cases of diabetes through lifestyle changes. Preventing diabetes, especially among Native youth, is important since it will help them avoid a lifetime of diabetes and related health problems.

Ensuring access to health care requires efficient and effective facilities and infrastructure, which contribute to improving public health and health outcomes. The FY 2016 President's budget includes significant investments in IHS facilities, including increases for maintenance and improvement, sanitation facility construction, and health care facility construction. Since 2008 the IHS has maintained the facility condition of its health care facilities, provided sanitation facilities service to 159,990 Indian homes, funded 2 hospitals, 6 health centers, and 2 youth regional treatment centers, and participated with Tribes in 12 joint venture projects. However, the backlog of essential maintenance, alteration, and repair is $467 million as of the end of FY 2014, over 34,500 AI/AN homes are without access to safe water or adequate wastewater disposal facility infrastructure and over 182,500 AI/AN homes that require upgrades and/or

capital improvements to the existing sanitation facilities, and there remains $2 billion of construction projects still to construct on the IHS Health Care Facilities Construction Priority List.

The FY 2016 President's Budget proposes an additional $171 million for the Facilities appropriation to address these needs. Included is $35 million to address the maintenance backlog and $36 million to provide sanitation facilities to 7,700 more homes than estimated to be served in FY 2015. In addition, the health care facilities construction budget is proposed to be increased by $100 million for a total funding level of $185 million, which will enable the IHS to complete construction of the Gila River Southeast Health Center, and begin construction on three other projects on the IHS Health Care Facility Construction Priority List including the Salt River Northeast Health Center in Arizona, the Rapid City Health Center in South Dakota, and the Dilkon Alternative Rural Health Center in Arizona.

Additional staffing for newly constructed facilities is critical to achieving the planned increased access to health care. The FY 2016 President's budget proposes to fund all three of the projects that are opening just prior to or in FY 2016. The requested amount is $18 million to complete the staffing packages for the Southern California Youth Regional Treatment Center and the Mississippi Band of Choctaw Indians' joint venture health center, and to begin funding of the staffing package for the Fort Yuma Health Center.

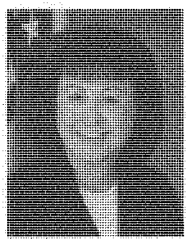
A top priority of the IHS is to strengthen our partnership with Tribes. I truly believe that the only way that we are going to improve the health of our communities is to work in partnership with them. This includes honoring and supporting Tribal self-determination and self-governance. That is why I am pleased to inform you that the FY 2016 President's budget includes a two-part, long term approach to funding contract support costs (CSC), which is the result of our Tribal consultation that you requested last year on a long-term solution for CSC appropriations. The first part of the approach is full funding of the estimated CSC need in FY 2016, for which the budget requests an increase of $55 million.

The second part of the approach is a proposal to reclassify CSC as mandatory, rather than discretionary, starting in FY 2017, after Tribal consultation in FY 2016. The reclassification of CSC as mandatory would be authorized for a 3-year period that specifies annual amounts that fully fund the estimated CSC need for each year for FYs 2017-2019. This proposal is consistent with the top recommendation in FY 2014 from Tribes to shift CSC to a mandatory account as the long term approach to fully funding CSC, and will accomplish the top Tribal recommendation to fully fund CSC separately from the services budgets. In the past year, IHS has worked in partnership with Tribes to improve estimates of CSC need and the agency's

business practices related to CSC funding. IHS has also made progress on past CSC claims, with offers extended on 1,219 CSC claims and settlements on 883 claims for a total value of $679 million. The FY 2016 President's Budget's proposal to reclassify CSC as a mandatory appropriation helps us continue progress on this issue which is a top priority of Tribes and we look forward to working with you on this proposed approach.

I want to close by emphasizing that even with all the challenges we face, I know that, working together with our partners in Indian Country and Congress, we can continue changing and improving the IHS to better serve Tribal communities. The FY 2016 President's Budget helps IHS continue progress on improving access to quality healthcare and strengthens our partnership with Tribes. I appreciate all your efforts in helping us provide the best possible health care services to the people we serve, and in helping to ensure a healthier future for American Indians and Alaska Natives.

Thank you and I am happy to answer any questions you may have.



Dr. Yvette Roubideaux

Senior Advisor to the Secretary for American Indians and Alaska Natives

Yvette Roubideaux, M.D., M.P.H., a member of the Rosebud Sioux Tribe, South Dakota, is a Senior Advisor to the Secretary for American Indians and Alaska Natives. Dr. Roubideaux was confirmed by the U.S. Senate as IHS Director on May 6, 2009. On April 23, 2013, President Obama re-nominated Dr. Roubideaux to serve a second four-year term, and on February 10, 2015, Secretary Burwell designated her to serve as a Senior Advisor. The IHS, an agency within the Department of Health and Human Services, is the principal federal health care advocate and provider for American Indians and Alaska Natives.

Dr. Roubideaux administers a $4.4 billion nationwide health care delivery program that is responsible for providing preventive, curative, and community health care to approximately 2.2 million American Indians and Alaska Natives in hospitals, clinics, and other settings throughout the United States.

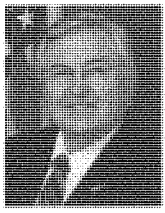
Dr. Roubideaux previously worked for IHS for three years as a medical officer and clinical director at the San Carlos Service Unit on the San Carlos Apache Indian reservation in Arizona, and she worked for one year as a medical officer at the Hu Hu Kam Memorial Indian Hospital on the Gila River Indian reservation in Arizona.

Dr. Roubideaux recently served as assistant professor of family and community medicine at the University of Arizona College of Medicine. Dr. Roubideaux has conducted extensive research on American Indian health issues, with a focus on diabetes in American Indians/Alaska Natives and American Indian health policy. Dr. Roubideaux served as the co-director of the Special Diabetes Program for Indians Demonstration Projects, in which 66 American Indian and Alaska Native communities implemented diabetes prevention and cardiovascular disease prevention initiatives. She also served as director of two University of Arizona programs designed to recruit American Indian and Alaska Native students into health and research professions.

Dr. Roubideaux received her medical degree from Harvard Medical School in 1989 and completed a residency program in primary care internal medicine at Brigham and Women's Hospital in Boston in 1992. She completed her Master of Public Health degree at the Harvard School of Public Health in 1997. She also completed the Commonwealth Fund/Harvard University Fellowship in Minority Health Policy before transitioning to a career in academic medicine and public health.

She is a past president of the Association of American Indian Physicians and co-editor of the American Public Health Association's book "Promises to Keep: Public Health Policy for American Indians and Alaska Natives in the 21st Century." She has authored several monographs and peer-reviewed publications on American Indian/Alaska Native health issues, research, and policy.

March 2014



Robert G. McSwain, M.P.A.
Acting Director
Indian Health Service

Robert G. McSwain, a member of the North Fork Rancheria of Mono Indians of California, is the Acting Director for the Indian Health Service (IHS). Mr. McSwain most recently served as the Deputy Director for the IHS. The IHS, an agency within the Department of Health and Human Services, is the principal federal health care advocate and provider for American Indians and Alaska Natives.

Mr. McSwain administers a $4.6 billion nationwide health care delivery program that is responsible for providing preventive, curative, and community health care to approximately 2.2 million American Indians and Alaska Natives in hospitals, clinics, and other settings throughout the United States.

Mr. McSwain began his federal career with the Indian Health Service in 1976 as Director for the IHS California Area Office. In 1984 he was named Special Assistant to the IHS Director and assigned to long-term training at the University of Southern California. In 1986, he was transferred to the IHS Headquarters in Rockville, Maryland, where he held positions of increasing responsibility and diversity, including Director of the Division of Health Manpower and Training for the Office of Health Programs, Deputy Associate Director for the Office of Administration and Management, and Management Analysis Officer for the Office of the Director. From 1992 to 1997 he served as the Acting Associate Director for the Office of Human Resources. Mr. McSwain was selected as the Director of the Office of Management Support in March 1997. From August 2004 until February 2005, he served as the Acting Deputy Director for Management Operations and from February 2005 until September 2007 as the Deputy Director of the IHS. He served as the Acting Director of the IHS from September 2007 until he was sworn in as the Director of the IHS in May 2008 and served until May 2009.

Mr. McSwain obtained a Bachelor of Science degree in Business Administration from California State University - Fresno in 1969. In 1986, he earned a Master's degree in Public Administration and pursued doctoral studies in public administration from the University of Southern California. Mr. McSwain has received numerous honors, including the President's Rank Award for Meritorious Service in 2002 and the President's Rank Award for Distinguished Service in 2006.

February 2015

Mr. CALVERT. Thank you, Doctor, we appreciate your testimony.

CONTRACT SUPPORT COSTS

You mentioned in your testimony contract support costs, and the budget proposes to fully fund contract support costs in this bill for 2016 and move the funding to the mandatory side of the ledger for 2017. How does moving the contract support costs to mandatory funding help solve the Committee's concerns about, one, the difficulty of accurately estimating support costs before the start of each fiscal year, and two, inconsistencies in contract support cost policies between the Indian Health Service and the Bureau of Indian Affairs?

Dr. ROUBIDEAUX. Well, we really appreciate your work with us on contract support costs and understanding how the costs can be variable over time, and we actually have worked with our IHS tribal CSC work group. Actually tribal and federal members have been working together over the past year. They have developed a more accurate way to calculate contract support costs. They call it the annual CSC calculation tool. It is a tool that helps make the estimates more reliable, more accurate, and verifiable based on actual data that the tribes give us. And so moving the contract support costs to mandatory is a part of sort of the process to make contract support costs a better business operation within the Indian Health Service, and by combining with the Bureau of Indian Affairs, it helps us work on, you know, finding other ways to streamline the operations, finding other ways to work together.

The challenge we have is that the Bureau of Indian Affairs funding is a little different than the Indian Health Service funding. The magnitude of programs available for contracting and the magnitude of the increases that tribes can assume is much different than the Bureau of Indian Affairs. Fortunately, there are members of our CSC work group on the BIA CSC work group, and they are already talking about ways that we can make that there.

The other thing that helps us in mandatory is flexibility to move—we would like to see it be no-year funds so that if we do not spend all our funds in one year, we could move it to the next year.

Mr. CALVERT. Well, I understand your desire to get over to the mandatory side of the budget. It seems like everybody is trying to get to the mandatory side of the budget, and that is probably why it is that about 63 percent of total outlays right now is mandatory spending. So it is a challenge, but I understand, where you are coming from. We have shortchanged Indian health for a long time and this is a way to help fix that problem, but we will certainly take a serious look at it.

Your testimony states that the top tribal recommendation is to fully fund contract support costs separately from the services budget. Short of shifting the funding to mandatory spending, which is your desire, and which is outside of our jurisdiction, of course. We will have to have others work on that. Would it make sense to move contract support costs to a standalone account within discretionary spending so that any future shortfalls are not paid for by direct services?

Dr. ROUBIDEAUX. Well, certainly the tribes have agreed that they want full funding but not at the expense of the rest of the budget,

and a part of their reasoning for the mandatory proposal was to separate them. We would be happy to talk with you about that proposal and ideas that you have because I think if there is any way we can get towards the tribal recommendation and work towards that, that would be great.

We do worry, however, on the discretionary side, even if it is separate, there is the issue of the less flexibility if it is an annual appropriation, and so that is—if the funds all have to be spent within one year, that is challenging with contract support costs because it is a variable cost over time. That is how it is defined in the law, and the tribes said they do not want to change the law around it but they do want to look at ways that we can make sure that we are fully funding and also estimating better.

Mr. CALVERT. Well, we will work together on that and we will try to figure out how we are going to do this, with that, Betty, questions?

Ms. MCCOLLUM. Thank you, Mr. Chairman.

Just to follow up on that a little bit, you use the term "better business model," and I understand that the tribes have made an investment. It is a public nation-to-nation partnership, and they need to know that they can pay their bills and keep their hospitals open and all of that. But at the same time, we do know that there are many people in Indian Country on the other side who do not have the contract support, who do not have the government-to-government relationship on a business-model level, and they go without services when the dollars are not there. So we need to make sure—and I know the Chairman, had a good idea about the stand-alone account—that we do not with the best of intentions wind up creating even more inequities in the Indian Health Service.

MENTAL HEALTH

I would like to focus on chemical dependency and mental health. As I stated earlier, I am very excited about the proposed increase—a slight increase but it is an increase nonetheless. But one of the things that we have been hearing in public testimony and we hear firsthand when we are out on reservations or when I am in urban areas, "how do we make sure that there are not barriers to receiving these health care services?" So what are you doing to make sure that treatment, both for chemical and mental health—and quite often they go hand in hand, as you know, Doctor, what are you doing to reduce barriers on that. Because just putting the money but not reducing the barriers does not provide the service.

Dr. ROUBIDEAUX. Well, I agree with you that this is a significant challenge to deal with, you know, chemical dependency and mental health issues, and you are right, they often do coexist. We have been working in the Indian Health Service to implement our Improving Patient Care Initiative, which is a patient-centered medical home, and just this year we have started working on integrating primary care with behavioral health so that there is more access points to services so that they do not just have to go to the mental health trailer and get services, they can actually be seen within the clinic with our whole team to try to help with that.

This particular initiative, the Tribal Behavioral Health Initiative, is a part of the President's Generation Indigenous Initiative. When

he visited Standing Rock, the youth that he spoke with told him of all kinds of barriers that they face and challenges that they face, and many of them were substance abuse, alcoholism, mental health issues, suicide, those kinds of things. And so there is a whole Administration effort under this initiative to try to help remove barriers to success for Native youth, and our piece as the clinical provider of services, is a focus on trying to get more behavioral health providers in those communities working at points of access where youth are like in the schools or in youth programs or in the clinic, and we know tribes have been saying they want more behavioral health services, we know that we need more providers, and so this funding would help us get more trained clinical providers that can address the problems of youth, and we felt like there is other pieces of Generation Indigenous that there are improvements in the schools and other sorts of things, and SAMHSA is working on their behavioral health grant program to contribute to this for more community-based things. IHS as the provider of health care is providing providers.

Ms. MCCOLLUM. You know, we are going to want to, you know, possibly see outcomes on this, and $25 million is significant, but in the big scheme of things across all of Indian Country, it is not much, especially with the depth and breadth that you cover from patient-centered care, home-centered care versus, going out in the community and meeting the youth where they are.

So I would be very interested as this moves forward for you to keep the Committee involved in what these different programs are so that when we are out in the community, we can ask if these dollars are starting to reach them.

Thank you, Mr. Chair.

Mr. CALVERT. Thank you.

Mr. Simpson.

Mr. SIMPSON. Thank you, Mr. Chairman, and welcome, Dr. Roubideaux. It is good to see you again.

SEQUESTRATION

As you are probably aware or probably should be if you are reading anything, we are probably not going to have as much money to spend as the President's budget spends, and that is going to make things tighter and more difficult for us to put together. As you know, the last time we hit sequestration, we did not exempt Indian Health Services as we did Medicare and some of the other programs, veterans' health care and so forth. It was an oversight error on our part, quite frankly. Sequestration has raised its head now that the Ryan-Murray budget has expired and we do not know what the Budget Committee is going to put forward. Have you looked at the impacts of sequestration on Indian Health Services if we don't do anything about sequestration?

Dr. ROUBIDEAUX. Well, it would seriously impair our ability to carry our programs and mission, not just in the IHS federally funded programs but in the tribal programs and the urban programs. For example, if there was a 2 percent decrease, that would probably be around $83 million. I will get you the exact number of that. Those would be cuts across the board that would impact services, and when we are dealing with the lowest funded health system per

capita expenditures, every dollar counts, and so even small decreases do cause some of our programs to have to lay off staff or have to reduce services or those sorts of things.

But we hear the tribes always are telling us that they do not like sequestration and that they are hopeful that Congress could exempt not just Indian Health Service but all programs for tribes, and so that is what we hear from them. But there is no doubt it would have serious impact.

Mr. SIMPSON. Well, I am not sure you would find anybody that really likes sequestration but somehow we find ourselves here, which is kind of bizarre.

RECRUITING AND RETENTION

One of the challenges we have been facing for years is the lack of health care professionals in Indian Health Service. We had like a 1,500–person backlog in health care professionals. We directed IHS in report language to look at the credentialing process. Can you provide us an update regarding the pilot program on the credentialing process the Committee discussed with you in 2015 and how it could impact IHS's need for additional health care providers?

Dr. ROUBIDEAUX. Yes. Making sure we have qualified professionals is extremely important. The tribes want us to have the highest-quality providers possible. So we appreciate your interest in improving our credentialing.

I think in the past IHS had sort of different ways of doing it in all of the different areas. I have charged a new hospital consortium to meet and to look at how we can better maintain our accreditation standards, and a part of accreditation is credentialing, and so right now they are looking at whether a consistent system among the areas versus some tailoring of that would work, but we have made requirements to our sites to make sure all of our providers are credentialed and privileged before they actually practice. And it is just a matter of finding a good system for that. We have talked with the VA a little bit. We are looking at other systems, and that is—we are actively working on that right now.

Mr. SIMPSON. Well, I appreciate that. As we found out, it is not only credentialing, there are a lot of other factors that go into being able to get health care professionals to go on to Indian reservations, sometimes remote Indian reservations, housing and other types of things. Before I quit, Mr. Chairman, I would feel like I had not done my job if I did not ask a dental question.

HEALTH IT

Could you give us the status of your work to complete electronic dental records and making this priority would help IHS gather data on early childhood caries, which will lead to cost savings in the long run?

Dr. ROUBIDEAUX. Well, we are very committed to implementing the electronic dental record in all 230 sites within the system, and the update is that we now have it at 169 sites, so we have made a lot of progress so there is 61 to go, and we have renewed our contract to be able to work with sites and give them technical assistance and help them with the capacity to be able to it. But you are

absolutely right. The electronic dental record with its clinical and practice software really will help improve the quality of care, and I appreciate your support for that.

Mr. SIMPSON. Thank you. Thanks, Mr. Chairman.

Mr. CALVERT. Thank you. Ms. Pingree, you are recognized.

Ms. PINGREE. Thank you very much.

I want to follow up a little on that. I know Maine is one of the sites with the Aroostook Band of Micmacs that has a new dental clinic, a three-chair clinic, and I was curious about the similar kind of thing, not necessary the electronic records, but have you already been able to measure some progress with dental outcomes, preventative care with children and how we are doing with that?

Dr. ROUBIDEAUX. Well, we have an Early Childhood Caries Initiative that we have been implementing over the past 5 years. We just published a report of the baseline statistics back in 2010, and once we finish this fifth year we will be able to go back out and survey and see if we have been able to make a difference with an increased emphasis of, you know, getting fluoride and getting the care that the youth need for their dental issues and caries. And so we are very anxious to see what that data is, but it is going to take us a while to gather it and then analyze, but there is no doubt there is a huge problem with childhood dental caries, and we definitely have been working on activities over the last few years to try to improve that.

Ms. PINGREE. To follow up quickly, how is the funding generally on expanding dental care and, the impact of sequester and the other budget cuts on that? Is it grossly underfunded, close to being adequate?

Dr. ROUBIDEAUX. Well, I think there is definitely significant need in that area as well, especially since we he the data to see that there are so many caries that need to be addressed, and we are definitely using the funds that we have as much as possible to provide the services that we have but there is definitely a need for more.

Ms. PINGREE. Thanks.

Mr. CALVERT. Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman.

It is good to see you again, Dr. Roubideaux, and it is always wonderful to have you here, and I am going to make a couple of comments quickly.

PROFESSIONAL LEADERSHIP

I think a lot of the progress that has been made is because we have continuity in your position, and it has meant a lot not to have the turnover, to have consistent, high-quality, ethical leadership, and I wish the Senate would understand the importance of that for the Administration and the program. You have done a wonderful job. I think the fact we have had these increases is a reflection of this Committee's bipartisan confidence in you, quite frankly, and commitment, as my good friend, Ms. McCollum, said to the task at hand.

On the sequestration, just for informational purposes, there was an assurance given by Chairman Ryan that this would not happen again, and I still sit on the Budget Committee. My two friends

have been liberated. But we will make a commitment to you that we are going to make sure that gets honored so that Indian health care is held exempt if for some reason we fell into sequestration again, which I know all of us would like to avoid.

A couple of things, one specific request and a couple questions. Several years ago, you made for this Committee a chart that literally listed how many dollars Native Americans have on health care, and this is how many dollars Medicare, federal prisoners, and it showed, of course, what we already know. It was a very helpful tool, frankly, in both persuading our Committee, and people beyond our Committee, that we have fallen behind. While we have had four good years, I suspect that chart would still look discouragingly similar, so I ask if you could do something like that for us again. It is an extraordinarily helpful tool to have.

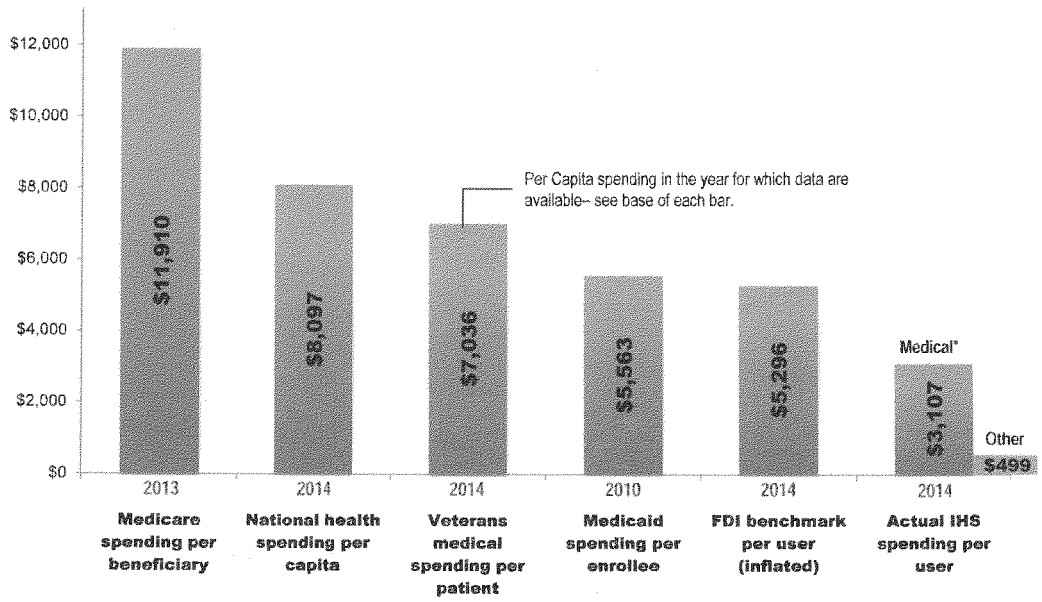
JOINT VENTURE

I would like you to focus—give us an update on where we are in the Joint Venture program. Again, this has been a program we have a lot of progress in, and it has been a program we have been able to leverage a lot of money, so if you could, give us a quick update on what you are planning in that particular program going forward.

Dr. ROUBIDEAUX. Well, thank you, and we will get you an updated chart on the per capita comparison of IHS expenditures per person versus other federal programs, and it is—it does show the need and does show the disparity.

The following "2014 IHS Expenditures Per Capita" graphic was submitted to the Subcommittee for inclusion in the record:

2014 IHS Expenditures Per Capita and Other Federal Health Care Expenditures Per Capita



*See page 2 notes on reverse for data. *The extent of payments by other sources for medical services provided to AIANs outside IHS is unknown.*

2/13/2015

Data Sources and Calculations -- Health Care Expenditures Per Capita

1. **$11,910 - 2013 AVERAGE MEDICARE BENEFIT PER ENROLLEE**: Source – 2014 ANNUAL REPORT OF THE BOARDS OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE AND FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUNDS; available at http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/downloads/tr2014.pdf in Table II.B1 Medicare Data for 2013, page 10.
2. **$8,097 - PROJECTED 2014 NATIONAL HEALTH CARE EXPENDITURES PER CAPITA**: Source -- Table 5 Personal Health Care Expenditures; Aggregate and per Capita Amounts, Percent Distribution and Annual Percent Change by Source of Funds: Calendar Years 2013-2023; available at http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html
3. **$7,036 - 2014 MEDICAL CARE PER VETERANS ADMINISTRATION PATIENT**: Source – Volume II – Medical Programs and Information Technology Programs – Congressional Submission, available at http://www.va.gov/budget/docs/summary/Fy2015-VolumeII-MedicalProgramsAndInformationTechnology.pdf Per capita spending estimate is calculated by dividing 6,616,963 unique VA patients (page VHA-7 "Unique Patients" table) into $46,554,000,000 total health care services (page VHA-8, Executive Summary of Medical Care table)
4. **$5,563 - 2010 MEDICAID PAYMENTS PER BENEFICIARY**: The Urban Institute and Kaiser Commission on Medicaid and the Uninsured estimates based on data from Medicaid Statistical Information System (MSIS) reports from the Centers for Medicare and Medicaid Services (CMS), 2010. Available at http://kff.org/medicaid/state-indicator/medicaid-payments-per-enrollee/#
5. **$5,296 –FDI BENCHMARK PER IHS USER (Interim Inflated)** : The ACA expands health care resources potentially available to AIANs. IHS' long standing methodology projecting per-capita resource needs has not yet incorporated these factors due to unavailable data. In the interim, the last benchmark was inflated to 2014 pending future methodological adjustments for ACA effects.
6. **$3,107 - 2014 IHS MEDICAL CARE EXPENDITURES PER USER**: Source – IHS appropriations for 2014. Appropriations spent for personal health care services plus IHS collections from third parties are totaled and divided by 2014 user counts (1,597,500). IHS spends an additional $499 per person for public health, community programs, sanitation and environmental projects, education, and other purposes unrelated to personal medical care. An unknown additional amount of spending occurs outside the IHS system when patients obtain a portion of their medical services elsewhere, e.g. payments by private insurance, Medicare and Medicaid to non-IHS providers for services to Indians who also use the IHS.

Dr. ROUBIDEAUX. With regard to the Joint Venture Construction program, I appreciate your efforts and advocacy on that. Tribes have been wanting us to open up a new round of that where the tribe—because our health care facilities construction priority list still has about $2 billion to go to get through that, tribes have graciously come forward and said we would be willing to fund the construction if IHS could request the staffing. And so as you know, many Oklahoma tribes have been very successful at that.

We did open up a new round of Joint Venture Construction program. We had 37 pre-applicants. We narrowed it down to 13 final applicants. We just selected seven that will move forward sometime in the next few years, and we selected three to move forward this year, and I think you know that the Cherokee and Choctaw are among those three, so you get 66 percent of the ones who are moving forward this year from Oklahoma.

Mr. COLE. You did not need to point that out.

Dr. ROUBIDEAUX. But the tribes love this program and, you know, we are mindful of the difficult situation you are all in with the budget context and so we do not—even though the tribes want us to approve more of these programs, we are mindful of the fact that it is challenging to get any increases through, and so we are trying to approve and to move forward at a rate that is consistent with how we have been doing it in the past, and hopefully we can time the Congressional appropriations to the opening of these facilities because we do not want to get ahead of ourselves and have facilities built but no staffing. So we would love to work closely with you on that timing and to see if there is any way to move forward.

Mr. COLE. We have had that problem in other facilities. My good friend, Mr. Simpson here, is focused on law enforcement in scuh cases. For example, we may have constructed facilities but not provided adequate staffing. Thank you for being concerned with that.

And thank you for this program. It is one this Committee needs to realize has brought literally millions of extra dollars into the Indian health care system by tribes stepping up and helping out. Most tribes that have the ability to do so are interested in doing, you know, Indian health care plus. They want to put additional resources, and this has been a great way to do that for a number of them.

SELF-GOVERNANCE

Last question, you mentioned in your opening remarks about self-governance. While this is always a tribal choice as to whether they manage their health care, and I respect that, I am very pleased that you are emphasizing this. Honestly, nobody looks after your own people, like your own people and nobody can be held accountable more easily than your own tribal, legislature or your own folks, because they are right there and you have immediate access to them. So can you tell us a little bit about what specifically you are doing to both strengthen tribal capacity in this area and to encourage more and more tribes to do this? I would like reassurance that it is not an effort to try to offload costs onto them. I know there is a lot of skepticism and concern about that, as there should be in Indian Country, but that is not the intent of this Committee.

It is to try and empower, and I am confident that is your intent as well.

Dr. ROUBIDEAUX. Absolutely. We support the tribes' decision to choose what they want, and we have a responsibility if they want to stay with IHS and have us manage their programs, and we have the responsibility to help them as they move to managing their own programs, and there is no doubt that with some of the activities that we have had in Indian Health Service over the past few years of trying to work more closely with both sets of tribes, trying to consult more, trying to provide opportunities. We have Tribal Management grant programs that tribes can apply for help if they are thinking about contracting. We do have self-governance resources for them as well, and certainly with contract support costs, the Committee has really also honored tribal self-governance by fully funding contract support costs. That decision last year was really—the tribes really loved that, and we did too because it solves that issue of being able to fund.

CONTRACT SUPPORT COSTS

But as you all know, a long-term solution is needed to prevent the adverse potential impact to the rest of the budget. I think that is why we are proposing CSC as mandatory and really want talk with you about how we might be able to do that so it benefits all tribes because most importantly, I have heard from all tribes that want self-governance, that want direct service. They want full contract support costs to support self-governance but they do not want an impact on the direct service tribes or the services, and so I am anxious to have those conversations with you.

Mr. COLE. Well, I am anxious to have them as well. As a rule, I think this Committee, is not usually in favor of making things that are dry mandatory. We have had too much of that, as Mr. Chairman said. On the other hand, this is a question of a level playing field. We have done this for every other group in this particular area, and not doing it for Native Americans I think raises some serious equity issues, so thank you for bringing it to our attention. I look forward to working with you on it.

I yield back, Mr. Chairman.

Ms. MCCOLLUM. Mr. Chair, if I could, when you provide information on your pipeline of projects that are out there, if you could break those out for those who are either contract support, those looking at moving that way and those who are discretionary. I really appreciated the comments and the discussion from both of you, and it seems that you have the ability. There are many tribes that are very small and very, very isolated, and so they do not have the wherewithal to even look at being able to do the contract support. So when you bring that forward to the Committee, if you could break it down into those three categories, I would appreciate it.

Mr. COLE. Will my friend yield for just a quick comment, follow-up?

Ms. MCCOLLUM. Absolutely.

Mr. COLE. On this issue, a number of tribes, my own amongst them, actually run the health care system for very small tribes, and we recognize we have both, and those kind of partnerships are really terrific as well, and again, obviously IHS is part of it, but

sometimes there are efforts where literally tribes can cooperate to the benefit of both.

Ms. MCCOLLUM. Absolutely.

Mr. COLE. Yield back, Mr. Chairman.

Mr. CALVERT. And I think Mr. Cole makes a good point, that Indian health, unfortunately in the process somewhere, earlier. and we ought to take a serious look at and talk to those in the various committees to make sure it doesn't happen again.

With that, we are going to call members in order of their attendance at this point, so Mr. Israel, you are recognized.

DOMESTIC VIOLENCE

Mr. ISRAEL. Thank you, Mr. Chairman. Thank you, Dr. Roubideaux and Mr. McSwain.

I have one question on the issue of sexual assault forensic evidence kits. According to statistics, one out of every three Native Americans have reported being raped at some point in their lifetime. IHS reports that between 2010 and 2014, 600 sexual assault forensic evidence kits were collected, and that seems very low to me, given the magnitude of the problem. Tell us exactly what you are doing to make the kits available, to train people to use the kits, and to deploy and collect these kits.

Dr. ROUBIDEAUX. Well, we are actually doing quite a lot with the funding you have all helped us get for the Domestic Violence and Prevention Initiative. It has been funded since 2009. We have a little less than $8.9 million. Fifty-seven programs are funded, and I think that is the challenge is, we do not have enough funding to fund all the programs where it is needed. But of those programs that are funded, they are providing outreach and victim advocacy, intervention, treatment, policy development, community response teams. We are doing training of providers to be able to do the sexual assault examinations, to be able to use the forensic evidence collection kits accurately so that they can be used in court, and then we are training nurses to help with sort of not only the training but the counseling of the patients and making sure they get the care they need.

So we are using the funding that we have from the Domestic Violence Initiative to help, you know, sort of increase the capacity in our system to do that but it is clear there is more need.

Mr. ISRAEL. Do you have any sense of what the backlog is in the actual testing of the kits?

Dr. ROUBIDEAUX. I would have to get back to you on that.

Mr. ISRAEL. Okay, if you would. This Congress on a bipartisan basis has made the investments necessary in ensuring that the kits are available and that they are tested and that really the national backlog is being addressed, and I am curious as to where you fit into that effort.

Thank you, Mr. Chairman.

Mr. CALVERT. I thank the gentleman. Next, Mr. Joyce.

Mr. JOYCE. Thank you, Mr. Chairman, and thank you very much for being here today.

RECRUITMENT AND RETENTION

It is my understanding that you have established some volunteer programs in order to help provide health care to the different tribes but you also have a loan repayment program that has helped bring professionals into the service. Could you explain to the Committee and myself some other direct examples of how IHS is working to address the health care provider shortage and how the loan repayment program has been helpful to you?

Dr. ROUBIDEAUX. Yes. The loan repayment program has been very helpful to us, and we appreciate the funding for that. It basically helps health care providers work in IHS and get their medical school loans paid or their health care provider school loans paid, and as you know, the cost of school is going up and so it is really difficult for especially primary care doctors to handle the debt that they have. It is a very popular program. We use the program to prioritize the sites with the highest needs since the funds are limited, and we also have our scholarship program, which is a pipeline to bringing more providers into our program for American Indians and Alaska Natives.

We are also—but we have a challenge, though, in that the loan repayment program and our scholarship program have an issue where portions of them are taxable and we have put a proposal in the budget to try to have—to ask Congress to help us to make them tax-exempt because it is very difficult for the providers to pay the loans and also have to be responsible for the taxes as well, and if we did not have to pay the tax part of it, we could fund more people with loan repayment.

So we are also in terms of recruitment and retention trying to make our salaries more competitive. We have the VA pay authorities that we are starting to use more aggressively to be able to get the salaries up, and these days you have to pay primary care doctors over $200,000 a year to compete with everybody else out there in the market because there is a shortage.

So loan repayment is very attractive. We work with National Health Service Corps on their loan repayment and scholarship program, with HRSA and the Department of Health and Human Services as well, so I appreciate your interest in this because it is a huge challenge that we have, and those are some of the program appropriations that the Committee gives us that we use to help fund those programs and activities.

Mr. JOYCE. I have been a beneficiary of it because my primary care physician has come from that program.

Dr. ROUBIDEAUX. Really?

Mr. JOYCE. So I understand the need for it.

Dr. ROUBIDEAUX. Great.

Mr. JOYCE. Can you describe how the services provided, through the Public Health Nursing program are cutting readmissions to hospitals?

Dr. ROUBIDEAUX. Yes. We have had a Public Health Nursing program for many years, and it really does help us get some of the additional care that individuals need and coordination of care outside of the hospital or transitioning from when they have actually been an inpatient and getting immunizations out and those sorts

of things, and we also—our hospital consortium effort is to try to help reduce readmissions, and that involves a lot of people making sure when someone is discharged from the hospital, they go home, they need a lot of people to help them so they do not end up back in the hospital, and our Public Health Nursing program is very strong and it is mostly tribally run actually. A lot of the tribes have taken over the management of those programs. It does help transition people in different parts of their care, so it is very valuable to us.

Mr. JOYCE. It is going to be the primary care physicians, the nursing staff going forward because of the shortage.

Dr. ROUBIDEAUX. Absolutely.

Mr. JOYCE. Thank you very much. I yield back, Mr. Chairman.

Mr. CALVERT. I thank the gentleman. Next, Mr. Kilmer.

Mr. KILMER. Thank you, Mr. Chairman, and thank you for being with us.

HEALTH CARE SERVICES

There is a lot of folks in the area I represent that are grateful to this Committee for increasing the resources available to the IHS. At the same time, we hear concerns about quality-of-care issues. I was hoping you could speak to how IHS intends to address issues around quality of care and what can be done further to support some of those IHS facilities that want to provide the best care possible.

Dr. ROUBIDEAUX. Yes. In the Indian Health Service, we actually have been working on some initiatives to improve quality of care, and this year is a year where I think we will start seeing the benefits of some of the planning we have been doing and start seeing some of these activities implemented.

One is the expansion of our Improving Patient Care program, the patient-centered medical home. We not only want people to—our sites to implement it, we also are asking them to become accredited, nationally accredited as patient-centered medical homes, and within that you have to demonstrate outcomes. You have to demonstrate that not only are you improving care but you are actually measuring those improvements and responding to what the patients need. So that helps throughout the system and that is sort of—we call it more of our outpatient improvement but it does apply throughout the system.

The other part is, as I said, the hospital consortium, looking at improving quality and safety in our hospitals, and I just asked our team to sit down and, you know, prioritize their actions for this year and how they are going to measure the success and who is responsible and accountable and what their timeline is, and so I am hoping towards the end of the year we are going to see some real outcomes and progress on that.

In addition, we have been meeting our clinical quality indicators under GPRA every year for a couple years so we have actually pushed the levels up, stretch goals to try to push for more progress, and so we are focusing efforts to try to get better outcomes as well.

Mr. KILMER. Thank you, Mr. Chairman. I yield back.

Mr. CALVERT. I thank the gentleman. Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman. Good morning.

I am new to this Committee and new to this Congress, so I am going to maybe run through to try to get myself up to speed.

CREDENTIALING

One, there was discussion about credentialing, and you mentioned trying to look at best practices. To what extent does Indian Health Service and the tribes—I understand the frustrations of providers getting credentialed in a timely fashion. Do you have any sort of a uniform credentialing application trying to avoid the multiple primary source verification requirements at each step? Have you looked at a CVO, a credentialing verification organization, to try to expedite the process?

Dr. ROUBIDEAUX. We are looking at those kinds of options because you are right, it does not make sense to have a provider to go to one facility, fill out one form, and then they move to another one and it is a totally different form. So I agree with you, that would be an efficiency that would make our business practices much better and be better customer service to our providers.

Mr. JENKINS. Not only having a similar application but having some sort of a credentialing verification organization that does that primary source verification once so it does not have to be repeated over and over.

ELECTRONIC MEDICAL RECORDS

Secondly, with regard to EMR, you know, everybody gets excited. We all have been caught up in the wave, and we agree that that is the direction of health care delivery but an incredible amount of money can get dumped into it. There is frustration because of different types of EMR systems out there. What are you doing with regard to making sure that there is an EMR system that is robust for scheduling, for e-prescribing, but most importantly, the ability to share data between the prescriber, between the hospital with the patient. Unfortunately so many of these EMRs simply do not talk to each other and do not share data.

Dr. ROUBIDEAUX. Absolutely, and I appreciate your interest in that. We have actually been an early adopter of the electronic health record and administrative systems throughout the IHS system since 2007 and 2008, and so when the new initiatives came out for Meaningful Use of the electronic health record, we were perfectly suited to be able to participate in that, and the IHS Resource Patient and Management System, RPMS, is one of the lowest-cost open source available electronic health care record systems in the country, so our costs to run it are much less than others. And you are right, we are hearing in the private sector some of those other electronic health records are costing huge amounts, and that is a challenge for the tribes that have chosen to use them.

But our system, we are on a path with—we were certified in 2011 for Meaningful Use 1. We are now certified for 2014 certification, and actually the work we are doing right now very soon we will have that ability to share records, not only within the Indian Health Service but with other programs. It is the interoperability piece of Meaningful Use where you can share records. We are very excited about that because our patients are mobile. They move around a lot.

LIABILITY

Mr. JENKINS. Next, liability. I am very familiar with the Federal Tort Claim Act under claims for FQHCs and others. In the IHS and tribal world a claim for allegation of medical negligence, is that handled under Federal Tort Claim?

Dr. ROUBIDEAUX. Yes.

NEONATAL ASTINENCE SYNDROME

Mr. JENKINS. All right. Finally, one of my passion areas in substance abuse, and I want to drill down, is the treatment of NAS babies, neonatal abstinence syndrome, drug-exposed babies during pregnancy. What are you doing with regard to prenatal care, working with the OBs and the peds for post-delivery NAS treatment? I think there is significant savings that can be had by taking care of these newborns going through the ravages of drug withdrawal. There can be a more efficient process than being in a NICU and certain non-traditional spaces for dealing with the NAS babies. Is this issue on your radar screen, and if so, how are you handling it?

Dr. ROUBIDEAUX. It is absolutely on our radar screen. We are seeing that occurring more and more in our facilities, and that is why our clinical leadership are working on training our providers to know what they need to do to make sure they address it as soon as possible, and we recognize the science.

Mr. JENKINS. It is an area of interest to me, and I look forward to working with you and seeing where you are making those investments because the Chairman of our full Committee, he is looking for ways to be efficient and save money, and I appreciate the leadership of this Subcommittee, so I look forward to working with you.

I yield back. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you.

POPULATION GROWTH

A number of us recently traveled over to the Navajo Nation and the Hopi Nation, and the president of the Navajo Nation, President Shelly, told us that the Navajo Nation is projected to have one million enrolled members by 2050. They currently have 300,000 members, and President Shelly told us quite directly that we will not be able to afford them soon.

President Obama's 2016 budget requests an increase of $57 million to partially fund population growth, what is the current population of people eligible for IHS services, and what is the projected population in 2050?

Dr. ROUBIDEAUX. Well, our current population served is 2.2 million American Indians and Alaska Natives. In terms of a projection to the future, we are happy to provide that to you, those statistics. We would need to do those calculations. But there is no doubt there is a need. President Shelly is right, we have a population—the Native population is growing very rapidly and that is a challenge for us with the limited funds that we have.

But we did try to address that in the budget by putting an increase for $57 million. It is about 81 percent of the total need, and

we just are trying to balance other priorities in the budget and your constraints as well.

Mr. CALVERT. So what is the estimated amount to fully fund population growth in——

Dr. ROUBIDEAUX. To fully fund—

Mr. CALVERT [continuing]. In fiscal year 2016?

Dr. ROUBIDEAUX. To fully fund population growth in fiscal year 2016 would be $70.3 million.

Mr. CALVERT. Okay. So why did the budget request with a total increase of $461 million not fully fund population growth?

Dr. ROUBIDEAUX. Well, we really wanted to but we had a challenge—we were challenged with all the other funding priorities and so sometimes our strategy is to try to fund as much as we can but to try to fund a little bit—a larger number of things but a little bit more. It does help us make progress. But it is a difficult choice because all of these priorities are important.

Mr. CALVERT. Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair.

I had asked staff a couple of questions about the Census, so it is my understanding that when we went away from the long form census form, we did not collect as much information. We have gone to a short form. So now it is up to the American Community Survey to capture this information, which is selected to represent each area. So rural areas are probably less likely to do this. So your consensus population number—and I mean no disrespect for you because you can only gather the information you have—is your best guess, right?

Dr. ROUBIDEAUX. Correct.

Ms. MCCOLLUM. And that affects us for schools and housing and health care and all of that. So maybe one of the things that we need to do is figure out how we get a more accurate number of what is going on in Indian Country and working with the National Congress of American Indians or something like that to do a census of Native Americans. So great question, Mr. Chair, because, you know, we could find ourselves thinking we are doing the right thing only to find out we are really short in doing it well.

SPECIAL DIABETES PROGRAM

Could I just ask you a little bit more about the special diabetes program? Because that is huge in Indian Country and it goes to treating the whole patient, to medical homes, and many the other things that you are working on, youths with the indigenous youths program that the President is looking at. We saw some great success when we were on a CODEL Dr. Roubideaux, you were there too, and it was a combination of funds IHS, from CDC, and everybody else working together to make sure services are culturally competent so that it has the success that we saw.

Now, this is, as you said, to expire at the end of this fiscal year, and your budget requests to reauthorize the program for another 3 years at $150 million per year. What happens if we do not get the reauthorization? Sometimes as appropriators, we are very frustrated that the authorizers have not done their job, so if it is not authorized, are there other parts of the preventative health that will help this type of support move forward? Also, is this model

going to be used to work on other chronic diseases, to replicate the success that you have had with diabetes?

Dr. ROUBIDEAUX. Well, to your first point, if we did not get the Special Diabetes Program reauthorized, it would be devastating. All the success of the last 18 years of we finally have shown we can increase services. We have shown that we can improve quality. We have a really good evaluation of it. We have shown that we can actually prevent diabetes and reduce cardiovascular disease risk factors in our communities and our facilities rely on that funding to be able to do that, to have staff that can focus on it. And you know, we are finally at the point to where complications of diabetes are going down. End-stage renal disease new cases are going down. The rate of diabetes is sort of equalizing out. We are not seeing the big increases we were seeing before in youth, and so there is actual data showing it is effective. So it would not make any sense to take an effective program that is operating on an amount of funding that, you know, a lot of people think is not enough, but they are still showing huge outcomes. It would be horrible for us to lose that. I would really ask you to help us with securing reauthorization.

You know, the Special Diabetes Program for Indians did help us learn how to better take care of chronic diseases. IHS for many years has used the chronic care model to work on chronic diseases, and, you know, it is no longer the case that people mostly have just one medical condition. Many people have several medical conditions, and so the coordination of those chronic diseases is really critical, and so I think the Special Diabetes Program for Indians is a great model of how to do that.

Mr. CALVERT. Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman.

You know, I think for 4 years in a row this Committee has actually exceeded the Administration's request on Indian health but my friend, the Chairman, makes a good point in that he is going to be working from a different baseline than we are. We are in some ways, the victim of our own success, although that is a nice problem to have. We would like to give you everything you asked for, but if you could not get everything you wanted, what are the absolute most important priorities to continue the progress that you have been able to make in the last few years?

Dr. ROUBIDEAUX. Well, we certainly hope you go for a fifth year of exceeding our proposal, but if not, if you cannot do that, we would be happy to talk with you more about these priorities. They are all priorities to the tribes we serve and they are all priorities to us. It is very difficult for us to prioritize, but if we could provide more information to help the decision-making, we would be happy to do that.

Mr. COLE. I think that would be helpful, and again, if I had my way we would probably be doing more. I think the need is so great, and I think you have been a very good steward of the money that you have been given.

Toward that end, this is again an informational request, things that you can provide us that show outcomes, changes from money spent is really helpful. You know, it is not just a money-in issue. It is okay, what is happening with mortality rates, what is hap-

pening—and you have mentioned some of the progress in your testimony. But if we could get something that is systematic, it just strengthens those of us that make the argument that this is a good investment; not just an obligation, but something that is really changing people's lives for the better. So whatever tools or data you can give us, and if there is anything you would like to highlight right now, I would be more than happy to give you the time to do that.

Dr. ROUBIDEAUX. Well, we would be happy to give you more information. I started tallying out all sorts of outcomes and accomplishments, and when I got to page 19, I thought, you know, there is so much, it is hard to choose, but we would love to give you more information on that.

Mr. COLE. Please do, because it is okay to brag on yourself.

Dr. ROUBIDEAUX. Yeah, and culturally we sort of learn not to do that, but we have to do it here. This is so important.

The other thing is, I also hope we can talk about, I want you to know that the money you have given us we have spent effectively. We have been working on a number of improvements to make our operations more efficient. We have reduced travel by 50 percent. We have reduced conference expenditures by a third. We have been able to improve our budget execution and all those things.

Mr. COLE. And I want you to be careful on that travel budget. I want to go on another one of the great Yvette Roubideaux-Jody Gillette reunion tours to Sioux Country that we all did, and——

Dr. ROUBIDEAUX. Save dollars for that.

Mr. COLE [continuing]. By the way, this is very helpful to this Committee when we did do it. But yeah, again, I am very interested in those sorts of things.

Dr. ROUBIDEAUX. Okay.

THIRD-PARTY COLLECTIONS

Mr. COLE. And I think it would help this Committee.

Last question. I know you have been making a real effort on third-party insurance,—because there are a lot of entities that ought to be kicking in to the system both, governmental and private insurance, that in the past have been able to escape their obligations and more or less dumped this on you. I would love to hear your efforts with respect to trying to increase third-party payments that, again, are due and obligated to Native Americans, and to help us again meet the challenges that you have.

Dr. ROUBIDEAUX. Absolutely. Most of our third-party reimbursements are with the Medicaid program, so we work very closely with them, and our facilities are very focused on trying to make sure we get those third-party reimbursements. We have an increased emphasis on the private insurance side of it as well, especially with the Affordable Care Act and especially with the increased coverage that we are seeing with our patients.

We are trying to make sure that we are maximizing our third-party collections and getting as many of those reimbursements as we can. We have developed a new third-party collection tool on the federal side that sort of monitors how it is going and it will raise red flags if a facility is not doing well, and so we do corrective actions there, so we have got some oversight of that to help, and that

is why we are proposing in this budget a $10 million increase because we really—with all the new health care plans and all of the increased coverage, we just need more funding to help us in our most needy sites with capacity building and training and technical assistance and also outreach and education to the patients. The more we can help the patients apply for Medicaid or get health care coverage, the more that we can reimburse and the more revenues we have so the pressure would not be so much on all of you.

Mr. COLE. I applaud your efforts in that regard, and it is something I hope the Committee looks at going forward, because I do think it is a good investment. The return is obvious, and it goes exactly where we want the dollars to go.

With that, again, thank you very much for the job you have done. I really, really appreciate it. Yield back, Mr. Chairman.

FACILITIES NEEDS

Mr. CALVERT. Thank you. Ms. Pingree.

Ms. PINGREE. Thank you, and thanks again for being here with us today and for the work that you do.

One question about facilities' needs. I know the budget has an increase for that, and I understand IHS does facility assistance for hospitals and a whole variety of other things, and I want to ask about sanitation service to homes.

I was pleased to be able to see that because of our service area, the Nassau Indian Health Service area, we have been able to get assistance for 126 homes of the Passamaquoddy Tribe, 193 of the Passamaquoddy at Pleasant Point, Penobscot six, so helping with sewage facilities and cleaning drinking water, that is a very important thing, particularly in our rural tribes. I see the budget has an increase of $36 million, which looks like it is meant to provide sanitation for about 7,700 homes, but under your estimate, I think the need is 34,000. Can you give us a sense of how far you are going to be able to go with that and any other important parts of the program to make sure it is available everywhere it is needed?

Dr. ROUBIDEAUX. Absolutely. The need is enormous. It is up to $2 billion need for all the Indian homes that we would serve, but we are, you know, very grateful to be able to propose an increase for sanitation facilities construction. We have not had that in the budget in previous years but we have heard that this Committee has actually been interested in it, and you have been interested in it as well, and so we are grateful for any resources that can go toward sanitation facilities construction. It is hard to imagine the challenges individuals have without having water and sewer in their home. It is just devastating to think about, and so I appreciate your help and support with this.

Ms. PINGREE. Thank you. You are right. It is unconscionable in this particular era that people have to live in those kinds of situations. Thanks very much.

Mr. CALVERT. Mr. Joyce, do you have any other questions?

Mr. JOYCE. No.

Mr. CALVERT. Mr. Kilmer, do you have any other questions?

URBAN HEALTHCARE SERVICES

Mr. KILMER. I would like to, if that is all right.

Mr. CALVERT. Real quick.

Mr. KILMER. I will be really brief.

One concern I heard was around provision of IHS services to folks in urban areas, and I am just hoping you can speak briefly to that and how the federal government can step up care for folks who are living off reservation or in urban areas.

Dr. ROUBIDEAUX. Absolutely, there is no doubt there is a need there. If you look at census numbers, the majority of American Indians and Alaska Natives live in urban areas. IHS was actually designed to be for rural areas but they recognize the need that they are tribal members too and the federal responsibility applies to them.

We are very supportive of our urban programs. We do provide funding for them to provide services. They still need to be there for the people in those urban areas. They provide the only source of culturally appropriate care and services. Many American Indians and Alaska Natives are away from IHS and so they really need that help and so we would like to work with you.

We also just passed a new policy to confer with urban Indian organizations. It is part of the Indian Health Care Improvement Act Reauthorization. So I think we are very anxious to confer with the urban Indian organizations and to figure out ways that we can assist them and help them.

Mr. KILMER. Thank you. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you, and I want to thank you, Doctor and Mr. McSwain, for coming here today and offering your testimony.

Native Americans should be treated as any other American, and I think if we can find a way forward on this mandatory issue and to work with the respective committees that have jurisdiction over Indian Health, that is something that I think we can all work together to try to achieve. That would solve a lot of your problems and the problems for a lot of people around America.

So with that, if there are no other comments, we are adjourned. Thank you.

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Fiscal Year 2016 Budget Oversight Hearing
February 11, 2015

Questions for the Record

Questions from Mr. Calvert

Contract Support Costs

The budget proposes to fully fund contract support costs in this bill in 2016 and to move the funding to the mandatory side of the ledger for 2017.

Calvert Q1: How does the proposal to move contract support costs to mandatory funding help to solve the Committee's concerns about: the difficulty of accurately estimating contract support costs before the start of each fiscal year; and inconsistencies in contract support cost policies between the Indian Health Service and the Bureau of Indian Affairs?

> **Answer:** The proposal shifts CSC funding to a mandatory funding stream, which will separate it from program funding and create a separate process for budgeting. Any unspent funds at the end of one fiscal year will carry over into the next fiscal year, which will help to assure full funding. The proposal also includes funding that will be used for program administration, which will help IHS build out systems necessary to accurately assess applicable CSC expenses, negotiate with tribes, and monitor the growing CSC program. The proposal addresses inconsistencies in CSC policies between the Indian Health Service and the Bureau of Indian Affairs by proposing the same type of appropriation for both agencies.

Calvert Q2: What steps has the IHS taken to ensure that we do not have a large CSC shortfall at the end of the fiscal year?

> **Answer:** With the removal of the appropriations cap on CSC in FY 2014, IHS was required to fund the full CSC need of all tribes from its Services appropriation, thereby eliminating any CSC shortfall. In FY 2014 it was necessary to reprogram funds from IHS programs to CSC to ensure the agency met its requirement to fully fund the CSC and ensure there was no shortfall. To ensure IHS is accomplishing this requirement in FY 2015, IHS performs monthly data reconciliation of CSC estimates and payments. Data reconciliation ensures IHS is updating the CSC estimates of need for each Tribe throughout the year as new information becomes available. This process of monitoring CSC activity on a regular basis, identifying additional amounts owed to Tribes by IHS or amounts owed to IHS from Tribes, and adjusting payments on a regular basis to assure full CSC funding, provides the ability to better estimate the full amount of CSC need during the fiscal year and ensure there is no shortfall for the estimate identified by the end of the fiscal year. In addition, this process provides the ability to determine the impact on the IHS budget as early as possible; and, therefore, can help IHS work to minimize

reprogramming. However, more accurate estimates only help with known CSC need. If Tribal contracting were to increase at an unexpected rate late in the year, IHS would have to reprogram funding to fully fund CSC. The CSC mandatory proposal would help by separating CSC from the services budget, providing a sufficient CSC amount to avoid a shortfall and providing no year funding, which allows IHS to carry over unused funding to a subsequent year.

Calvert Q3: If the mandatory CSC proposal is not able to be enacted, what contingency plan does IHS have in place to ensure that no further cuts are needed to direct services at the end of each fiscal year?

Answer: If the mandatory proposal is not enacted and CSC remains an unlimited part of the Services Appropriation, there will always be a risk of having to reprogram due to the variable nature of CSC as authorized under the Indian Self-Determination and Education Assistance Act (ISDEAA). IHS efforts to improve estimates of CSC in negotiations, reconciliation and payments help improve the accuracy of estimates for budget formulation. However, there are practical and legal factors that make CSC difficult to budget for, including CSC requests that occur late in the year for CSC for new and expanded programs, requests to renegotiate direct CSC, or requests to negotiate indirect type CSC. ISDEAA allows for tribes to make requests at any time in the year, and sets a timeframe for which IHS must respond and work through a request.

Your testimony states that the top Tribal recommendation is to fully fund Contract Support Costs separately from the services budget.

Calvert Q4: Short of shifting the funding to mandatory spending—which is outside of this Committee's jurisdiction—would it make sense to move Contract Support Costs to a stand-alone account within discretionary spending so that any future shortfalls aren't paid for by direct services?

Answer: The Budget proposes a shift to mandatory in FY 2017 and provides a sufficient increase to fully fund CSC. We cannot comment on proposals not contained in the President's budget.

Population Growth

We recently visited the Navajo Nation, where President Shelly told us that the Navajo Nation is projected to have 1 million enrolled members by 2050. They currently have 300,000 members. President Shelly tells us we won't be able to afford them soon. President Obama's 2016 budget requests an increase of $57 million to partially fund population growth.

Calvert Q5: What is the current population of people eligible for IHS services, and what is the projected population in 2050?

Answer: In calendar year 2015, the IHS service population is estimated to be 2,161,310 persons. In 2050, the IHS Service Population is projected to be 4,000,119 persons,

assuming a 1.78 percent per annum rate of natural increase (annual growth) from 2020 to 2050.

Calvert Q6: What is the estimated amount to fully fund population growth in 2016?

Answer: To fully fund population growth the estimated amount is $70.4 million in FY 2016.

Calvert Q7: Why doesn't the budget request, with a total increase of $461 million, fully fund population growth?

Answer: Annually, there are many competing priorities considered during the budget formulation process. This budget request addresses top priorities identified by Tribes.

Offsetting Collections

Offsetting collections accounts for $1.2 billion of the IHS budget each year. The FY16 budget proposes a $10 million appropriation to improve third party collections.

Calvert Q8: Please explain the current problems you're having with third party collections.

Answer: IHS estimates it will collect approximately $1.1 billion in FY 2016 health insurance reimbursements from Medicare, Medicaid, private insurers, and the Veterans Health Administration. The ACA has increased the potential to expand IHS's ability to collect additional third-party health insurance reimbursements, which also will be associated with increased workload and need for technical assistance. This request includes an additional $10 million to improve collections from public and private insurance at IHS and tribally operated facilities. Third-party collections are crucial to hiring additional medical staff, purchasing equipment, making necessary building improvements, and ensuring accreditation standards are met.

Calvert Q9: By how much does IHS estimate it will increase third party collections with this $10 million investment?

Answer: IHS estimates it will increase its collections by 2 percent by the end of the first year of implementation which will increase in the out years as implementation progresses.

The budget also proposes a $10 million increase to comply with the 2015 Electronic Health Records and Stage 3 Meaningful Use.

Calvert Q10: Please explain this compliance in further detail, including estimated amounts of penalties in Medicare payments if IHS does not participate.

Answer: The proposed rules for the 2015 Edition Electronic Health Record (EHR) Certification Criteria and Stage 3 Meaningful Use (MU), released in April 2015, provide

new guidance and standards for meaningful use of EHRs, which are designed to lead to improvements in population health and the quality of healthcare. Modernization of the health information technology and infrastructure of the IHS is a necessary step to improve the quality of and access to care for American Indians and Alaska Natives. IHS must do additional upgrades of its Resource Patient and Management System (RPMS) EHR to comply with the criteria and the funding proposed in the FY 2016 President's budget will assist with the necessary upgrades and software development.

The penalty for the failure to achieve MU in 2017 will not occur until 2019 and IHS is not required to achieve MU Stage 3 until 2018 under the proposed rules, so the payment adjustment would not occur until 2020 relative to MU Stage 3. The penalty will be a specific percentage adjustment to the Medicare Physician Fee Schedule (PFS) payments for Eligible professionals (EPs) and an adjustment to the increase to Inpatient Prospective Payment System (IPPS) rates for Eligible Hospitals (EHs). These percentages are set forth in statute; however, the Secretary will have the ability to modify the adjustments by another percentage point for EPs starting in CY 2019, if participation by EPs is less than 75% in CY 2018.

Leadership

As you no doubt are painfully aware, seven of the 19 leadership positions in IHS Headquarters (37 percent) are either vacant or occupied by persons in an acting capacity. Three of the 12 Area Office Directors (25 percent) are similarly occupied. In all, the IHS leadership team is down 32 percent.

Calvert Q11: Please explain what is happening at the leadership positions within the agency.

Answer: The current status of Headquarters and Area leadership positions reflects retirements, reassignments made to improve accountability and effectiveness, establishment of a new Headquarters Office, and the recent death of an Area Director. However, the number of current vacancies at IHS Headquarters is not substantially different than in the past. All of the Acting Deputy Directors and Office or Area Directors are currently functioning with full delegations of authorities to carry out duties and responsibilities of the position in which they are serving and their performance is evaluated at the same level as permanent staff. The filling of a senior executive position is a complex process which can take 6-12 months and requires additional review and certification of the position description and the applicants at the IHS, the Department of Health and Human Services and the Office of Personnel Management level.

In terms of Area Director positions, IHS carries out the required steps of the SES process for Area Director positions, and the IHS also works with Area Tribes to interview the highest ranked candidates to ensure the IHS' final selection is the best candidate for the position. This process can take additional time to accommodate Indian preference requirements or if the Tribes want to re-advertise or consider additional candidates. All leadership positions are filled with individuals, whether permanent or acting, who are expected to perform at their highest level and who are held accountable to make progress on agency priorities.

Among the agency's top four strategic priorities is agency reform. The FY16 budget is remarkably light in its review of the agency's reform efforts.

Calvert Q12: How have you been trying to reform the agency, and how badly do these leadership vacancies hurt that effort?

> **Answer:** IHS has made significant progress on agency reform efforts, with significant improvements in internal business operations such as improved communication and coordination among agency leadership, improved budget planning, execution and management, improvements to the hiring process, reductions in travel and conference expenditures, improvements in the performance management process, improvements in various business functions such as property management, Purchased/Referred Care, and CSC business practices, increases in activities to promote better customer service, improvements in the Tribal consultation process, improvements in recruitment and retention and improved monitoring and increases in third party collections.
>
> IHS has been working on reform through a focus on facility business planning to implement the Affordable Care Act and generate additional revenue through third party collections which can help increase access to health care. Leadership vacancies have had minimal impact on these efforts, since permanent and acting leadership function with full delegations of authorities and strong expectations to carry out all duties and responsibilities of the position in which they are serving. IHS continues to work to fill these leadership vacancies as quickly as possible.

Catastrophic Health Emergency Fund (CHEF)

Two years ago you testified that the Catastrophic Health Emergency Fund—which was created in 1988 for the sole purpose of meeting extraordinary medical costs associated with treatment of victims of disasters or catastrophic illnesses—used to run out of funding in June but now is able to fund cases through August thanks to increased funding.

Calvert Q13: Please update us on the status of this Fund.

> **Answer:** In FY 2014, the CHEF budget was $51,500,000, which was used to reimburse 2,686 cases submitted through September 19, 2014. This reflects the greatest number of cases reimbursed and the latest in the fiscal year that the CHEF funds have lasted in the past several years.

Calvert Q14: We've all heard the saying throughout Indian country, "Don't get sick after June". Is there any truth to that anymore?

> **Answer:** IHS believes the phrase referenced in the question refers to CHEF funding. As a result of recent increases and improved business practices and as reflected in the data provided in the previous response, the CHEF budget now lasts through late September covering many more cases than previously. For FY 2014, IHS currently shows that

CHEF was unable to cover 516 cases with an estimated cost of $10.2 million. This is a marked improvement from previous years, for example in FY 2008 CHEF was unable to cover 1,096 cases at a total cost of $27 million.

Urban Indian Health

In 2013, the National Council of Urban Indian Health testified that 71 percent of American Indians and Alaska Natives live in cities but that the only line item in the budget that benefits them—the Urban Indian Health line item—is less than 1 percent of the IHS budget.

Calvert Q15: Is that an accurate interpretation?

Answer: The IHS Urban Health program budget request is $44 million for FY 2016 which represents nearly 8 percent of the overall Services programs budget request. The Urban Health Services budget funds urban Indian 501(c) (3) non-profit organizations to provide health care and referral services for urban Indians through 33 programs throughout the United States. Urban Indian Organizations (UIO) funded by IHS define their scope of work and services based upon the service population, health status, and unmet needs of the urban Indian community they serve as they have documented locally.

In addition, the UIO are eligible to apply for certain other sources of funding in the Indian Health Service, such as the Special Diabetes Program for Indians (SDPI), Methamphetamine Suicide Prevention Initiative (MSPI) and Minority AIDS Initiative, and from other federal agencies such as Health Resources and Services Administration and therefore are eligible to receive funding from more than the Urban Health Services budget authority.

Calvert Q16: Do American Indians and Alaska Natives living in urban areas have access to other healthcare options that those living in rural areas do not have?

Answer: While it would seem that more options are available in urban areas, many urban Indians are uninsured so their access is limited. Additionally, urban Indians benefit from the more culturally appropriate services uniquely available at urban Indian health programs. The Urban Indian Organizations, through their primary care clinics and outreach programs, provide culturally acceptable, accessible and affordable health services to an underserved urban off-reservation population. Of the current 33 UIO that receive funding from IHS, 21 offer full ambulatory clinic services, six offer limited ambulatory clinic services, and six offer services on an outreach and referral basis.

Staffing

The budget request states that the Indian Health Service has approximately 15,369 employees, of which 4,879 are nurses, physicians, engineers, sanitarians, pharmacists, or dentists.

Calvert Q17: Please describe the work that the other 10,490 employees do.

Answer: The vast majority of IHS employees are health professionals, administrative and support staff located at hospitals, clinics, and health stations throughout the United States. While our largest health professions disciplines (nurses, physicians, engineers, sanitarians, pharmacists, and dentists) were listed in the budget, the IHS also has psychologists, social workers, physician assistants, dietitians, occupational and physical therapists, optometrists, podiatrists, medical technologists, radiology technicians, respiratory therapists, dental hygienists, pharmacy technicians, information technology specialists, human resource specialists, contract and grant specialists, third party collections staff, Purchased/Referred Care staff, finance and accounting staff, and many other disciplines required to support and manage hospitals and clinics. IHS also relies on its 1,320 wage grade employees who hold such positions as housekeeper, maintenance mechanic and cook to support our medical facilities.

Calvert Q18: How many of the 15,369 employees are not located at hospitals, clinics, or health stations?

Answer: Based on data pulled from the Capital Human Resources system on February 2015, there are approximately 1,426 civil service employees (9.3% of all employees) who work in the IHS Headquarters and Area Offices. These employees provide Agency-wide leadership, oversight, and executive direction, administrative and clinical support and guidance to direct care facilities and work on area-wide and national issues such as health policy, budget development and implementation, tribal consultation, and legislative affairs.

Access to Quality Medical Providers

One of the significant barriers to reducing health disparities for American Indians and Alaska Natives (AI/ANs) is a lack of quality providers at IHS and Tribal facilities. The FY 2016 budget estimates that there are over 1,550 vacancies for providers at IHS (CJ-216). Remote and rural locations; lower pay; lengthy hiring processes; and ill-equipped IHS facilities all affect the ability for providers to be recruited and retained within the IHS system. IHS has an estimated 46% turnover rate for their physicians every year, which leads to significant issues when building trust between patients and physicians and enriching care. Efforts that the agency has under taken to improve this clearly have not helped.

Calvert Q19: What is your target timeline between an applicant applying and job placement? How does this compare to that in the private sector?

Answer: Based on the Physician Position Report for calendar year (CY) 2014, for federal staff (civil service and commissioned corps) the physician turnover rate was 16.7% (based on a reported loss of 132 physicians with a base total of 789 filled physician positions).

Although IHS does have not access to the private sector timelines for comparison, it does expedite recruitment and hiring of Medical Officers/physicians through the use of the Office of Personnel Management's approved government-wide Direct-Hire authority for

Medical Officers. Applicants identify and apply for federal positions through USAJOBS.gov. The applications are reviewed by Human Resources for eligibility, qualifications, and preference (e.g., Indian Preference). Applicants who meet the eligibility and qualification requirements are then added to the Certificate of Eligibles, or panel, and provided to hiring managers for consideration and selection. In CY 2014, the average number of days from the time the Certificate of Eligibles was issued to the time a Medical Officer entered on duty was 59 calendar days, which is significantly improved over the past few years. IHS requires all hires to go through a background/security pre-clearance process prior to entering on duty. Although this does add to the number of days to fill a position, IHS believes this step is critical to ensure hiring quality Medical Providers.

Calvert Q20: What efforts are underway at the agency to promote retention of medical professionals?

Answer: The IHS uses a variety of tools to recruit and retain health care providers – the Scholarship Program, Loan Repayment Program, Title 5 and Title 38 Special Salary Rates, and National Health Service Corps (NHSC) scholarship and loan repayment programs. Many health professionals leave school or post graduate training with substantial educational loan debt. The IHS Loan Repayment Program (LRP) allows IHS to attract individuals interested in working in Indian communities, but who would be unable to do so if there were not a way to pay off their educational loans. In FY 2014, the IHS LRP was able to make loan repayment awards to 710 health care professionals. In FY 2014, the IHS Scholarship Program was able to fund 260 health professions students who will provide clinical services for two to four years at Indian health sites once they complete their training.

IHS facilities have existing authorities for other incentives to assist in the recruitment and retention of health professionals. These include Title 5 and Title 38 Special Salary Rates, the 3Rs (recruitment, retention and relocation bonuses), and use of service credit to increase annual leave. Title 38 Special Salary Rates have allowed IHS facilities to more recently offer pay that is closer to what health care providers would receive in the private sector. Title 38 market pay for physicians and dentists allows IHS to hire specialists, such as orthopedic surgeons, who would otherwise not consider IHS employment for the pay and incentives offered under Title 5.

The IHS and Health Resources and Services Administration (HRSA) continue to work together to make the National Health Service Corps (NHSC) more accessible to fill health professional vacancies. Starting in 2010, the IHS and HRSA collaborated to expand the number of IHS and Tribal facilities designated as NHSC-approved sites. This allows these facilities to recruit and retain primary care providers by using NHSC scholarship and loan repayment incentives. As of December 31, 2014, a total of 650 IHS, Tribal Clinics, and Urban Indian Health Clinics were approved as eligible sites for NHSC scholars and LRP applicants, compared to 494 approved sites as of 2011, and 60 at the end of 2010. There are currently 165 open positions at IHS and Tribal sites listed on the

NHSC Job Center Website. As of December 2014, a total of 31 NHSC scholars and 350 NHSC loan repayment recipients were providing health care services to Indian communities.

IHS reform efforts also help with retention by improving the way IHS does business, which better supports the work of providers and can help reduce burnout and encourage them to stay.

Calvert Q21: Does IHS include local Tribal leaders directly in the recruitment and retention of health professionals? If so, what has been the response of these leaders?

Answer: IHS works to encourage Tribal leaders and the local community to participate in recruitment efforts. Encouraging a Tribe to participate when a prospective provider visits for an interview can often provide a venue for the Tribe to introduce the local culture and activities while providing a welcoming environment. The IHS provides assistance to local Chief Executive Officers, Clinical Directors, Tribal Leaders and prospective new hires through the development of recruitment and retention materials. The newly developed Applicant Support Program Guide provides guidance to IHS and Tribal hiring officials on building relationships with prospective hires as they go through the hiring process. The *Planning Your Successful Transition* brochure and workbook help new hires and their family transition to a new culture and living in a rural community. The Community Liaisons brochure focuses on preparing a community liaison to work with prospective employees and new hires and serves as a guide for sites to develop a new hire onboarding process, thereby promoting retention of these health care professionals. Many additional resources are available to IHS and Tribal leaders at the IHS Retention website at www.ihs.gov/retention.

Implementation of the Indian Health Care Improvement Act

When Congress passed the Affordable Care Act (P.L. 111-148), it also permanently reauthorized the Indian Health Care Improvement Act (IHCIA). This law was designed so that AI/ANs would receive better and more coordinated care. IHCIA provides new authorities for Indian health care; however additional actions are needed to fully implement the Act. For example, the IHCIA:

- Updates and modernizes health delivery services, such as cancer screenings, home and community based services and long-term care for the elderly and disabled.
- Establishes a continuum of care through integrated behavioral health programs (both prevention and treatment) to address alcohol/substance abuse problems and the social service and mental health needs of Indian people.
- Authorizes the Secretary to fund demonstrations programs for Indian health programs to address chronic shortages of health professionals.
- Authorizes the establishment of a mental health technician program within IHS to train Indians as mental health technicians to provide community-based mental health care to include identification, prevention, education, referral, and treatment services.

In May 2014, the agency posted an update of IHCIA implementation progress on its website, which details many programs and demonstration projects that are authorized but not funded.

Calvert Q22: How much would it cost to fully implement the new authorities under the IHCIA?

> **Answer:** Cost data for full implementation of new authorities is not available. In some cases, the expanded authorities overlap services that IHS may already provide in part and/or overlap in part with similar services available outside of IHS such as through Medicaid and health insurance available to Indians under the Affordable Care Act. Reliable data to calculate the net increased cost to expand such services is unavailable and would be subject to Tribal consultation in the IHS budget formulation process.

Calvert Q23: Can the agency provide Congress with a priority list of the new authorities that should be funded first?

> **Answer:** Tribal recommendations developed as part of the annual IHS Tribal budget formulation process have highlighted the following funding priorities:

- Update and modernize health delivery services, such as cancer screenings, home and community based services and long-term care for the elderly and disabled.
- Establish a continuum of care through integrated behavioral health programs (both prevention and treatment) to address alcohol/substance abuse problems and the social service and mental health needs of Indian people.

Calvert Q24: To what extent could the IHS work with other federal agencies (Substance Abuse Mental Health Services Administration; Health Resources and Services Administration, or the Centers for Disease Control and Prevention) to help realize some of these provisions in IHCIA?

> **Answer:** IHS does collaborate with other federal agencies to implement the IHCIA. The IHS HIV/AIDS Program routinely works with other federal agencies to meet the HIV-specific goals of the IHCIA, particularly section 1680v, "ensure interagency coordination to facilitate the inclusion of Indians in Federal HIV/ AIDS research and grant opportunities, with emphasis on the programs operated under the Ryan White Comprehensive Aids 1 Resources Emergency Act of 1990." This work is documented in the Report to Congress released by IHS on October 22, 2014 entitled, "Progress in HIV/AIDS Prevention and Treatment Activities."
>
> There are two Memoranda of Agreement (MOA) that serve as formal mechanisms to advance IHS' partnership with federal agencies to assist Tribes in addressing behavioral health issues, such as mental illness, substance abuse, child abuse, and family violence. One is through Section 241 of the Tribal Law and Order Act (TLOA) which amended the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, expanding the number of Federal agencies required to coordinate their efforts on alcohol and substance abuse issues in Indian Country. The other is through the permanent reauthorization of Indian Health Care Improvement Act (IHCIA) which required the review and update of an existing memorandum of agreement from 2009.

The two MOA are similar. Therefore, IHS, SAMHSA, Department of Justice and the Department of the Interior (Bureau of Indian Affairs and Bureau of Indian Education) coordinate to synchronize work to improve coordination of resources to accomplish the responsibilities outlined in the two MOA. Part of the work since 2012 among federal agencies has been to implement new requirements in IHCIA and TLOA. In a recent meeting in February 2015, coordinated by SAMHSA, representatives outside the federal agencies in the MOA, such as HRSA, CDC, and NIH, met to discuss resources and possible solutions to implement provisions in IHCIA. Federal agencies planned to continue meeting regularly to establish progress.

IHCIA also requires a report describing all disease and injury prevention activities conducted by the Service, independently or in conjunction with other Federal departments and agencies and Indian tribes, and the effectiveness of such activities, including the reductions of injury or disease conditions achieved by such activities

Calvert Q25: Can you update us on the status of that report?

Answer: The report is under review by the agency.

Substance Abuse and Behavioral Health

Indian Country experiences great challenges when it comes to access mental health services. Suicide rates are more than double in Indian Country, and Native teens experience the highest rate of suicide of any population group in the United States. It is not clear how mental health funding in Indian Country is coordinated on an inter-agency basis. IHCIA says that IHS shall coordinate behavioral health planning with other Federal agencies and with State agencies to encourage comprehensive behavioral health services for Indians regardless of their place of residence (25 U.S.C. § 1665a). The federal trust responsibility is for health, and it is imperative that all agencies working in Indian Country coordinate fully.

Calvert Q26: Can you speak more specifically about what the additional $25 million for the MSPI program will do to improve behavioral health? Will the investments in the MSPI program allow the program to expand beyond 111 grantees?

Answer: The proposed Tribal Behavioral Health Initiative for Native Youth in the FY 2016 President's Budget presents an opportunity to expand the MSPI into a program that both addresses the core tenets of methamphetamine abuse and suicide prevention and, with the proposed additional funding, focuses on broader preventive services in their communities with a focus on Native youth. The expansion of MSPI would offer projects the flexibility to address methamphetamine abuse, suicide prevention, and strength-based interventions for AI/AN youth by increasing the behavioral health workforce. The expansion will provide an option for IHS, Tribal, and Urban Indian health programs to hire child and adolescent behavioral health (BH) providers to provide critical mental health services for prevention and early intervention of youth suicide and substance

abuse, as well as other mental health services. The additional funding also supports P.L. 94-437, as amended, Section 209 in the Indian Health Care Improvement Act by increasing the number of BH providers focused on child, adolescent, and family services. The MSPI currently provides funding to 130 IHS, Tribal, and Urban Indian projects. With the new $25 million in funding, IHS proposes adding up to 200 new projects with new behavioral health providers.

Calvert Q27: What is the agency doing to coordinate efforts between SAMSHA, BIA, and other social services providers to ensure that AI/ANs receive the care and support that they need?

Answer: IHS, SAMHSA, Department of Justice and the Department of the Interior (Bureau of Indian Affairs and Bureau of Indian Education) work together to improve coordination of resources to address responsibilities outlined in the two MOA (please see Q24). Part of the work since 2012 among federal agencies has been to implement new requirements in IHCIA and TLOA. In a recent meeting in February 2015 that was coordinated by SAMHSA, representatives outside of the federal agencies included the MOA, such as HRSA, CDC, and NIH, met to discuss resources and possible solutions to accomplish provisions in IHCIA. These federal agencies planned to continue meeting regularly to establish progress.

Purchased/ Referred Care

The FY 2016 budget request states that increases in recent years have allowed 41 percent of IHS operated PRC programs "to purchase services beyond Medical Priority I" in FY 2014, which is an increase of 18 percent from the previous year (CJ-99). While this increase is very welcome, questions remain about how this has improved health for AI/ANs.

Calvert Q28: How does the agency track PRC deferrals from year to year? In other words, is a person with a chronic condition that is continually denied care for lack of funds tracked from year to year? How many individuals are on multi-year denials?

Answer: IHS annually tracks the total system-wide amount of PRC deferrals through a data call to Federal and Tribal programs. All Federal PRC programs are required to report annual deferrals and denials. Tribal programs are strongly encouraged to report this data to provide the most comprehensive compilation of unmet need in Indian Country. However, it is not mandatory for Tribes to report. In 2013, about 50 percent of Tribal PRC programs reported denied and deferred data.

Tracking deferrals for individual patients is conducted at the local level. Deferrals occur when the local Managed Care Committee determines a case is within current medical priority, but funds are insufficient to authorize. The Service Unit PRC staff track deferred services in the Contract Health Services Management Information System. If funds become available and the service is within medical priority, the patient is notified and a referral is made. In some Areas, referrals are only valid for 30 days and the patient is required to obtain another referral for review. This helps especially if a patient's

medical condition changes, since they may meet a higher medical priority authorized for payment.

Calvert Q29: How have the increases improved the lives of individuals? Are some areas/ regions benefiting more than others from the increases?

Answer: Funding increases have improved the lives of Alaska Native/American Indian patients by improving access to care, funding higher priorities of care and providing for some preventive services. Although some Areas and individual facilities can fund higher priorities than others, all Areas benefit from PRC increases. The current PRC funding formula emphasizes three main elements: distribution based on user populations, regional costs of services, and access to IHS or Tribal hospitals.

We regularly hear anecdotal evidence from physicians and other providers that certain IHS areas do not pay physicians in a timely manner. In fact, a GAO report from December 2013, addressed this concern. The GAO recommended "that IHS revise an agency measure of the timeliness with which purchase orders are issued, use available funds as appropriate to improve the alignment between CHS staffing levels and workloads, and proactively develop potential options to streamline CHS eligibility requirements." Yet, we still hear that these referrals are not being paid quickly, and in some cases individual AI/ANs are being billed for the charges, even though this is illegal.

Calvert Q30: What actions has the agency taken to improve prompt payment of PRC since the publication of the GAO report?

Answer: IHS meets regularly with outside providers to review the PRC program requirements and help with better awareness that IHS does not pay for services for all American Indians and Alaska Natives and, that the PRC programs have eligibility and authorization requirements that must be met for a provider to receive payment for services provided to an IHS eligible patient. In response to GAO report 14-57, IHS concurred with recommendations to improve prompt payments. To revise the GPRA performance measure of the timeliness in which purchase orders are issued, IHS established a workgroup to address and implement a new GPRA element that distinguishes between two types of referrals (self-referral and IHS referrals authorized for payment) and establishes separate timeframe targets for the referral types. The Agency is testing the measure in 2015 before fully implementing the new performance measure in 2016.

Calvert Q31: What efforts have been undertaken to educate providers and IHS claims' processors alike, to ensure that payments are made in a timely manner?

Answer: The IHS Area PRC programs are required to hold two outside provider training sessions each year. Invitations are issued to top outside providers in each Area, including any new outside providers, administrators, managers and registration and billing staff. These outreach and education sessions are required in the Agency performance elements

for relevant staff. Typical training topics include an overview of the PRC program, provider contracts and agreements as well as claims processing.

Calvert Q32: Would centralization of PRC billing for IHS help address the payment delay issues?

Answer: The IHS already has a centralized billing system in place with the current fiscal intermediary (FI). The FI operates a medical and dental claims processing and reimbursement system that also collects, compiles, and organizes workload and financial data and provides statistical and financial reports. FI services are also made available to tribally-operated PRC programs.

Quality controls for the FI contract require claims to be processed and paid within 30 days. The FI regularly meets this standard and maintained an annual average of 98.9 percent of clean claims paid within 30 days during 2014.

The agency's proposed rule to provide for only "Medicare-Like Rates" for PRC non-hospital based services is also a welcome change. This would save the agency millions for this program. However, it is not clear how IHS would enforce this rule to avoid access to care issues

Calvert Q33: What will IHS do to ensure that these rates be enforced by the agency?

Answer: IHS is specifically authorized by law (42 U.S.C. 238m) to enter into contracts with fiscal agents to determine the amounts payable to persons who, on behalf of the Indian Health Service, furnish health services to eligible Indians. The law further authorizes the use of fiscal agents to make such audits of records as may be necessary to assure that these payments are proper. Under this authority, IHS has already contracted with the FI to administer payments to hospitals pursuant to rates established by 42 C.F.R. Part 136 subpart D for Medicare participating hospitals.

Calvert Q34: What sort of exceptions would there be to this rule? In other words, would Tribal providers who have already negotiated rates with outside providers and suppliers be able to continue to use those rates?

Answer: We are unable to discuss regulations under development at this time but IHS is currently reviewing comments.

Calvert Q35: Do you envision an access to care issue where provider would refuse to take PRC patients because of the reduced payment rates?

Answer: IHS recognizes that instituting a rate structure could spur some providers to refuse to serve IHS patients. IHS proposed a Medicare-based rate structure to build upon existing payment structures that already exist in other Federal Health Care programs. IHS recognizes, however, that not all providers impacted by this rule are willing to accept Medicare like rates.

Advance appropriations for the Indian Health Service

One idea to create consistency in IHS care that has been proposed is advance appropriations for the IHS. This would ensure that IHS has its full budget a year ahead of time even if other government agencies are on a continuing resolution (CR). Short term CRs and funding delays mean that IHS and Tribal facilities often have to make long-term health and administrative decisions with only short-term funding guaranteed. This can increase costs for providers and diminish care for AI/ANs.

Calvert Q36: Would advance appropriations for IHS help solve budgetary and administrative issues for IHS and/or Tribal health providers?

> **Answer:** The question of whether advance appropriations address the specific issues raised by Tribes requires additional consideration and discussion.

Calvert Q37: Practically speaking, would we be able to estimate budgetary needs a year in advance?

> **Answer:** Currently, the IHS must estimate certain components of its budget request 9 months in advance, which has proven problematic (i.e., estimates change by the time appropriations are enacted). There is a greater likelihood that estimates would need to be updated or changed at the time of appropriation if the agency were required to develop estimates one year and 9 months in advance.

Calvert Q38: Does the Administration support advance appropriations for IHS as it did for the Veterans' Health Administration in 2009?

> **Answer:** The question of whether advance appropriations address the specific issues raised by Tribes requires additional consideration and discussion.

Tribal Epidemiology Centers

Tribal Epidemiology Centers (TECs) serve as the public health authorities for Indian Country. This work is critical in reducing health disparities for AI/ANs. Yet, the agency continues to ask for level funding for this program meaning each center receives only $360,000 each year. This is not nearly enough to do this important work.

Calvert Q39: Why does the agency believe that this work does not merit an increase?

> **Answer:** The work of the Tribal Epidemiology Centers (TECs) plays an integral role in IHS' overall public health infrastructure, and funding continues to be included in the budget to support this important role. However, because of competing funding priorities based on identified Tribal priorities, an increase was not requested for the TEC program in FY 2016. TECs are able to receive supplemental funding from other federal and non-federal organizations to augment their budgets. The IHS continues to support and provide assistance in searching for other funding opportunities from other federal

agencies and encourages collaboration on projects that address health disparities among AI/ANs.

Calvert Q40: Do you believe that the funds appropriated are enough for TECs to fully realize their mission?

Answer: TECs were created to augment existing Tribal organizations by providing expertise in epidemiology and public health. Each TEC has distinct public health functions and corresponding activities, ranging from population based public health surveillance, local, national and regional infrastructure and capacity building to infectious disease outbreak response. IHS's Division of Epidemiology and Disease Prevention provides technical support and guidance to the TECs, enlisting the support of the National Institutes of Health and the Centers for Disease Control and Prevention. IHS's Environmental Health Services Program also carries out public health services in tribal communities, identifying environmental hazards, for example by inspecting local food service establishments, and providing training, technical assistance, and funding to develop the capacity of tribal communities to address local environmental health issues.

Questions from Ms. McCollum

Tribal Youth Behavioral Health Initiative

The Tribal Youth Behavioral Health Initiative is a new initiative in this budget request. The budget request proposes to expand the Methamphetamine and Suicide Prevention Initiative by $25 million.

McCollum Q1: How does this new funding build on existing efforts to improve access to mental health and chemical dependency services for tribal youth?

> **Answer:** The MSPI pilot demonstration phase over the past 6 years promoted the use and development of evidence-based and practice-based models that represented culturally-appropriate prevention and treatment approaches to methamphetamine abuse and suicide prevention. Tribes had the flexibility to develop and implement activities from a community-driven context for their specific needs. Over 85 percent of MSPI projects focused on services for AIAN youth, including positive development activities, prevention, behavioral health treatment, and wraparound aftercare services. Those projects provided over 500,000 youth encounters in the first five years of implementation. The success of the MSPI revealed that strength-based interventions, such as the protective role of culture, social connectedness, and cultural activities, are central to Native wellness, especially for AI/AN youth. To further promote the successes of the MSPI, the proposed Tribal Behavioral Health Initiative for Native Youth in the FY 2016 President's Budget presents an opportunity to strengthen and expand the MSPI into a program that continues to address the core tenets of methamphetamine abuse and suicide prevention and that will use the additional funding for projects to focus on prevention and treatment services for AIAN youth with the addition of behavioral health providers and more youth-based programming.

McCollum Q2: How does this effort work with the Domestic Violence Prevention Initiative and broader efforts to address exposure to violence for American Indian/Alaska Native youth?

> **Answer:** In Tribes where both DVPI and MSPI projects were awarded, the respective projects often take advantage of community-wide events to raise awareness and educate Tribal communities about both substance abuse and domestic violence issues (e.g., at Gathering of Native Americans, Annual Health Fairs, Tribal Pow Wows, etc.). MSPI and DVPI projects are complimentary since they implement the culturally relevant prevention and intervention work needed to address the linkage between past trauma and maladaptive behavioral health issues (e.g., interpersonal violence, suicidality, drug or alcohol use). For Tribes that only receive MSPI funding, making the link between domestic violence and interpersonal traumas to later substance abuse and mental health issues is a key component of their activities to promote awareness, prevention, intervention, and treatment services.
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> Moreover, the evidence-based programming and treatment curricula used to address substance abuse issues in MSPI projects (e.g., the Matrix Model, Dialectical Behavior Therapy (DBT), Cognitive Behavioral therapy (CBT), Motivational Enhancement

Therapy (MET), Yes You Can! 16 Steps for Discovery and Empowerment, American Indian Life Skills (AILS), and Be the Change Youth Club) help individuals and families reflect on how they can use protective factors to prevent the abuse of alcohol, substance abuse, as well as domestic violence, interpersonal strife, and past exposure to violence.

McCollum Q3: How does the IHS work with other points of contact for youth in crisis, such as schools, community organizations, or the criminal justice system, to improve the response to mental health issues?

Answer: MSPI and DVPI projects intersect in many ways with the ongoing operations of primary medical care, behavioral health care, and other community resources and organizations in Tribal communities. In order to receive funding each year, project personnel are required to form partnerships with other providers and institutions in their community so that awareness of the significant behavioral health issues facing the community (violence, suicidality, and substances abuse) become widely shared. Educational events, either community-based or school-based, help the population become aware of resources to intervene and treat serious conditions (e.g., depression, suicidality, PTSD) that are available through the project and through its partner networks. As partners and providers coalesce around the focal mission, written (brochures, posters, billboards) and electronic resources (Facebook pages and YouTube offerings of youth digital-narratives) produced by the projects compliment outreach efforts. This results in community-wide dissemination of behavioral health resources available to community members in their daily life, as they visit their doctors, the health clinic, the social services office, the school, the hospital and/or local advocacy and social service organizations (e.g., homeless or domestic violence shelters).

Projects that offer preventive and evidence based resiliency-connectedness and that build programming for youth in elementary, middle school, and high school students provide important points of contact for communities that wish to improve responses to mental health issues. School-based services increase the number of people aware of youth in crisis (e.g., other students, school teachers, school counselors, nurses and school service staffers) and provide a communication pathway to the family about available services for the individual and/or family unit.

McCollum Q4: How do these initiatives partner with other agencies in the Federal government, tribes and other entities?

Answer: As part of the Generation Indigenous, the Tribal Behavioral Health Initiative for Native Youth is proposed as a collaboration between IHS (+$25 million) and SAMHSA (+$25 million) to provide more resources and support for Native youth through more behavioral health providers and additional community-based efforts. IHS' MSPI initiative also coordinates and partners with SAMHSA's Garrett Lee Smith suicide prevention grant funding to ensure that resources are targeted, non-duplicative and designed to make the most impact for the tribal communities that receive the funding.

There are two Memoranda of Agreement (MOA) that serve as formal mechanisms to advance IHS' partnership with federal agencies to assist Tribes in addressing behavioral health issues, such as mental illness, substance abuse, child abuse, and family violence. One is through Section 241 of the Tribal Law and Order Act (TLOA) which amended the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, which expands the number of Federal agencies that are required to coordinate their efforts on alcohol and substance abuse issues in Indian Country. The other is through the permanent reauthorization of Indian Health Care Improvement Act (IHCIA) which required the review and update of an existing memorandum of agreement from 2009.

The two MOAs are similar. Therefore, IHS, SAMHSA, Department of Justice and the Department of the Interior (Bureau of Indian Affairs and Bureau of Indian Education) work to improve coordination of resources to accomplish the goals outlined in the two MOAs. A part of the work since 2012 among federal agencies has been to seek to implement new requirements in IHCIA and TLOA. In a recent meeting coordinated by SAMHSA in February 2015, representatives outside the federal agencies in the MOA, such as HRSA, CDC, and NIH, met to discuss resources and possible solutions to implement provisions in IHCIA. These Federal agencies planned to continue meeting regularly to continue progress.

Electronic Medical Records

This budget request includes a $10 million increase in Health Information Technology.

McCollum Q5: How will this increase help you achieve meaningful use of Electronic Medical Records?

Answer: The request will allow additional development and upgrades of IHS' Resource Patient Management System (RPMS) Electronic Health Record (EHR) to help meet the requirements for 2015 EHR Certification and Meaningful Use (MU) 3 in 2017/2018. The focus of 2015 EHR Certification and MU Stage 3 includes fully developing the ability to meaningfully use the EHR to improve quality of care, to better coordinate care, and to enable the sharing of patient summary information within the Indian Health/Tribal/Urban (I/T/U) system and its Health Information Exchange (HIE) as well as with other health systems with separate HIEs. This ability to share patient summary information, also termed interoperability, will have a significant impact on IHS' ability to provide more consistent and coordinate care for patients especially as they are referred elsewhere for care or as they visit multiple facilities. The FY 2016 President's budget proposes additional resources to assist IHS in funding the upgrades and development necessary for participation to be able to meet MU Stage 3 criteria and avoid penalties.

McCollum Q6: What happens to a patient's Electronic Medical Record when a patient transitions between different types of care within the system - for instance between an IHS facility and an urban health center?

Answer: Currently, each IHS and Tribal facility utilizes an Electronic Health Record system (RPMS or other) that includes patient information only at that specific location. In addition, each urban Indian health center is a separately administered urban Indian 501(c)(3) non-profit organization. At this time, the patient's electronic medical record cannot be electronically transferred between the facilities. A new electronic health record is established at each of the facilities where the clients receive health care services. Previous medical records can be obtained from other facilities according to release of information procedures, and patients are encouraged to allow transfer of their medical records from one facility to another. Achieving Meaningful Use with interoperability will allow for the transfer of patient information between facilities.

McCollum Q7: (a) What happens to a patient's Electronic Medical Record when a patient transitions between systems of care? For instance, (b) how are medical records from outside providers such as the Purchased and Referred Care or through the VA handled and linked to IHS records?

Answer: Currently, IHS sends medical information to outside providers when patients are referred through the Purchased/Referred Care program. IHS is responsible for ensuring that policies and procedures for patients' rights to access, inspect, and obtain a copy of their Protected Health Information for use and disclosure of Protected Health Information are established for patient's care, for notification purposes and transfer of care. The RPMS EHR is intended to help providers electronically manage all aspects of patient care by providing a full range of functions for data retrieval and capture to support patient review, encounter, and follow-up. Integrated into the RPMS EHR is VistA Imaging which allows the collection, storage, and display of radiologic images, electrocardiograph tracings, imaging from other sources, and scanned medical documents for services received through the VA or the PRC Program. Achieving interoperability within I/T/U facilities and with outside providers for Meaningful Use 2 will provide a more efficient way to share patient medical records across the continuum of care.

Health Care Facilities

The FY 2016 budget request proposes funding five healthcare facility construction projects.

McCollum Q8: How does IHS select the Healthcare Facilities Construction projects that are included in the budget request?

Answer: Healthcare facilities projects are funded in priority order from the congressionally approved IHS Health Care Facility Construction (HCFC) Priority List that was developed in the early 1990's using a needs based methodology. The order of projects being constructed mirrors each project's priority on the HCFC Priority List that separately identifies both inpatient facilities and outpatient (ambulatory) facilities. The reauthorization of the IHCIA in 2010 requires IHS to complete all projects on the existing list before initiating construction on other projects.

McCollum Q9: Is there a defined pipeline of projects? If so, please include the project list in the reply.

Answer: Yes. If the FY 2016 proposed budget is enacted, 12 projects will remain on the Priority List needing partial or full funding totaling more than $2 billion.

HCFC Priority List – Remaining Projects to Complete if FY 2016 President's Budget Request is Funded

Inpatient Facilities (4)	Outpatient Facilities (8)
Phoenix Indian Medical Center (PIMC), AZ	Rapid City, SD
Salt River, NE ACC	Dilkon, AZ
Central Hospital & ACC	Alamo, NM
Whiteriver Hospital, AZ	Pueblo Pintado, NM
Gallup Indian Medical Center, NM	Bodaway-Gap, AZ
	Albuquerque Indian Health System, NM
	Albuquerque West
	Albuquerque Central
	Sells, AZ
Total Inpatient to Fund: $1,387,310,000	*Total Outpatient to Fund: $657,562,000*
TOTAL Funding to Complete Remaining Projects: $2,044,872,000	

Recruitment and Retention

McCollum Q10: How is the IHS working to identify skills gaps and build the capacity of its workforce?

Answer: Skill gaps are identified by either the employee or the supervisor as a part of the performance management process. If responsibilities are not getting accomplished or are not being performed correctly, or if new program activities have been added for which the employee was not trained, the employee and supervisor discuss the need for formal or informal training to meet program goals. Individual Development Plans are implemented at the beginning of every employee performance review cycle and can be edited during the mid-year review if a skill gap is identified. IHS also provides a variety of trainings for employees on administrative and clinical topics through webinars, meetings, and through courses in the Department of Health and Human Services HHS University.

McCollum Q11: Is there an effort to retrain existing employees to build their skills and eligibility for other IHS jobs?

Answer: Workers of all ages are trained or retrained to meet program goals and objectives. Employees have opportunities to select training opportunities through program such as HHS University, or they can request program specific training related to their job or employment series. More recently, supervisors have been encouraged to provide cross training opportunities for staff to help with coverage of other duties during staff vacations or absences and as a way to promote additional skills in the workforce.

McCollum Q12: Does IHS provide opportunities and training for health paraprofessionals working as Community Health Representatives to move into higher skilled positions?

> **Answer:** Community Health Representatives and other non-clinical staff that apply to health professions programs can also apply for part time or full time support from the IHS Scholarship Program. This is seen frequently with individuals applying to nursing programs.

McCollum Q13: Are adequate housing, quality schools, and other quality of life issues a barrier to retaining and recruiting employees?

> **Answer:** Housing for all hospital or clinic employees can be a barrier to recruiting and retaining health professionals at some locations.

McCollum Q14: How do you work with other partners like HUD and the BIA to address these issues?

> **Answer:** Local facilities and tribes work with a variety of federal and non-federal partners to try to address housing issues, especially in remote locations. In some cases, housing is reserved for key personnel positions.

Maternal and Child Health

McCollum Q15: Please share your most recent indicators of maternal and child health for Native American women and infants, including but not limited to statistics on prenatal and postpartum care, premature birth, cesarean section deliveries, infant mortality rates, and immunization rates for infants and young children.

Where has IHS seen some of the biggest improvements or growing areas of concern in the past decade for Indian mothers and children?

> **Answer:** The neonatal, infant, and post-neonatal data below is from Trends in Indian Health 1997-1999 Edition and the new 2007-2009 Edition. The prenatal care data is from the ADVANCE DATA from Regional Differences in Indian Health 2012 edition. The immunization data is from the Fourth Quarter FY 2014 Immunization Report (July 1, 2014 - September 30, 2014). While these data show improvements, in many cases disparities still exist compared to the general U.S. population.

- In 1997-1999, the infant mortality rate among infants born to AI/AN mothers in the Indian Health Service was 8.8 per 100,000 live births, and the comparable 2007-2009 the infant mortality rate was 8.3, a 6 percent reduction. Although the AI/AN infant mortality rate declined, it is still is 1.3 times that of the general population for the mid-year 2008.
- In 1997-1999, the neonatal mortality rate for infants born to AI/AN mothers in the Indian Health Service was 4.3 per 1,000 live births and the comparable 2007-2009 neonatal mortality rate was 4.1 which represents a 9 percent reduction.

- In 1997-1999, the post-neonatal mortality rate for infants born to AI/AN mothers in Indian Health Service was 4.3 per 1,000 live births, and the 2007-2009 rate was 4.2, a reduction of 2 percent. The 2007-2009 rate is 1.9 times higher than U.S. all races rate of 2.2 for the mid-year of 2008.

- In 1997-1999, babies born to AI/AN mothers in the Indian Health Service died of Sudden Infant Death Syndrome (SIDS) at a rate of 147.4 per 100,000 live births as compared to the 2007-2009 SIDS rate for babies born to AI/AN mothers in Indian Health Service of 111.4. This represents a reduction of 7 percent. SIDS is the leading cause of death for AI/AN babies, and congenital malformations, deformations and chromosomal abnormalities is the leading cause of death for U.S all population.

- In 1996-98, prenatal care was initiated in the first trimester for 68.5 percent of AI/AN live births in Indian Health Service. This rate is over 14 percent lower than the number of births with prenatal care among the US all-races population (82.5 percent) in 1997. During 2005-7, according to ADVANCE DATA from Regional Differences in Indian Health 2012 edition, prenatal care began in the first trimester for 65.9 percent of AI/AN births among the IHS service area population, which is lower than the number of births with prenatal care among the US all-races population (76.3 percent) in 2006. From 1996-1998 to 2005-7, the prenatal care for the first trimester in AI/AN women declined by 3.8 percent, and in US all races women, it declined during the same period by 7.5 percent.

- The 2012 Edition of ADVANCE DATA from Regional Differences in Indian Health reported that the 1996-1998 AI/AN primary cesarean delivery rate in Indian Health Service was 12.1 per 100 live births while the 1997 U.S. all races rate was 14.6 per 100 live births.

- The 2012 Edition of ADVANCE DATA from Regional Differences in Indian Health reported that the 2005-2007 AI/AN primary cesarean delivery rate in Indian Health Service was 11.2 per 100 live births, while the 2006 U.S. all races rate was 31.0 per 100 live births. Comparing the rates from 1996-1998 to 2005-2007, the rate of primary cesarean delivery among AI/AN women declined by 7.4 percent while the U.S. all races rate increased by 112.3 percent.

- Immunizations (http://www.ihs.gov/epi/documents/vaccine/reports/FY14_4thQuarter.pdf)

  - For FY 2014 Quarter (Q) 4, the 12 IHS Areas submitted immunization reports from IHS, Tribal and Urban Indian health centers (I/T/U). The report provided information on the immunization status of 28,988 children 3-27 months old. Of these, 21,067 or 73 percent received all age-appropriate vaccinations compared to 73 percent (21,558/29,605) of children 3-27 months in Q3 of FY 2014.

  - The Two Year Old Report (children 19-35 months old) is used to monitor progress towards the Government Performance Results Act (GPRA) childhood immunization indicator. In FY 2014 Q4, 74 percent (15,585/21,136) of two year olds had

completed the 4:3:1:3:3:1:4 vaccine series compared to 75 percent (16,108/21,589) in FY 2014 Q3. The 4:3:1:3:3:1:4 vaccine series includes four doses of diphtheria, tetanus, and pertussis vaccine; three doses of poliovirus vaccine; one dose of measles, mumps, and rubella vaccine; three doses of Haemophilus influenza type b vaccine; three doses of the Hepatitis B vaccine; one dose of the varicella (chicken pox) vaccine; and four doses of the pneumococcal conjugate vaccine. For FY 2014 Q4, the 12 Areas combined reported on 14,981 thirteen year olds compared to 15,116 thirteen year olds in FY 2014 Q3 report. For FY 2014 Q4, coverage by Area ranged from 83-98 percent for tetanus, diphtheria, pertussis vaccine (Tdap), 70-97 percent for meningococcal vaccine (MCV4) and 56-88 percent for human papillomavirus vaccine (HPV1).

IHS efforts to address and improve maternal and child health issues including the following examples:

- The Baby-Friendly Hospital Initiative (BFHI) is an evidenced-based practice care model designed to protect and promote breastfeeding as the safest, healthiest way to nourish babies. This initiative is part of the First Lady Michelle Obama's "Let's Move! In Indian Country," campaign dedicated to solving childhood obesity within a generation. All 13 of the 13 IHS obstetric hospitals, or 100 percent, are nationally designated as "Baby Friendly", (BF). Fewer than 6 percent of all U.S. hospitals are BF designated, making IHS a national model for breastfeeding promotion and support.

- The prevalence of overweight and obesity is close to 50 percent for all AI/AN children. One out of every three school-age children is obese. There is an alarming trend that shows that we have higher rates of obesity in children across all age groups which often continues into adulthood. IHS has worked to promote BF designation at IHS Obstetrical hospitals, Let's Move Indian Country, Healthy Weight for Life and Diabetes Prevention efforts to increase awareness of obesity and the lifelong consequences of obesity in children.

- In 2012, the CDC recommended routine Hepatitis C Virus (HCV) testing for all persons born from 1945-1965. By 2013, the HIV program assisted several pilot sites in launching an electronic reminder and began dissemination of the reminder and related data management systems to track progress. As of June 2014, IHS had screened 31 percent (34,201 unique patients) of its total 1945-1965 birth cohort, which represents a relative increase of 287 percent over the prior 12 months.

- IHS has provided widespread prenatal HIV screening since 2007, when the agency surpassed the current United States Healthy People 2020 goal of 74.1 percent. This success has been sustained and improved on in the years since. In FY 2013, IHS recorded a prenatal HIV screening rate among all federal sites of 89.8 percent. In the summer of 2014, IHS partnered with CDC to enhance AI/AN inclusion in two national HIV media campaigns, "Start Talking. Stop HIV" and "Let's Stop HIV Together." The two agencies worked together to identify AI/AN community concerns, develop a list of potential models/ spokespeople, and conduct outreach to community stakeholders.

- The chlamydia screening rates as reported by this measure have steadily increased among federal sites from 29.2 percent in FY 2012, to 34.6 percent in FY 2014.

- Heavy drinking during pregnancy can cause significant birth defects, including Fetal Alcohol Syndrome (FAS). Screening with intervention has been shown to be effective in reducing alcohol misuse in pregnancy and to reduce the incidence of FAS. Since FY 2004, the Agency has increased the screening rate nine-fold from 7 percent in 2004 to 66 percent in 2014 through promoting and incorporating alcohol screening as a routine part of women's health care.

McCollum Q16: What percentage of antenatal care for Native American women is accessed through IHS facilities, and what percentage is through the Purchased-Referred Care program? What are the percentages for deliveries? Please provide patient counts as well.

Answer: IHS has 13 Obstetrical hospitals that provide prenatal and antenatal care. Purchased/Referred Care (PRC) funds are used to purchase services from private health care providers in situations where (1) no IHS direct care facility exists, (2) the direct care element is not capable of providing required emergency and/or specialty care, (3) the direct care element has an overflow of medical care workload, and (4) supplementation of alternate resources is required (i.e., Medicare, private insurance) to provide comprehensive care to eligible Indian people.

The birthrate for IHS service population in 2002-2004 was 1.5 times the rate of all-races population in 2003, (20.8 and 14.1, respectively). The AI/AN birth rate was 53 percent greater than the rate for the U.S. white population of 13.6. The total live births for All IHS Areas were 35,492.

The percentage of antenatal care for Native American women that is accessed through the PRC program is currently unavailable.

McCollum Q17: How does the Maternal, Infant and Early Childhood Home Visiting Program coordinate with IHS providers? What are the latest outcomes of program evaluation?

Answer: IHS programs are encouraged to recognize the functions of the Tribal MIECHV grant programs in improving health care services and child and family outcomes through home visits.

IHS does not evaluate Tribal program outcomes for the Administration for Children & Families (AFC) Maternal Child Health Tribal Home Visiting Program which was coordinated with Tribal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Grants.

In 2013 ACF shared information on best practices/promising practices of the MIECHV programs in AI/AN communities at the IHS 2013 Nurse Leaders in Native Care Conference. Several best practices/promising practices were highlighted and areas for

collaboration with Public Health Nurses and IHS providers were identified with a goal to partner and support the initiatives/strategies of the early MCH tribal home visiting interventions.

WEDNESDAY, FEBRUARY 25, 2015.

BUDGET HEARING—DEPARTMENT OF THE INTERIOR

WITNESSES

HON. SALLY JEWELL, SECRETARY, DEPARTMENT OF THE INTERIOR

MIKE CONNOR, DEPUTY SECRETARY, DEPARTMENT OF THE INTERIOR

OPENING REMARKS OF CHAIRMAN CALVERT

Mr. CALVERT. The committee will come to order. Secretary Jewell, I would like to welcome you to today's hearing along with Deputy Secretary Mike Connor. Our hearing today will address the Fiscal Year 2016 budget priorities for the Department of Interior.

Madam Secretary, this is your second formal budget hearing before our subcommittee as Secretary of the Interior. At the outset, I would like to thank you for the opportunities we have had recently to discuss many of the challenges facing your Department and this committee. Funding for fire suppression, Endangered Species Act issues, Indian education, PILT funding, and the severe drought affecting the West, including my home State of California, these are all issues your Department and this subcommittee must continue to address together.

Today's hearing marks the beginning of a very candid conversation about your Department's funding priorities. Overall, the President's Fiscal Year 2016 budget request provides $11.8 billion in discretionary funding for the Department of Interior programs under this subcommittee's jurisdiction, an 11 percent increase over the Fiscal Year 2015 enacted level.

While your budget request includes funding increases for many notable programs and priorities, I have an obligation to remind you and everyone in this room that again this year we are operating in a very constrained funding environment. To be frank, I am concerned that your budget request raises expectations that simply cannot be met. As you know, the President and Congress agreed upon statutory spending caps through the Budget Control Act. This budget request ignores those statutory caps.

On this point, let me be very clear. We are bound by the spending caps under existing law, the 11 percent spending increase reflected in your budget request is simply not a realistic outcome. We will do our best to address the highest priority needs, but as we have discussed, any increases to specific accounts or programs will likely have to be offset against other accounts and programs in this bill. While we will not agree on every single issue, I know from our conversations that we both recognize the importance of listening to other points of view and trying to find common ground in solving problems. In that spirit, I would like to mention a few things before we receive your testimony.

WILDLAND FIRE

First, the challenge providing adequate wildfire funding each year remains one of the great challenges facing our subcommittee. The cost of fighting wildfires, particularly the 1 percent of the most catastrophic fires that consume 30 percent of the fire budget, continues to grow. Naturally, this puts pressure on every other account in our bill. I want to applaud my good friend and former subcommittee chairman, Mike Simpson, for his continuing efforts to address this issue through his bipartisan legislation, which proposes that we treat catastrophic fires as we do any other natural disasters, like earthquakes, floods, hurricanes. Eight members of this subcommittee are co-sponsors of the Simpson bill.

ENDANGERED SPECIES ACT

Another challenge facing the Department and the committee is the Endangered Species Act. The ESA is a well-intentioned statute, but is long overdue for a legislative and budgetary overhaul. The ESA unfairly stacks the deck in favor of listings, creating a cottage industry for those making a living out of suing the government to list species. These lawsuits drive the budget and relegate recovered species to the back burner where they wait, sometimes for 8 years or more until the Fish and Wildlife Service formally proposes to take them off the list. The Fish and Wildlife Service should be held to the same standard for listing and de-listing, and we ought to structure the budget and the law accordingly.

SAGE-GROUSE

Driving the budget today is a potential listing of the sage-grouse. Western States are leading an unprecedented effort to conserve sage-grouse so that a listing is not necessary. If the Department lists the sage-grouse, American consumers will feel the impact at the gas pump and in their monthly utility bills. The settlement agreement deadline of September 30th, 2015 is arbitrary, and Congress has an obligation to continue to consider whether to override this deadline if necessary. In the meantime, I look forward to our discussion today for the funding increase proposed for sage-grouse in Fiscal Year 2016.

PAYMENTS IN LIEU OF TAXES

Identifying stable, long-term funding for the payments in lieu of taxes, PILT, is another major challenge. So long as the Federal government continues to propose acquiring more land without guaranteeing that counties will be fairly compensated for their lost tax revenue, serious questions will continue to be raised about more Federal land acquisition, especially in the West. Until a long-term funding solution is identified, PILT will continue putting pressure on the Land and Water Conservation Fund and other programs within this bill.

DROUGHT

Lastly, we are in the midst of a drought resulting in far-reaching consequences affecting families and businesses in the West, particularly in my home State of California. This subcommittee is lim-

ited in what it can do to address the drought. However, you are in a position to make a difference by ensuring that the Department does not repeat past mistakes that have exacerbated the conditions on the ground.

In closing, Madam Secretary, I want to express my appreciation to your fine professional staff. This is a team effort, and our committee simply could not do its work without your budget shop, the various bureaus, and the folks sitting behind you. Thanks to each of you for the work that you do every day.

With that, I am happy to yield to the gentlelady from Minnesota for any opening remarks she would like to make. Ms. McCollum?

OPENING REMARKS OF CONGRESSWOMAN MCCOLLUM

Ms. MCCOLLUM. Thank you, Mr. Chairman. Secretary Jewell, I join with Chairman Calvert in welcoming you to the subcommittee today. And I appreciate that you and Deputy Secretary Connor are here to provide insight into the Fiscal Year 2016 budget, and to answer any questions we might have.

Madam Secretary, as I look over the budget request for the Department, I see a budget that recognizes the responsibilities that all of us have to be good stewards to our Federal lands and the natural resources they contain. I am pleased that this budget request builds upon the bipartisan commitment of this subcommittee to further the economic and social wellbeing of our Native American brothers and sisters, especially in the area of Indian education. While we have made some progress in addressing this issue that Native Americans face, we all know that there is more work to be done.

It is also good to see the renewed commitment in the budget to preserving and interpreting our national parks with the upcoming centennial of the National Park Service. Combined with the new initiatives of the American civil rights story and the ongoing efforts you have to engage our youth, you are working to lay a strong foundation for the preservation of our natural heritage and our historical past so that we can build for a bright future.

I also appreciate the strong emphasis on science in this budget. Our land and waters face continued and, in many instances, growing threats from invasive species, drought, and climate change. Our land managers and others need a body of scientific research that this budget would provide in order to make informed decisions, as the chairman was asking for, and take actions to address these mitigating threats.

After years of diminished budgets with agencies barely holding their own, your budget request to turn the corner and put sequestration behind us is welcomed. That said, by no means is this an extravagant budget. Adjusted for inflation, this request proposes to spend less on the Interior Department programs than we spent a decade ago in 2005. Less than 2005.

Madam Secretary, I know you share with me the concerns about the impacts diminished budgets in past years have had not only on the resources entrusted to the Department, but also the impact on the many dedicated employees who have been continually asked to do more with less. We can only hope that the Fiscal Year 2016 budget goes forward, that we can restore some sanity to the budget

process, and that this subcommittee can get a fair, workable budget allocation that will enable us to provide the Department of Interior with the fiscal tools that they need to carry out their important work.

Madam Secretary, I will have questions for you later on, and I appreciate the openness and the receptiveness and responsiveness that we have had in my short tenure as ranking member with the committee. I want to extend my thanks not only to you, but all the employees of the Interior Department who come to work each and every day doing more with less. And I look forward to your testimony. Thank you. I yield back.

Mr. CALVERT. I thank the gentlelady. We are also joined today by our distinguished chairman of the full Appropriations Committee, Chairman Rogers, and thank him for taking time to contribute to this important conversation. Chairman, if you would like to make any opening remarks?

OPENING REMARKS OF CHAIRMAN ROGERS

Mr. ROGERS. I shall. Thank you, Mr. Chairman, for yielding. We wish you well, and we think we are in good hands. And, Madam Secretary, it is a delight to welcome you here. Thank you for appearing.

Your Department oversees numerous entities, each uniquely charged and authorized with the stewardship of our natural resources and national heritage. Your Department was very helpful in my district just last year in working closely with the Corps of Engineers to raise the water level in Lake Cumberland back to its historic pool level, and incidentally, to save an endangered fish known as the duskytail darter.

I appreciate the expeditious manner in which your Department handled those issues. You were helpful and cooperative in every way. I also appreciate that the Department has finally observed this committee's strong insistence that you would refrain from cutting the Office of Surface Mining State Grant Programs, and proposing fees on industry as a way to make up the difference. And I am pleased to see that the budget reflects the strong objections made by this committee in previous years and discontinues the fee proposal.

Your budget request begins with an homage to President Obama's new and oft quoted mantra of middle class economics. As you well know, your Department is the steward of 20 percent of our Nation's land and accompanying resources, the largest supplier and manager of water in 17 States, the guardian of our national parks and historic areas, and the primary regulator of surface mines in the eastern U.S. So there is no question that it should play an important role in helping middle class America grow and flourish.

Unfortunately, Madam Secretary, there are a number of issues with this budget request and larger politically driven policy priorities within the Department that cause me to question the Administration's commitment to middle class growth and our country's economic and energy security.

Energy costs have a direct impact on job creation, public health, nearly every other issue of national importance. Families, schools, medical facilities, and businesses rely on cheap, reliable energy to

keep our communities thriving and to plan for the future. However, unrestrained regulatory requirements put forth by your Department are already raising energy costs on businesses and employees alike, forcing everyone to make tough choices and some even into the unemployment lines.

In particular, I continue to be dismayed at the efforts of this Administration to summarily scrap and rewrite the 2008 stream buffer zone rule. Your Department has invested over $8 million in a grossly mismanaged rulemaking process, trying to redraft a rule that was meticulously crafted and thoroughly studied for 5 years. The more we learn about the new rule, the more we realize what a bad deal it is.

Officials at your own Department claim that it would save no more than 15 miles of streams because in reality it would simply force the Appalachian coal industry to close its doors and set up shop somewhere else. That will have a tremendous impact on surface mining, an industry that sustains over 3,100 miners in Kentucky alone. Rewriting this rule jeopardizes thousands of jobs in a region where unemployment is already as high as 11 percent in many counties, all for the sake of miniscule environmental gains.

Though coal plants are closing around the country under the weight of costly regulations and mine operators are dragged through arduous permitting exercises, the coal industry is not the only victim of the Administration's misguided energy policies. We have seen oil exploration aggressively stymied, and much needed pipeline construction projects back burned or, worse, vetoed.

Meanwhile, the press has been flooded in recent weeks with accounts of so-called sustainable or renewable energy projects that are doing irreparable harm to the environment, sometimes at taxpayers' expense. Wind farms are devastating populations of rare birds and bats to the tune of millions per year. And solar panels are loaded with harmful pollutants and toxins.

I am certainly not an opponent of renewable energy or environmental protection, but I do oppose government meddling in the energy marketplace that results in the artificial selection of winners and losers. For Federal regulations to overtake the marketplace as the decider of our country's energy portfolio is not safe for our present or our future.

It may seem like it from Washington, but there is no winner in this approach to American energy policy. My district in Kentucky is currently facing some of the highest unemployment rates in the country, and the President's proposal to mitigate the destructive impact of his policies, the so-called Power Plus Plan, is a passing glance to communities that are in real pain.

The most significant Power Plus proposals that fall under the purview of your Department involve mandatory spending programs, meaning they will require legislative action outside of this committee to be realized. You know and I know that this is not a real proposal until it is authorized. And while it is somewhat refreshing to see this Administration finally take ownership of the devastation wrought by the President's policies, the bottom line is that these are real coal communities. We need regulatory relief so that we can keep mines open, bring back some of these high paying stable jobs, and keep electricity rates around the country low in

order for businesses to flourish and for America to compete worldwide.

While we in Eastern Kentucky work together to diversify and grow our economy, we cannot lose sight of the fact that coal has kept the lights on for centuries, and that has to be a part of the conversation as we move forward. The way we handle these issues today will have a profound effect on energy security in the country. I hope that you will provide some insight as to how your Department plans to balance its dual roles of protecting our national resources and supporting the provision of reliable energy and economic opportunity. We look forward to hearing your testimony.

Mr. CALVERT. Thank you, Mr. Chairman. I am also pleased to see that our ranking member of the full committee, Ms. Lowey, is here with us today. I am happy to yield to the gentlelady for any opening remarks she would like to make. Ms. Lowey?

OPENING REMARKS OF CONGRESSWOMAN LOWEY

Mrs. LOWEY. Well, I thank you very, very much. I am laughing because the chairman and I feel as if we are on roller skates today. We are honored and privileged to have four Secretaries with us. And I am particularly pleased to be here today, and I cannot help but think what a great privilege you have to have this extraordinary portfolio, and how privileged we are to have you in that position, so I thank you for your service and your commitment. I wish that I could do all the hiking that you do and enjoy the great outdoors as much as you do. So thank you very, very much.

From conserving and protecting such national treasures as the Statue of Liberty and the Grand Canyon, to providing for the public use and enjoyment of nearly 500 million acres of Federal land, the Interior Department is indeed the caretaker of significant aspects of our national heritage. Add to that its responsibilities to Native Americans, wildlife, energy production, and far flung U.S. territories, and the Department certainly has a wide and varied portfolio.

To carry out these important responsibilities, the Administration is requesting approximately $11.9 billion. If enacted, this request would reverse some of the steep declines these programs have suffered from in recent years, which led to a reduction in routine maintenance, aging, understaffed park facilities, and public lands at great risk of fire because they had not been properly managed. The President's 2016 request not only makes the programs in this bill a priority, he has provided to Congress an entire budget focused on critical investments, continued economic growth. The budget calls for investments in research, education, training and infrastructure.

And I want to repeat again because I think it is so important, the proposed rule has also called for the end of the mindless austerity of sequestration, urging this Congress to replace it with more targeted spending cuts, program integrity measures, and the closure of some outdated tax loopholes. I understand many of my colleagues on the other side of the aisle have differences with how we address sequestration. Many are focused on the potential security concerns if we do not address the sequester on the defense side of

the ledger. I see common ground, and I believe we can once achieve the compromise under the Murray-Ryan plan of 2013.

Now, I want to make it clear that plan was not perfect, but it did provide a path forward for another budget deal. Without such an agreement, our appropriations process is deeply in peril, with discretionary funds on pace to be at the lowest levels since the Eisenhower Administration.

The President's 2016 request would renew our commitment to our national parks as part of the upcoming National Parks Centennial, as well as the initiatives to preserve the sites and resources associated with America's civil rights story, and to engage our youth in outdoor activities. The investments proposed to advance the social and economic wellbeing of Native Americans are commendable. I am especially glad to see the additional funds and reforms directed at improving Indian education, as well as the efforts being directed at providing support for youth and families.

I am glad to see the focus on the safe and efficient use of America's energy resources. Now, while some pay lip service to an all-of-the-above energy strategy, the Department has expanded America's energy portfolio. We are seeing a tremendous increase in renewable energy production on public lands, despite a lot of rhetoric, more oil and gas actually being produced on public lands than in the last years of the previous Administration. I am especially glad to see that following the Deepwater Horizon disaster, significant reforms were instituted to prevent such accidents and to protect lives and property.

So Madam Secretary, in closing, I want to tell you again how much I appreciate your commitment and your passion that you bring to the job. I look forward to your testimony this afternoon. And I thank you, Mr. Chairman.

Mr. CALVERT. Thank you. With that, Madam Secretary, I am happy to yield to you for your opening statement.

OPENING REMARKS OF SECRETARY JEWELL

Secretary JEWELL. Thank you very much, Chairman Calvert. It is great to be here. Ranking Member McCollum, and Chairman Rogers, and Ranking Member Lowey, thank you very much for your comments, and members of the subcommittee. This is a full table today, which is really great to see.

As you did for me, I want to thank you for the collaborative working relationship we have with the subcommittee, and acknowledge Dave LesStrang, Rick Healy, and your staff members for the hard work they do on the budget. Joining me, Deputy Secretary Mike Connor, who is an expert on a number of issues, and so we will be going back and forth to make sure we get your questions answered effectively.

I submitted a detailed statement for the record, so I will be relatively brief in these opening comments.

This is a forward-looking budget that provides targeted investments to grow our domestic energy portfolio, creating jobs here at home, to build climate resilience, and revitalize our national parks as they approach their 100th anniversary. It invests in science to help us understand natural resources on a landscape level, and to apply that understanding to better manage America's assets for the

long term, like the California Bay Delta and the Great Lakes, to name just a few. Importantly, the budget also helps fulfill our Nation's commitment to American Indians and Alaska Natives, including significant and much needed investment to help improve Indian education.

LAND AND WATER CONSERVATION FUND

I want to first talk about our investments in the lands and historic places that make our Nation proud and serve as economic engines to local communities. On the 50th anniversary of the Land and Water Conservation Fund Act, the budget proposes full funding of $900 million annually for LWCF programs. This is dollar for dollar one of the most effective government programs we have.

NATIONAL PARK SERVICE CENTENNIAL

Next year, we mark another important milestone in our Nation's history. The National Park Service will celebrate its 100th anniversary, and this budget makes historic investments to launch an effort to celebrate and revitalize national parks and public lands. The discretionary and the mandatory portions of the budget include a $150 million matching fund to leverage private donations to parks, and $859 million to provide critical maintenance investments to high priority assets. Additional funding of $43 million will provide staff to improve the visitor experience and support the expected influx of visitors during and after the centennial.

CIVIL RIGHTS

A third milestone we commemorate this year is the 50th anniversary of the Voting Rights Act. The budget proposes $50 million to restore and highlight key sights across the country that tell the story of the struggle for civil rights, such as the Selma to Montgomery National Historic Trail and the Martin Luther King, Junior National Historic Site.

YOUTH

One of my top priorities is connecting young people to the great outdoors and to our rich history and culture. We need to inspire and engage the next generation to be scientists, engineers, and stewards of our Nation's most prized assets. Particularly, just in our case, 40 percent of the Department of the Interior's workforce will be eligible to retire soon. This budget proposes over $107 million for Interior's youth programs to provide opportunities for our Nation's young people to play, to learn, to serve, and to work on public lands. We will accomplish this through cooperative work with youth conservation corps, schools, organizations like the YMCA and the National League of Cities, and enlightened private businesses.

INDIAN AFFAIRS

Next, I want to talk about the Administration's continued commitment to tribal self-determination and strengthening tribal communities. I recently visited Arizona to launch the Administration's Native American Youth Listening Tour to give young people in In-

dian country the opportunity to engage with Cabinet members directly about the challenges they face. My recent trip to the Arctic also included a meeting with youth leaders in Kotzebue, Alaska, who are helping their classmates cope with personal challenges.

Across the Federal family, agencies are committed to working together to better coordinate our services to more effectively serve American Indians and Alaska natives. This budget holds promise for a brighter future for Indian youth through education, for Native American communities through economic growth and social services, and for improving the stewardship of our trust resources.

We are requesting $2.9 billion for Indian Affairs, an increase of 12 percent, which includes full funding of contract support costs that tribes incur as they deliver direct services to tribal members. The Generation Indigenous Initiative includes a $1 billion investment in Indian education to support critical facilities issues and a comprehensive transformation of the Bureau of Indian Education to better serve and support tribes in educating their youth.

I want to thank this committee for its strong commitment to Indian education. I was really glad to be able to join the Chairman, the Ranking Member, Congressman Cole, and Congressman Simpson on a visit to Moencopi Day School in Arizona just last month. Thank you for your focus and dedication to finding a long-term solution to this important obligation.

ENERGY

When it comes to powering our Nation, the budget continues to invest in both renewable and conventional energy so we can diversify our domestic energy portfolio, cut carbon pollution, and reduce our dependence on foreign oil. The budget includes $100 million for renewable energy activities like the Desert Sunlight Solar Farm in California, one of the world's largest solar projects now delivering clean renewable energy to American consumers from public lands. We also propose a total of $658 million for conventional energy programs.

SCIENCE

This budget invests in science and technology initiatives to support energy development, create economic opportunities, and help communities build resilience. The budget includes $1.1 billion for research and development activities that range from scientific observations of the earth to applied research to better address problems, such as invasive species and coastal erosion. The budget also includes a total of $147 million to fund projects to help coastal communities, especially tribes, insular areas, and land management bureaus that use the science and technology to strengthen their climate resilience.

WATER

Finally, I want to touch on two other areas impacted by a changing climate: water and fire. Western States are on the front lines of dealing with both of these challenges, drought and catastrophic wildland fires. First, the budget includes $1.1 billion for the Bureau of Reclamation to support water availability projects, Indian

water rights settlements, ecosystem restoration, healthy watersheds, and sustainable, secure water supplies, through the Water Smart Program to address drought and other water supply issues across the West.

WILDLAND FIRE

Second, this budget renews the call for a new funding framework consistent with Congressman Simpson's bill for wildland fire suppression, similar to how costs for other natural disasters are met. The initiative proposes a base funding level of 70 percent of the 10–year average for suppression costs within the discretionary budget, and an additional $200 million available in the event of the most severe fire activity, which comprises only 1 percent of the fires, but 30 percent of the costs. This is a common sense proposal that would help ensure USDA and Interior don't have to rob our budgets for fire prevention in order to fight the Nation's most catastrophic fires.

In closing, this is a smart and balanced budget that enables the Department to carry out these important missions. I look forward to discussing these issues and the many other important investments proposed in this budget with you during your questions. Thank you.

[The information follows:]

STATEMENT OF SALLY JEWELL, SECRETARY OF THE INTERIOR BEFORE THE SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES HOUSE COMMITTEE ON APPROPRIATIONS ON THE 2016 PRESIDENT'S BUDGET REQUEST

February 25, 2015

Mr. Chairman, Ranking Member McCollum, and members of the Committee, I am pleased to present the 2016 President's Budget for the Department of the Interior.

This is a forward-looking budget that invests in Interior's key missions so we can continue to serve the American people. This budget provides targeted investments to grow our domestic energy portfolio to revitalize our national parks as they approach their 100th anniversary and celebrate all of our public lands, and to strengthen science and management across all bureaus to support resiliency in our communities and ecosystems. The budget also helps fulfill our Nation's commitments to American Indians and Alaska Natives, including a much-needed and historic investment to help improve education for Indian children.

Interior's programs and activities serve as economic engines in communities across the Nation, contributing an estimated $360 billion to the Nation's economy in 2013 and supporting more than 2 million American jobs. Of this total, energy and mineral development on Interior-managed lands and offshore areas generated more than $237 billion of this economic activity and supported 1.1 million jobs. An estimated 407 million recreational visits to Interior lands – including national parks, wildlife refuges and public lands – contributed $41 billion and supported nearly 355,000 jobs nationwide. Water supply, grazing and timber activities, primarily on public lands in the West, contributed nearly $63 billion and supported more than 400,000 jobs. In 2016, the Department will generate an estimated $13.8 billion in Federal receipts; these funds are deposited in the Treasury and serve to offset the cost of general government services, support a range of specific Federal programs, and support State and local governments through various revenue sharing arrangements.

2016 Budget

The 2016 budget proposal is $13.2 billion, an increase of 8 percent, over the 2015 enacted level. This total includes a proposed $200 million budget cap adjustment to ensure critical funds are available in the event of a catastrophic fire without requiring harmful transfers from other Interior programs that support land management and operations. It includes $11.9 billion for Interior programs funded by the Interior, Environment, and Related Agencies appropriation, and $1.1 billion for Interior's Bureau of Reclamation and the Central Utah Project Completion Act, funded in the Energy and Water Development Appropriations Act. The budget would generate $5.6 billion in savings over 10 years through legislative reform proposals, including oil and gas management reforms to encourage diligent development of Federal energy resources while providing a fair return to taxpayers from royalty and other reforms.

The 2016 budget enables the Department to carry out its important mission by maintaining core capabilities and proposing investments in key priorities. This budget lays the groundwork for the future while meeting current commitments. The programs in this request emphasize partnerships, public engagement in Interior's places and programs, comprehensive upfront resource planning, tribal self-determination and self-governance, and increased scientific understanding leveraged with advanced tools and open access to data. Interior's 2016 budget proposes meaningful investments to advance the Department's mission.

Preserving and Protecting America's Natural and Cultural Resources

The budget makes investments to launch the National Parks and Public Lands Centennial during the 100th anniversary of the National Park Service to celebrate and revitalize national parks and public lands, and connect a new generation to the great outdoors. The budget includes funding in 2016 to allow the National Park Service to make targeted, measurable upgrades over the next ten years to all of its highest priority, non-transportation assets, restoring and maintaining them in good condition. The budget also proposes $150 million in discretionary and mandatory funding for a Centennial Challenge matching program to leverage private donations to parks, and $100 million in mandatory funding for a Public Lands Centennial Fund that competitively awards funds to Federal land management agencies for signature projects and programs. The budget includes complementary initiatives in the Bureau of Land Management and the Fish and Wildlife Service to engage the American public with Interior's broad range of outdoor recreation and natural learning opportunities.

To mark the 50th anniversary of the Voting Rights Act, the 2016 budget proposes $50 million to restore and highlight key sites across the country that tell the story of the struggle for civil rights. State, local and tribal governments may also apply for grants to document and preserve stories and other sites related to the Civil Rights Movement.

On the 50th anniversary of the Land and Water Conservation Fund Act, the budget requests Congress to support full funding for LWCF programs. The innovative, highly successful program reinvests royalties from offshore oil and gas activities into public lands, enabling access for sportsmen and hunters, protecting historic battlefields and providing grants to States for recreation and conservation projects. In 2016, the budget proposes a total of $400 million in discretionary funding and $500 million in mandatory funding for LWCF programs. From Maine to Kansas and up to Washington and Alaska, the FY 2016 request includes 105 projects in 39 States. The budget also includes a legislative proposal to provide full mandatory funding for LWCF starting in 2017.

The budget continues efforts to manage and promote the sustainability and resilience of ecosystems on a landscape scale, such as the California Bay-Delta, the Everglades, the Great Lakes, Chesapeake Bay, and the Gulf Coast. To protect and restore the American West's vast sage steppe landscape which supports abundant wildlife and significant economic activity, including recreation, ranching and energy development, the budget proposes an investment of $78.1 million.

Interior spends over $140 million in current funding within the Arctic for activities that include science, energy, Indian Affairs and land management. As the United States assumes the 2-year Chairmanship of the Arctic Council in April, we recognize this is an important opportunity to work with all eight Arctic countries to address the impacts of rapid climate change in the region, improve economic and living conditions of the people who live there, and enhance Arctic Ocean safety, security, and stewardship. Interior bureaus will play a significant role in these activities, which provide an important opportunity to build the resilience of Arctic communities and the ecosystems upon which they depend.

Strengthening Community Resiliency in a Changing Climate

As part of the Administration's effort to better understand and prepare the Nation for the impacts of a changing climate, the budget includes targeted increases to strengthen the resilience of communities—including Tribes and insular areas—and ecosystems to impacts, such as increased flooding and drought. The budget builds on the success of DOI's Hurricane Sandy Coastal Resilience Grant Program, proposing a competitive grant program that would restore natural coastal systems to help reduce flood, storm, and sea level rise risks facing coastal ecosystems and communities. To complement that program, the budget proposes an increase of $30 million for the Challenge Cost-Share program, to be split evenly across the BLM, FWS, and NPS. The bureaus will prioritize projects to conserve and restore landscapes and resources vulnerable to change. Project funding will be leveraged with non-Federal investments to build resilience to inland threats posed by climate change, including drought, flooding, and wildfire. Proposed investments in the Bureau of Indian Affairs, FWS and the U.S. Geological Survey specifically address the changing Arctic landscape and offer support to Alaska Native Villages and other critically vulnerable communities in evaluating options for the long-term resilience of their communities. For example, the FWS is developing a demonstration project that will enhance involvement of local people and subsistence users in the decision-making process for resource management on Federal lands. Through a pilot effort based at the Yukon National Wildlife Refuge, FWS and Native Alaskans are developing a draft fisheries cooperative management proposal to improve subsistence uses as the Kuskokwim River drainage changes. Additional funding is also provided for insular areas to address needs related to sea level rise by supporting development of infrastructure and community resilience initiatives.

Tribes and other communities throughout the U.S. are already experiencing the impacts of a changing climate including drought, intensifying wildfires, changes in plants and animals important to subsistence and cultural practices, impacts to treaty and trust resources, and coastal erosion and sea level rise. The budget provides a total of $50.4 million, a $40.4 million increase over 2015, across nine BIA trust resource programs to support tribal communities in preparing for and responding to the impacts of climate change. Funds will provide support for Tribes and Alaska Native Villages to develop and access science, tools, training, and planning; and to implement actions that build resilience into resource management, infrastructure, and community development activities.

The budget renews the call for a new funding framework for wildland fire suppression, similar to how the costs for other natural disasters are met. The initiative proposes base level funding of 70 percent of the 10-year average for suppression costs within the discretionary budget and an

additional $200 million available in the event of the most severe fire activity, which comprises only one percent of the fires but 30 percent of the costs. Wildland fire continues to be one our most important land management challenges. In January I issued Secretarial Order 3336 that recognizes the critical importance of fire in protecting, conserving, and restoring the health of the sagebrush-steppe ecosystem on which rural economies, wildlife – including the sage grouse – and a way of life depend. Shortly, we will be releasing our strategy for the 2015 fire season, to be followed by a long-term strategy for addressing rangeland fire prevention, management, and restoration. On a broader scale, the Department is firmly committed to the National Wildland Fire Cohesive Strategy and the three goals of restoring and maintaining fire-resilient landscapes, creating fire adapted communities, and safe and effective operations. In support of those goals, the budget reflects an integrated approach to wildland fire management, including $30.0 million for a Resilient Landscapes program to create landscapes that are resilient to wildfire through long-term, landscape scale, place-based projects. Resilient Landscape program projects will be accomplished through collaborative partnerships that include non-fire bureau resources and land management programs along with other Federal, tribal, State and non-governmental partners. The budget continues to include funding for the Fuels Management program to improve the integrity and resilience of forests and rangelands, contribute to community adaptation to fire, and improve our ability to safely and appropriately respond to wildfires.

As part of the Bureau of Reclamation's proposed $1.1 billion budget for FY 2016, the WaterSMART program would receive $58.1 million to support water conservation initiatives and technological breakthroughs that promote water reuse, recycling and conservation, in partnership with States, Tribes, and other partners. Reclamation will continue strong partnerships with local water and conservation managers to conduct ongoing comprehensive water studies of river basins in Arizona, California, Colorado, Montana, Oklahoma and Oregon. In 2015 and 2016, the budget supports one or two new basin studies in the western U.S and one new West-wide climate risk impact assessment. In addition, Reclamation anticipates funding 40 new WaterSMART Grant projects that will contribute to water conservation. As part of WaterSMART, the USGS would receive $31.0 million to continue to advance the National Water Census to create a more accurate picture of the quality and quantity of the Nation's water resources. The USGS will support focus area studies in the Apalachicola-Chattahoochee-Flint Basin, the Colorado River Basin and the Delaware River Basin.

Powering the Future through Balanced Energy Development

To enhance national energy security and create jobs in new industries, the budget invests in renewable energy development programs, providing about $100 million to review and permit renewable energy projects on public lands and offshore waters.

In order to address the continuing legacy of abandoned mine lands on the health, safety, environment and economic opportunity of communities, the budget makes available to States and Tribes $1 billion, over five years, as part of the President's POWER+ Plan. Funding would come by accelerating payments from the unappropriated balances in the AML Reclamation Fund, administered by the Department of the Interior's Office of Surface Mining Reclamation and Enforcement. The budget also includes reforms to strengthen the health care and pension plans that provide for the health and retirement security of retired coal miners and their families.

The budget invests in onshore energy permitting and oversight on Federal lands, with the BLM's oil and gas program receiving a 20 percent increase in funding, compared to the 2015 enacted level. The National Defense Authorization Act included an important authority that allows the BLM to implement increased fees for Applications for Permit to Drill to provide the funding needed to quickly and efficiently process APDs. To further improve responsiveness to industry demand and workload, the 2016 budget proposes a new fee system to meet program needs on the back end through inspections. A strong inspection program fully funded through fees, estimated to be $48 million, will provide assurance BLM would not have to divert funds from processing permits or leasing activities in the event that appropriations for inspections did not keep pace with the workload associated with this critical responsibility. The inspection fee authority proposed for BLM is comparable to that already in place for offshore inspections. Coupled with the transition to the implementation of a new automated permitting system that eliminates paper applications, these budget resources will significantly strengthen the BLM's program management capacity.

The budget request would fund Interior agencies overseeing oil and gas development on the Outer Continental Shelf as follows: $170.9 million for the Bureau of Ocean Energy Management; and $204.7 million for the Bureau of Safety and Environmental Enforcement. The President's proposal also supports continued reforms to strengthen oversight of industry operations following the 2010 Deepwater Horizon oil spill, with an additional emphasis on risk management.

Investing in The Future

The budget maintains the Administration's strong commitment to tribal self-determination and strengthening tribal communities. It provides increases across Federal programs that serve Tribes, including a proposed 12 percent increase for the Bureau of Indian Affairs over the 2015 enacted level. The budget includes a $26 million increase to fully fund Contract Support Costs that Tribes incur from managing Federal programs, and a legislative proposal to reclassify Contract Support Costs as mandatory funding in 2017 in support of self-determination. A total of $244.5 million is requested to resolve Indian water rights claims and implement enacted settlement commitments – supporting sustainable water sharing and management, and providing critical infrastructure, jobs, and clean drinking water to some of the most impoverished communities in the Nation.

The Generation Indigenous initiative includes a $1 billion investment in Indian education to support a comprehensive transformation of the Bureau of Indian Education. This multi-year process will transform the BIE into an organization that serves as a capacity builder and service provider to support Tribes in educating their youth and deliver a world-class and culturally appropriate education across Indian Country.

The future of the Country's natural, cultural, and historic heritage depends on the next generation of active stewards. Interior's unique assets provide an unparalleled opportunity to connect the next generation to the great outdoors and the Nation's rich history. Building on the President's vision for the creation of the 21st Century Conservation Service Corps and implementation of

My Brother's Keeper, I launched a youth initiative to inspire millions of young people to play, learn, serve and work outdoors. There is a growing disconnect between young people and the great outdoors and it is a gap Interior can help bridge. Through public-private partnerships coordinated with all levels of government, Interior is expanding efforts to pass on our Nation's rich conservation legacy and to inspire millions of young people to play, learn, serve and work outdoors.

The budget includes $107.2 million for youth programs across the Department, a $45.5 million increase from the 2015 enacted level. Within this increase, $20.0 million is provided to NPS for youth activities, including bringing one million elementary school children from low-income areas to national parks. This increase will also fund dedicated youth coordinators to help enrich children and families' learning experiences at parks and online.

Our goal is to reach 10 million children through recreation programs, an additional 10 million children through environmental education programs, 1 million volunteers caring for our lands, and 100,000 young adults and veterans working on public lands. To do this, we need to engage the private sector and create more public-private partnerships. I have a personal goal to raise $20 million for this endeavor and am happy to say we have received support from strong, enlightened companies like American Eagle Outfitters, Coca-Cola, CamelBak and The North Face. We can't do this alone, and we are actively involving partners from the private and nonprofit sectors to join us in creating a movement that helps prepare the next generation of stewards, policy-makers and leaders.

Legislative Proposals and Offsetting Collections

In 2016, the Department will generate an estimated $13.8 billion in Federal receipts; these funds are deposited in the Treasury and serve to offset the cost of general government services, support a range of specific Federal programs, and support State and local governments through various revenue sharing arrangements. The 2016 budget includes a number of revenue generating proposals estimated to result in savings to the Treasury of $5.6 billion over ten years.

Studies by the Government Accountability Office and Interior's Inspector General found taxpayers could earn a better return from DOI's oil and gas management programs through policy changes and more rigorous oversight. The budget proposes a package of legislative reforms to bolster administrative actions focused on advancing royalty reforms, encouraging diligent development of oil and gas leases, and improving revenue collection processes.

The Administration is also committed to ensuring American taxpayers receive a fair return from the sale of public resources and taxpayers throughout the Nation benefit from the development of offshore energy resources owned by all Americans. The budget proposes the Interior Department work with Congress to redirect the distribution of expanded revenue payments under the 2006 Gulf of Mexico Energy Security Act. These payments, allocated to just four States in the Gulf of Mexico, are expected to increase significantly starting in 2018. Under the Administration's proposal, funds will instead be directed to programs that offer broader natural resource, watershed, and conservation benefits for the entire Nation, help the Federal

government fulfill its role of being a good neighbor to local communities, and support other national priorities.

The budget includes a number of other legislative proposals, including full mandatory funding for the Land and Water Conservation Fund starting in 2017, full mandatory funding for contract support costs starting in 2017, three years of mandatory funding for the National Parks and Public Lands Centennial, and a one-year mandatory funding extension of the Payments in Lieu of Taxes program.

The budget also includes a number of discretionary user fee proposals to offset certain costs to the taxpayer.

Bureau Highlights

Bureau of Land Management – The 2016 request is $1.2 billion, an increase of $107.6 million from the 2015 enacted level. The 2016 request assumes the use of $64.5 million in proposed offsetting fees that provide an effective increase of $172.1 million above 2015. The 2016 request includes $1.1 billion for the Management of Lands and Resources account, and $38.0 million in current appropriations for Land Acquisition, including $4.0 million to improve access to public lands for hunting, fishing, and other recreation. The budget proposes $107.7 million for Oregon and California Grant Lands, which includes a $3.2 million decrease in Western Oregon Resource Management Planning, reflecting expected completion of six revised plans in spring 2016.

To advance America's Great Outdoors, the request includes $19.8 million in program increases for BLM's Recreation Resources Management program, National Conservation Lands, and Cultural Resources Management program. This includes a $6.6 million increase to accelerate and enhance implementation of BLM's National Recreation Strategy – Connecting with Communities, which will enable BLM to more aggressively develop partnerships with communities and service providers to encourage recreational opportunities on public lands. The funds will also be used for such activities as improving signage and interpretative exhibits and meeting accessibility standards at visitor centers. An increase of $11.2 million for the National Conservation Lands (also known as the National Landscape Conservation System) will enable BLM to accommodate the increased workload and responsibilities that have accompanied the addition of recently designated units. A $2.0 million increase in Cultural Resources Management will enhance BLM capacity to preserve and protect the vast treasure of heritage resources on public lands. The budget request also includes $6.0 million for Youth programs, an increase of $5.0 million from 2015, to put more young Americans to work protecting and restoring public lands and cultural and historical treasures.

The BLM continues to support the President's all-of-the-above energy strategy on public lands, including an initiative with important increases critical to BLM's ability to effectively manage onshore oil and gas development. The 2016 budget request for oil and gas management activities, including the request for direct and fee-funded appropriations and estimated mandatory appropriations, represents an increase of $29.1 million, or 20 percent, in total program resources over the 2015 enacted level. The additional resources will enhance the

bureau's ability to process Applications for Permits to Drill more quickly and efficiently, accelerate the development and completion of master leasing plans in support of BLM's leasing reform efforts, and strengthen its inspection and oversight program. The $29.1 million total funding increase for BLM's Oil and Gas Management program includes a proposal to institute a fee system to support the inspection program. The estimated $48.0 million in collections generated from the inspection fees will reduce the need for direct appropriations for the program by $41.1 million while also providing for an increase of $6.9 million above the amount appropriated in 2015 for this critical BLM management responsibility.

The 2016 budget request includes an increase of $45.0 million, to support the increased workload and commitments required as implementation of the Greater Sage Grouse conservation plans ramp up. The requested funds support activities that fall into three broad categories which involve both on-the-ground work and establishing the processes and organizational capability to plan and oversee the effort: managing resource uses in Greater Sage Grouse habitats; restoring and reconnecting Greater Sage Grouse habitats; and assessing, monitoring, and reporting on conditions in priority habitats.

Other budget highlights include a $5.0 million program increase in the Resource Management Planning subactivity to expand BLM's Assessment, Inventory, and Monitoring program that will support increased data collection and monitoring needs central to the success of high priority landscape management efforts, such as the Western Solar Energy Plan, the implementation of the plan for the National Petroleum Reserve – Alaska, the Greater Sage Grouse Conservation Strategy and the Department's broader landscape mitigation strategy. The request also includes an increase of $7.8 million to accelerate implementation of BLM's enterprise geographic information system, which aggregates data and viewing information across boundaries to capture ecological conditions and trends; natural and human influences; and opportunities for resource conservation, restoration, development, and partnering. The BLM's geospatial proposal is a critical component of Interior's growing enterprise geospatial capabilities and strategy. A $10.0 million increase in BLM's Challenge Cost Share program will be dedicated to projects that increase the resilience of landscapes in response to changing climate

A proposed grazing administration fee will enhance BLM's capacity for processing grazing permits. A fee of $2.50 per animal unit month, estimated to provide $16.5 million in 2016, is proposed on a pilot basis. This additional revenue, which would be retained by BLM, more than offsets a decrease of $3.0 million in appropriated funds in Rangeland Management. The net increase of $13.5 million will allow BLM to expedite permit renewals and reduce the permit backlog.

Bureau of Ocean Energy Management – The 2016 operating request is $170.9 million, including $74.2 million in current appropriations and $96.6 million in offsetting collections. This is a net increase of $1.8 million in current appropriations above the 2015 enacted level.

The 2016 budget maintains a strong offshore renewable energy program at slightly above the 2015 level of $24.3 million for the total program. To date, BOEM has issued seven commercial wind energy leases offshore Delaware, Maryland, Massachusetts, Rhode Island, and Virginia. In

June 2014, BOEM issued the first outer continental shelf lease for marine hydrokinetic technology testing offshore Florida, and in November 2014, BOEM offered its first transmission right-of-way grant offshore Rhode Island.

Offshore conventional energy programs are funded with an increase of $10.2 million, bringing total funding to $59.9 million in 2016. To date, under BOEM's Five Year OCS Leasing Program for 2012-2017, six sales were held generating over $2.4 billion in high bids, and two additional lease sales are scheduled during calendar year 2015. The request includes an increase of $2.5 million for establishing a risk management program, to better protect the Federal Government and taxpayers from financial risks that may arise from unfunded decommissioning costs.

Bureau of Safety and Environmental Enforcement – The 2016 budget request is $204.7 million, including $82.5 million in current appropriations and $122.2 million in offsetting collections, essentially level with 2015. The request for offsetting collections assumes $65.0 million from offshore oil and gas inspection fees. The 2016 request allows BSEE to begin to establish a renewable energy inspection program, and continue to strengthen regulatory and oversight capability on the OCS, and oil spill response prevention.

The budget includes $189.8 million for Offshore Safety and Environmental Enforcement. The request includes a program increase of $1.7 million to establish an Engineering Technology Assessment Center to develop top-level engineering support for BSEE decision-making at all levels of the organization. Funding for Oil Spill Research is maintained at the 2015 level of $14.9 million.

Office of Surface Mining Reclamation and Enforcement – The 2016 budget request for the Office of Surface Mining Reclamation and Enforcement is $160.5 million, an increase of $10.4 million from the 2015 enacted level. The 2016 budget for Regulation and Technology is $128.4 million, an increase of $5.7 million above the 2015 level. The request includes $12.6 million, a program increase of $3.8 million above the 2015 level, to improve implementation of existing laws and support State and tribal programs. It also includes $65.5 million for State and tribal regulatory grants. This request fully funds estimated State requirements based on the return each year of an estimated $3 million in previously appropriated regulatory grant funds by States.

The 2016 budget for the Abandoned Mine Reclamation Fund is $32.1 million, an increase of $4.7 million above the 2015 level. The budget includes a $2.0 million program increase for technical assistance to States, Tribes, and communities on Abandoned Mine Land site reclamation and area-wide reclamation planning and a $1.4 million program increase to evaluate AML program implementation, including identifying more effective and efficient tools for AML site identification, contract management, and program oversight. The 2016 budget proposes to distribute an estimated $926.1 million in mandatory appropriations. This includes $385.3 million to noncertified States and Tribes in reclamation grants and $540.8 million in payments to the United Mine Workers of America retiree health and pension plans. The Administration proposes legislation to revitalize communities impacted by abandoned coal mines, reform current funding of abandoned coal mine land clean-up, increase funding for hardrock abandoned mine land clean-up, and provide for retired coal miners and their families.

U. S. Geological Survey – The 2016 request is $1.2 billion, an increase of nearly $150 million above the 2015 enacted level. The 2016 budget reflects the vital role the USGS plays in advancing the President's commitment to scientific discovery and innovation to support sustainable economic growth, natural resource management, and science-based decision-making for critical societal needs. The budget includes funding for science to inform land and resource management decisions, advance a landscape level understanding of ecosystems, and develop new strategies to support communities in responding to climate change, historic drought, water quality issues, and natural hazards. The budget also funds science to support the Nation's energy strategy and to help identify critical mineral resources and address the impacts of energy and mineral development on the environment.

The 2016 budget provides an increase of $14.6 million above the 2015 enacted level for science to support sustainable water management. The budget provides increased funding to support resource managers in managing competing demands related to water availability and quality and to enable adaptive management of watersheds to support the resilience of the communities and ecosystems that depend on them. This includes a $3.2 million increase for science to respond to drought, a $4.0 million increase for water use information and research, a $2.5 million increase to study ecological water flows, a $1.3 million increase for streamgages, and a $1.0 million increase to advance the National Groundwater Monitoring Network.

The 2016 budget provides an increase of $11.0 million across the energy, minerals and environmental health portfolio for science to support the sustainable development of conventional and unconventional oil and gas resources; renewable energy sources such as geothermal, wind, and solar; critical minerals such as rare earth minerals; and address the environmental impacts of resource development such as uranium. These investments include $19.5 million, $5.3 million above 2015, to support an interagency effort with the Department of Energy and the Environmental Protection Agency to better understand the potential impacts of unconventional oil and gas development.

Specifically, the budget includes a program increase of $1.0 million for mineral resources science to continue life-cycle analysis for critical minerals such as rare earth elements, and to develop new science and tools to reduce the impacts of minerals extraction, production, and recycling on the environment and human health. A life-cycle analysis will trace the flow of critical minerals from occurrence through interaction with society to ultimate disposal. The increase will support new workforce capability to address the main thrusts of the President's four working groups in the Office of Science and Technology Policy that are currently focused on critical and strategic materials essential to national security, economic vitality, and environmental protection.

The budget provides increases totaling $6.6 million above the 2015 enacted level for natural hazard science. This includes $4.9 million to expand the Global Seismic Network used for worldwide earthquake monitoring and tsunami warning and $1.7 million to support solar flare (space weather geomagnetic) monitoring which is critical to mitigating impacts to the electrical grid and other hazards. The budget supports the installation and operation of rapid-deployable streamgages to help manage flood response activities. The funding will increase volcano,

landslide, wildfire, and sinkhole response capabilities as well as build on investments to continue development of an earthquake early warning system, with the goal of implementing a limited public warning system for the U.S. west coast by 2018.

The budget includes $15.6 million to expand and enhance ecosystem science activities to increase the understanding of the Nation's landscapes. Increases totaling $6.7 million support research in critical landscapes, including $4.2 million for the Arctic, $1.0 million to study sage steppe landscapes, and $1.5 million to support science for Puget Sound, Columbia River and the upper Mississippi River. USGS research will continue to support restoration of other priority ecosystems, such as Chesapeake Bay, Everglades, Great Lakes, California Bay-Delta, and Gulf Coast. Increases totaling $3.8 million support research on invasive and declining species, including $2.2 million for invasive plants and animals and $1.6 million to study the decline of pollinating insects, birds, and mammals. The budget also requests $5.1 million to support coastal resilience and adaptation to long-term change from sea-level rise and coastal erosion.

The President's budget request includes an increase of $37.8 million to provide data and tools to help land and resource managers make informed decisions across the landscape and provide data and information to the public for use in a wide variety of applications. The budgets of USGS and the National Aeronautics and Space Administration provide complementary funding to sustain the Landsat data stream, which is critical to understanding global landscapes. Funding in the USGS budget supports the ground system portion of the Sustained Land Imaging Program, including funding for ground systems development for a Thermal Instrument Free Flyer, Landsat 9 (a rebuild of the Landsat 8), and to receive data from international partners. The budget also includes a $4.0 million increase for Landsat science products for climate and resource assessments.

The budget provides increases for foundational data and tools needed to support landscape level understanding, increases for mapping, expanded lidar collection through the 3D Elevation Program, making data more easy to access and use under the Big Earth Data Initiative, and developing information and tools to assess ecosystem services and benefits. For example, an increase of $3.7 million will expand three-dimensional elevation data collection in Alaska and elsewhere in the United States, mitigate the effects of coastal erosion, storms, and other hazards, and support many other critical activities. A $1.8 million increase will enhance understanding of the benefits of the Nation's ecosystem services and a $1.1 million increase for the Big Earth Data Initiative will make high-value data sets easier to discover, access and use. The accessibility of these data is a critical foundation for building a landscape level understanding of our resources.

The USGS plays an important role in conducting research and developing information and tools to support communities in preparing for, and responding to the impacts of global change. The budget includes an increase of $32.0 million for science to support climate resilience and adaptation. Climate change requires the Nation to prepare for more intense drought, heatwaves, wildfire, flooding and sea level rise. The budget includes a $6.8 million increase in science for adaptation and resilience planning and an increase of $2.3 million for the USGS to provide interagency coordination of regional climate science activities across the Nation, an increase of $9.1 million to support biological carbon sequestration, and $11.0 million for the USGS to support the community resilience toolkit, which is a web based clearinghouse of data, tools,

shared applications, and best practices for State, local and tribal resource managers, decision-makers, and the public.

Fish and Wildlife Service – The 2016 budget for FWS totals $3.0 billion, including current appropriations of $1.6 billion, an increase of $130.7 million compared to the 2015 level. The proposed funding level will allow the bureau to facilitate collaboration and action on the ground as the best way to preserve the wildlife and open spaces so important to the Nation. For this reason, I ask the committee remove the rider included in the FY2015 Appropriations Act that prevents the FWS from writing rules to list several species of sage grouse. Our approach to working collaboratively among Federal agencies, States and stakeholders could provide the path for conserving species so Endangered Species Act protection for both the bi-state and Greater Sage Grouse is not necessary. The FY 2015 rider has complicated implementation of the urgent work needed to protect the sagebrush-steppe from threats such as invasive species, fire and fragmentation. These threats impact not only the sage grouse, but 350 other species of wildlife and traditional economic activity like ranching, hunting and recreation central to the Western way of life. Absent effective conservation efforts to reduce or remove the threats now affecting the species, the likelihood of eventual listing of the Greater Sage Grouse under the ESA will be increased.

The budget includes $1.4 billion available under mandatory appropriations, most of which will be provided directly to States for fish and wildlife restoration and conservation. In 2016, a total of $1.5 billion in current funding is proposed for FWS as part of the Administration's initiative to reconnect Americans to the outdoors. Creating opportunities for Americans to enjoy the outdoors through programs at FWS will help to ensure future generations appreciate and conserve natural resources and preserve natural places. Investments that support this effort in 2016 include $1.3 billion for FWS operations, an increase of $114.2 million over the 2015 level. The request includes $5.0 million for the National Wildlife Refuge System's Urban Wildlife Conservation Partnerships that will reconnect the Nation's urban populations with the outdoors. With 80 percent of the U.S. population currently residing in urban communities near more than 260 wildlife refuges, using the Refuge System to help urbanites to rediscover the outdoors is a priority for FWS. The budget also requests $108.3 million for grant programs administered by FWS that support America's Great Outdoors goals. Within this amount is an increase of $11.3 million for the State and Tribal Wildlife grant program on which many States and Tribes rely to fund non-game animal conservation. The request also includes program increases of $10.0 million for Challenge Cost Share projects and $5.0 million for the Joint Venture program to support cooperation with non-Federal partners to enhance the resiliency of habitat to adapt to a changing climate.

The budget proposes $16.8 million, an increase of $2.6 million, for activities associated with energy development. Of this increase, $1.4 million supports scientific research into the impacts of energy transmission and development infrastructure on wildlife and habitat. The research will identify potential impacts associated with the development of energy infrastructure and strategies to minimize the impacts on habitat and species. An increase of $1.2 million for the Ecological Services Planning and Consultation program supports assessments of renewable energy projects proposed for development.

The budget request for the Resource Management account continues support for key programs with program increases of $110.6 million above 2015. The request provides $258.2 million in Ecological Services to conserve, protect, and enhance listed and at-risk species and their habitat, an increase of $32.3 million. Within this request are increases of $4.0 million to support conservation of the sage steppe habitat across 11 western States and $4.0 million to support Gulf Coast restoration.

The request includes funding within Law Enforcement and International Affairs to combat wildlife trafficking. The budget provides $75.4 million for the law enforcement program to investigate wildlife crimes, enforce the laws governing the Nation's wildlife trade, and expand technical forensic expertise, with program increases of $8.0 million over 2015.

The budget includes $147.5 million for Fisheries and Aquatic Resource Conservation, a program increase of $4.9 million. Within this request is $53.4 million for operation of the National Fish Hatchery System and a $2.4 million increase to prevent the spread of Asian carp in the Missouri, Ohio, upper Mississippi Rivers, and other high priority watersheds.

Funding for Cooperative Landscape Conservation activity is $17.9 million, an increase of $3.9 million, and funding for Science Support is $31.7 million, a program increase of $14.7 million. The budget supports applied science directed at high impact questions to mitigate threats to fish and wildlife resources, including $2.5 million to address white nose syndrome in bats, an increase of $1.0 million to study biological carbon sequestration, and an increase of $1.0 million to analyze ecosystem services valuation.

The 2016 budget proposes to eliminate the current funding contribution to the National Wildlife Refuge fund, a reduction of $13.2 million below 2015. An estimated $8.0 million in mandatory receipts collected and allocated under the program would remain available to counties.

National Park Service – The 2016 budget request for NPS of $3.0 billion is $432.9 million above the 2015 enacted level. The 2016 NPS budget request for operations is $2.5 billion. This is an increase of $239.4 million above the 2015 enacted level, consisting of $213.4 million in program increases, and $25.3 million in fixed costs increases. Highlights of the 2016 budget include the increases for the Centennial described earlier. A $40.0 million increase to the Centennial Challenge program will provide an important Federal match to leverage partner donations for projects and programs at national parks in anticipation and support of the upcoming Centennial.

Other changes include a $2.2 million programmatic reduction to refocus operations funding which partially offsets the following increases: $16.3 million to provide healthcare insurance to seasonal employees, $6.0 million to fund projects that will document and preserve civil rights history in the national park system, $3.5 million for climate change adaptation projects, $3.0 million to improve baseline cultural resource documentation at park units, and $2.5 million for science priorities. The 2016 budget also broadens the scope of NPS programs contributing to the understanding of and preparing for the impacts of a changing climate. A $10.0 million program increase is requested in the Challenge Cost Share program for NPS to work with non-Federal partners on projects that increase the resilience of landscapes in response to changing climate.

The Administration proposes an initiative to Celebrate Civil Rights in America in 2016 by commemorating the struggles undertaken by Americans to secure civil rights and liberties. The 2016 budget will provide resources to celebrate how those actions inspired many groups in America and around the world to continue to pursue progress for civil rights. The budget proposes increases of $50.0 million, including $6.0 million to fund projects that will document and preserve civil rights history in the national park system, and $1.5 million to address critical base operating NPS needs at sites such as the Harriet Tubman Underground Railroad National Historical Park in Maryland, and the Charles Young Buffalo Soldiers National Monument in Ohio. Also included in the $50.0 million initiative is $30.0 million for competitive historic preservation grants to preserve the stories and sites associated with the Civil Rights movement, and $2.5 million for grants specifically to Historically Black Colleges and Universities to document, interpret, and preserve the stories and sites associated with the progression of Civil Rights in America. Finally, $10.0 million will provide the necessary resources to complete high priority facility projects at NPS sites associated with the Civil Rights movement such as the Selma Interpretive Center at the Selma to Montgomery National Historic Trail, the Lincoln Memorial and the Martin Luther King, Jr. National Historic site.

The 2015 request for the Historic Preservation Fund is $89.9 million, an increase of $33.5 million. Of this total, $46.9 million is requested for grants-in-aid to States and Territories, which is level with 2015. A total of $10.0 million is requested for grants-in-aid to Tribes, an increase of $1.0 million. The budget proposes to fund grants-in-aid to Historically Black Colleges and Universities through a $2.5 million increase, which is an important component of the Civil Rights initiative. Finally, the budget includes $30.5 million for competitive grants-in-aid, a $30.0 million increase for new competitive grants as part of the Civil Rights initiative, and $500,000 for the existing competitive grants targeted toward communities currently under represented on the National Register of Historic Places.

The 2016 request includes $54.2 million for the National Recreation and Preservation account, a decrease of $8.9 million compared to 2015. These changes consist of a program reduction of $9.7 million to Heritage Partnership Programs, a programmatic increase of $703,000 for the National Register program to digitize records, a programmatic increase of $260,000 for the Federal Lands to Parks program, and fixed costs increases of $506,000.

Programs funded out of the Land and Water Conservation Fund are a key strategy to enhance America's Great Outdoors. The budget requests $117.5 million for the Land Acquisition and State Assistance account, an increase of $18.5 million. This includes $53.2 million for the State Conservation Grants program, a programmatic increase of $5.0 million, and $64.3million for NPS Federal land acquisition, a programmatic increase of $13.3 million. Of this amount, $16.3 million supports Collaborative Landscape projects.

Funding for Construction totals $251.0 million, an increase of $112.6 million. Of this amount, the budget includes $153.3 million for line-item construction projects, a $91.7 million program increase compared to 2015. The request includes $8.7 million to provide seismic stabilization at the Mammoth Hotel at Yellowstone National Park and $3.0 million to rehabilitate the Selma Interpretive Center at the Selma to Montgomery National Historic Trail.

Indian Affairs – The 2016 budget for Indian Affairs is $2.9 billion, $323.5 million above the 2015 level. This includes an increase of $231.4 million for Operation of Indian Programs; an increase of $32.0 million for Indian Land and Water Claim Settlements; an increase of $60.1 million for Construction; and level funding of $7.7 million for the Indian Guaranteed Loan program.

The 2016 budget fully funds Contract Support Costs at $277.0 million, an increase of $26.0 million above 2015. Based on the most recent analysis, the requested amount for 2016 will fully fund Contract Support Costs. To stabilize long-term funding and address programmatic concerns with Contract Support Costs, the 2016 budget also proposes—for the first time—a legislative proposal to reclassify these costs as mandatory funding beginning in fiscal year 2017. Mandatory funding for Contract Support Costs will help stabilize this vital funding for Tribes and further self-governance and self-determination efforts.

The budget contains a number of critical increases to support tribal nation-building and economic development. The budget capitalizes on the important role BIA plays as a broad provider of Federal services by proposing $4.0 million to establish the One-Stop Tribal Support Center to make it easier for Tribes to find and access hundreds of services available to Tribes across the Federal government. The 2016 budget includes $4.5 million to establish an Indian Energy Service Center to facilitate vital energy development in Indian Country of both conventional and alternative energy and to support assessment of the social and environmental impacts of energy development on tribal lands. A data initiative of $12.0 million is proposed to improve and expand access to quality data for tribal leaders and other decision makers. This funding will establish an Office of Indian Affairs Policy, Program Evaluation, and Data which will help the Department collect, analyze, and utilize evidence to support effective policy making and program implementation. Lastly, a $1.3 million increase for the Small and Needy Tribes program is proposed to assist eligible Tribes in expanding and sustaining tribal governance.

The 2016 budget proposes an additional $15.0 million to expand Indian Affairs' capacity in current programs that address Indian child and family welfare and job training issues. The budget proposes program increases of $6.0 million for social services programs, $4.0 million for law enforcement special initiatives, and $5.0 million for tribal courts. The law enforcement increases will expand on pilot projects initiated in 2015 in which BIA law enforcement is implementing a comprehensive strategy to support alternatives to incarceration. Funding increases for these programs will be integrated with other funding increases across the Federal government, including an additional $25.0 million to the Indian Health Service to address behavioral health issues, a $25.0 million increase to the Substance Abuse and Mental Health Services Administration for the Tribal Behavioral Health program, and a $132.0 million increase for the Administration for Children and Families for Tribal Child Care programs, cultural and language preservation programs, tribal child welfare programs, Tribal Head Start, and other native programs.

The 2016 budget proposes a $1.0 billion investment in Indian education to support a comprehensive transformation of BIE. The multi-year process will transform BIE into an organization that serves as a capacity builder and service provider to support Tribes in educating their youth and deliver a world class and culturally appropriate education across Indian Country.

The budget provides increases totaling $138.4 million for elementary and secondary school education activities funded by BIE and education construction. The request includes a program increase of $45.5 million in Elementary and Secondary education. An increase of $12.9 million will fully fund Tribal Grant Support Costs which, similar to Contract Support Costs, assists Tribes that run their own schools by covering the costs of administering programs. The Education Program Enhancement program is increased by $10.0 million to encourage creative solutions for school transformations. Requested facility maintenance and operations increases totaling $20.0 million will provide essential preventive and routine maintenance and operating expenses so schools are operated in a safe and educationally conducive manner. The 2016 budget also includes a $34.2 million increase for education information technology to enhance broadband and digital access for students at BIE-funded schools.

The budget requests a $58.7 million increase for Education Construction to support the education transformation. This includes a $25.3 million increase for replacement school construction to complete construction of the final two schools on the 2004 replacement school construction priority list: Little Singer Community School and Cove Day School, both in Arizona. A $17.7 million increase for facilities improvement and repair is requested for repairs to building structures and components necessary to sustain and prolong the useful life of education buildings. Additionally, the budget includes $11.9 million to address major facility replacement needs at schools like the Bug-O-Nay-Ge-Shig school on the Leech Lake Band of the Ojibwe reservation. Lastly, an increase of $3.7 million is requested for employee housing repair which will complement a new $10.0 million set-aside proposed in the Department of Housing and Urban Development to address teacher housing needs.

The 2016 budget also includes increases totaling $7.4 million to meet educational needs beyond the BIE elementary and secondary system. To further higher education, a $4.6 million increase is requested for scholarship and adult education and a $250,000 increase is requested for Special Higher Education Scholarships. Lastly, the 2016 budget includes a $2.6 million increase for the Johnson O'Malley program to provide American Indian and Alaska Native students attending public schools with additional resources to meet their unique and specialized educational needs.

The 2016 budget strongly supports the sustainable stewardship of trust lands, natural resources, and the environment in Indian Country, including the protection and restoration of ecosystems and important landscapes, stewardship of land, water, ocean, and energy resources, resilience in the face of a changing climate, and clean and sustainable energy development. The budget includes program increases totaling $63.2 million for the trust natural resources and real estate services programs. The budget provides a total of $50.4 million, a $40.4 million increase over 2015, proposed across nine natural resource programs, to support tribal communities in sustainable resource management and in preparing and responding to the impacts of climate change, such as drought, wildfires, changes in the plants and animals important to subsistence and culture, rights protection, coastal erosion, and sea level rise.

The budget includes a total increase of $16.2 million for trust real estate service activities to reinforce the stewardship of trust resources. The expanded capacity will address the probate backlog, land title and records processing, geospatial support needs, and database management in addition to providing expanded technical and legal support for authorized settlements involving

tribal water rights. The BIA increases for water rights settlements represent a subset of increases totaling $73.0 million across the Department to support resolving tribal water rights claims and ensuring that Tribes have access to use and manage water to meet domestic, economic, cultural, and ecological needs.

Collectively, the 2016 budget proposes a total of $982.7 million in Tribal Priority Allocations, an increase of $56.2 million over the 2015 level.

The 2016 budget request for Indian Land and Water Claim Settlements is $67.7 million, a $32.0 million increase over the 2015 enacted level. Several funding increases demonstrate the Administration's strong commitment to resolve tribal water rights claims to ensure Tribes have access to use and manage water. Funding for the Taos Pueblos Indian Water Rights Settlement is increased by $13.8 million over 2015 for a total funding request of $29.2 million. This funding amount will constitute the final payment of the Taos Pueblo settlement. The Navajo-Gallup Water Supply project is increased by $8.8 million to meet projected 2016 funding needs. The budget proposes a $9.4 million increase for the second year of funding for the Aamodt Settlement enacted as part of the Claims Resolution Act of 2010. The budget also contains increases of $14.1 million to provide expanded technical and legal support for tribal water rights settlement negotiations and implementation.

The 2016 budget for the Indian Guaranteed Loan Program is $7.7 million, equivalent to the 2015 enacted level. This will provide $113.8 million in loan guarantee authority to support Indian economic development.

Departmental Offices and Department-wide Programs – The 2016 request for the Office of the Secretary is $327.9 million, an increase of $62.7 million from the 2015 enacted level. The budget reflects an increase of $50.0 million for Coastal Resilience grants. The Coastal Resilience competitive grants will support the restoration and conservation of key ecological systems that protect communities and infrastructure from the impacts of coastal storms. In collaboration with State, local, and tribal governments, non-governmental organizations, universities, and other stakeholders, the program's goals are to mitigate the impacts of climate change on coastal and inland communities from storm wave velocity, salt water intrusion, erosion, flooding, sea level rise, and associated natural threats; and to strengthen the ecological integrity and functionality of coastal and inland ecosystems to protect communities and enhance the ability of Federal lands to support important recreational, wildlife, and cultural values. The program will also enhance understanding of the impacts of extreme weather events, the benefits of nature based infrastructure and ecosystem services, and identify cost-effective tools that help mitigate and support community resilience with future events. Such information, tools, and investments are of particular interest to vulnerable communities in Arctic Alaska, where villages are suffering the full impact of rapidly accelerating erosion rates and flooding due to loss of protective sea ice and degraded permafrost. As buildings are being claimed by the sea and critical infrastructure is threatened, representatives from Arctic villages and communities in coastal Alaska have repeatedly appealed for this type of support.

The budget proposes an increase of $1.5 million for work with the National Invasive Species Council to develop an Early Detection Rapid Response framework in support of climate

resilience efforts. Invasive species pose one of the greatest threats to the ecological, economic and cultural integrity of America's landscapes. Detecting invasive species early and rapidly responding to control their spread is one of the most cost effective strategies to mitigate their threat. The additional funding will support planning efforts for a coordinated invasive species early detection and rapid response framework with other Federal agencies, States, Tribes and other partners. The funds also will be used to implement commitments identified in the Department's Invasive Species Action Plan, the National Invasive Species Council work plan, and the White House Priority Agenda - Enhancing the Climate Resilience of America's Resources report. As with coastal resilience support, Governors and tribal leaders from across the country have appealed for coordination and support for early detection and rapid response efforts, and this was of particular interest to a task force of State, local, and tribal leaders eager to build resilience for their communities and lands.

The budget proposes a $5.9 million and 18 FTE increase to support the Office of Natural Resources Revenue's Osage Tribal accounting activities, to expand ONRR's Geospatial Information Systems capabilities, and to expand on-shore production verification and data integration efforts. The budget for the Office of the Secretary also includes $3.0 million for the development of a Digital Service team, which will be responsible for driving the efficiency and effectiveness of the Department's highest-impact digital services.

The budget request for the Office of Insular Affairs is $103.0 million, an increase of $13.7 million from the 2015 enacted level excluding the Palau Compact Extension funding of $13.1 million. Within this amount, a program increase of $10.4 million is requested in Office of Insular Affairs and General Technical Assistance to increase the grant management staff to improve oversight, and address needs in the insular areas related to sea level rise by supporting development of infrastructure and community resilience initiatives. The Maintenance Assistance Fund request includes a program increase of $3.9 million to improve health and safety conditions in insular school facilities. The budget also requests a program increase of $1.5 million in Empowering Insular Communities to implement energy projects identified by the territories in their comprehensive sustainable energy strategies. Brown Treesnake Control is funded at $3.0 million, a program decrease of $500,000, which reflects completion of an automated aerial bait system in 2015. The budget requests $1.3 million for Compact Impact, a program decrease of $1.7 million from 2015. This funding is supplemented by $30.0 million annually in mandatory Compact Impact funding. The budget includes a mandatory proposal to fund the Palau Compact, as a result it does not include stopgap discretionary funding of $13.1 million provided in the 2015 appropriations process.

The Solicitor's 2016 budget is $69.9 million, $4.1 million above the 2015 enacted level. Maintaining sufficient attorney resources to handle filed litigation, avoid potential litigation, and provide timely counseling is critical to ensuring that litigation risks are minimized. With proactive counseling, decision-makers are provided the opportunity to weigh litigation risks and damages to program management by pursuing one decision over another. Front-end counseling is critical to realizing cost savings by either preventing litigation or narrowing the issues that might be challenged in litigation. The increase for legal services will allow for the continuation of existing services with sufficient resources to provide the Secretary and the Department the necessary legal services for the advancement of priority goals and other mission areas.

The Office of Inspector General request is $52.2 million, an increase of $1.8 million compared to the 2015 enacted level. The 2016 budget includes $423,000 in funding to support the Council of the Inspectors General on Integrity and Efficiency. The Inspector General estimates staffing will equal 286 full time equivalents in 2016.

The Office of the Special Trustee request is $143.0 million, $3.9 million above the 2015 enacted level. The budget includes an increase of $2.8 million in Program Operations and Support. A $1.6 million increase is requested in field operations to provide additional estate planning opportunities to Indian Trust beneficiaries. This will help stem the growth of both land fractionation in Indian Country and the number of Trust beneficiary estates that require probate. A $1.2 million increase is requested in appraisal services for an appraiser training program to address the shortage of qualified appraisers and the resulting delays in completing appraisal evaluations. Lastly, a $1.0 million increase is requested in trust records to expand the records training program at Haskell Indian Nations University, create new records training programs at two additional tribal colleges, and fund the increased requirements related to the Department's e-mail Enterprise Records and Document Management System initiative. The budget also includes a $972,000 reduction in funding for Office of Historical Trust Accounting based on anticipated workload levels.

The 2016 request for the Department-wide Wildland Fire Management program is $805.5 million without the proposed fire cap adjustment, and $1.05 billion including the adjustment. The request includes $268.6 million for fire suppression within the base budget, which is 70 percent of the 10 year suppression average spending. The cap adjustment of $200.0 million would only be used for the most severe fires, since it is one percent of the fires that cause 30 percent of the costs. The new budget framework for Wildland Fire Management eliminates the need for additional funds through the FLAME Act.

The 2016 budget requests $30.0 million in a new Resilient Landscapes subactivity to build on resilient landscapes activities supported by Congress in 2015. Congress provided $10.0 million for resilient landscapes activities in the 2015 Omnibus Appropriations Act by designating that amount within Fuels Management. While fuels treatments and resilient landscapes activities are complementary and synergistic, they also have distinct differences, including the methodology for prioritizing place-based projects and a leveraged funding requirement for resilient landscapes. Establishing a separate subactivity for Resilient Landscapes will assist the Department and Wildland Fire Management bureaus in tracking funds obligated and program accomplishments. The $20.0 million increase in funding will enable the Wildland Fire Management program to take better advantage of the shared goals of bureau resource management programs to treat large landscapes to achieve and maintain fire-adapted ecosystems that both reduce the threat of catastrophic wildfire and achieve restoration and other ecological objectives. The increase for Resilient Landscapes is partially offset with a program realignment of $17.7 million in the Fuels Management program from 2015; total funds for the combined Fuels Management and Resilient Landscapes subactivities are $14.3 million above 2015.

The 2016 request for the Natural Resource Damage Assessment and Restoration program is $9.2 million, an increase of $1.5 million over the 2015 enacted level. The budget includes program

increases of $1.5 million for Restoration Support, $233,000 for Program Management, $100,000 for Inland Oil Spill Preparedness, and a program reduction of $448,000 for Damage Assessment reflecting a reallocation of funding to increase restoration activities.

The budget includes $10.0 million for the Central Hazardous Materials Fund, equal to the 2015 enacted level.

The Department's 2015 request for the Working Capital Fund appropriation is $74.5 million, an increase of $17.4 million from the 2015 enacted level. Within this request is $53.9 million for the operation and maintenance of the Financial and Business Management System, an increase of $1.0 million to continue support of the Department's Cultural and Scientific Collections initiative, an increase of $702,000 for the Department's Service First initiative, and an increase of $5.2 million to support Interior's Office Consolidation strategy. The budget also includes an increase of $10.5 million to support Interior's multi-year effort to implement requirements identified under the Digital Accountability and Transparency Act, known as the DATA Act, and monitor compliance.

Legislative Proposals

The 2016 President's budget includes a suite of legislative and offsetting collection proposals affecting spending, revenues, and available budget authority that require action by the Congressional authorizing committees. These proposals address a range of Administration priorities, from investing in high-priority conservation and recreation programs to achieving a fair return to the American taxpayer from the sale of Federal resources and reducing unnecessary spending. The 2016 budget includes seven spending proposals with $15.2 billion in estimated outlays over the next decade. This spending is partially offset by revenue and savings proposals estimated to reduce outlays from the Treasury by more than $5.6 billion over the next decade.

Bureau of Indian Affairs Contract Support Costs – The budget includes a legislative proposal to reclassify the existing Contract Support Costs program from current to mandatory funding beginning in fiscal year 2017. Congress requested that both BIA and the Indian Health Service consult with Tribes to develop a long-term approach to funding contract support costs. The leading tribal recommendation was to provide funding for contract support costs as a mandatory appropriation. Beginning the reclassification in 2017 will allow time for tribal consultation in 2016 on operational details. The budget proposes to adjust the discretionary budget caps to reflect the reclassification. The estimate for projected BIA program growth, above the discretionary cap amount, totals $105.0 million for 2017-2019 and will be treated as a Statutory Pay-As-You-Go Act of 2010 cost for the authorizing legislation. New contract support cost legislative proposals and offsetting collections estimates will be provided on a three-year cycle as part of the reauthorization process.

Coal Abandoned Mine Lands Reform – As part of the Administration's POWER+ Plan, the budget proposes to accelerate payments from a portion of the remaining unappropriated balance of the AML Fund to target the cleanup and redevelopment of AML sites and AML coal mine polluted waters in a manner that facilitates sustainable revitalization in economically depressed coalfield communities. The proposal will provide $1.0 billion over five years to States based on

AML program and economic eligibility factors—such as the unemployment rate of coal mining regions—and remaining priority coal problems, including abandoned mine drainage, where reclamation linked to job creating economic development strategies will help revitalize impacted communities.

Gulf of Mexico Energy Security Act – The Gulf of Mexico Energy Security Act of 2006 opened some additional areas in the Gulf of Mexico for offshore oil and gas leasing, while maintaining moratoria on activities east of the Military Mission Line and within certain distances from the coastline of Florida. The Act provides that 37.5 percent of Outer Continental Shelf revenues from certain leases be distributed to just four coastal States—Alabama, Louisiana, Mississippi, and Texas—and their local governments based on a complex allocation formula. Under the Administration's all-of-the-above energy strategy, domestic energy production has grown each year. Offshore, the Department has made 60 million acres available for development in the past three lease sales alone. The Administration is committed to ensuring American taxpayers receive a fair return from the sale of public resources and taxpayers throughout the Country benefit from the development of offshore energy resources owned by all Americans. The Administration proposes to work with the Congress on legislation to redirect funds currently allocated to GOMESA revenue-sharing payments to just four States from Gulf of Mexico oil and gas leases. The Administration proposes to redirect these payments, which are set to expand substantially starting in 2018, to programs that provide broad natural resource, watershed and conservation benefits to the Nation, help the Federal government fulfill its role of being a good neighbor to local communities, and support other national priorities. Such programs could include the Land and Water Conservation Fund, Payments in Lieu of Taxes, State and Tribal Wildlife Grants, Federal coastal restoration and resilience programs, and other national priorities.

United Mineworkers of America Health and Pension Reform – The budget proposes to better provide for retired coal miners and their families by revising the formula for general fund payments to the 1993 UMWA Health Benefit Plan. The new formula will consider all beneficiaries enrolled in the plan as of enactment, as well as those retirees whose health benefits were denied or reduced as the result of a bituminous coal industry bankruptcy proceeding commenced in 2012. Additionally, the proposal will transfer funds through the Pension Benefit Guaranty Corporation to the trustees of the 1974 UMWA Pension Plan to ensure the plan's long-term solvency. The plan, which covers more than 100,000 mineworkers, is underfunded and approaching insolvency. The new formula will provide an additional $363.0 million to the UMWA in 2016 and $3.9 billion over 10 years.

Land and Water Conservation Fund –The budget proposes $900.0 million in current and mandatory funding in 2016, and starting in 2017, the budget proposes permanent authorization of $900.0 million in mandatory funding for LWCF programs in the Departments of the Interior and Agriculture. During a transition to mandatory funding in 2016, the budget proposes $500.0 million for mandatory funding and $400.0 million for current funding, to be shared by Interior and Agriculture.

National Parks and Public Lands Centennial – The Centennial initiative proposes $500.0 million a year for three years or $1.5 billion in mandatory funding beginning in 2016 for the following programs: $100.0 million a year for a National Park Service Centennial Challenge to

leverage private donations; $300.0 million a year for addressing NPS deferred maintenance backlogs; and $100.0 million a year for a Public Lands Centennial Fund, which will competitively allocate funds for projects on public lands. Interior's public lands bureaus and Agriculture's Forest Service will identify projects that enhance visitor services and outdoor recreation opportunities, restore lands, repair facilities, and increase energy and water efficiency. The availability of mandatory funding to address deferred maintenance and other conservation projects will allow these agencies to plan ahead more efficiently to achieve significant results. Stable and predictable funding streams will allow projects to be appropriately scheduled and phased for effective project delivery and completion from a capital investment standpoint.

Federal Land Transaction Facilitation Act – The Department proposes to reauthorize this Act that expired on July 25, 2011 to allow Federal lands identified as suitable for disposal in recent land use plans to be sold using this authority. The sales revenues would continue to fund the acquisition of environmentally sensitive lands and administrative costs associated with conducting the sales.

Recreation Fee Program – The Department of the Interior proposes to permanently authorize the Federal Lands Recreation Enhancement Act, which will expire September 30, 2016. The program currently brings in an estimated $281 million in recreation fees annually under this authority and uses them to enhance the visitor experience at Interior facilities. In addition, as a short-term alternative to proposed legislation for long-term reauthorization, the budget proposes to extend authorization through September 30, 2017.

Federal Oil and Gas Reforms – The budget includes a package of legislative reforms to bolster and backstop administrative actions being taken to reform the management of Interior's onshore and offshore oil and gas programs, with a key focus on improving the return to taxpayers from the sale of these Federal resources. Proposed statutory and administrative changes fall into three general categories: 1) advancing royalty reforms, 2) encouraging diligent development of oil and gas leases, and 3) improving revenue collection processes. Collectively, these reforms will generate roughly $2.5 billion in net revenue to the Treasury over ten years, of which about $1.7 billion would result from statutory changes. Many States will also benefit from higher Federal revenue sharing payments.

Palau Compact – On September 3, 2010, the U.S. and the Republic of Palau successfully concluded the review of the Compact of Free Association and signed a 15-year agreement that includes a package of assistance through 2024. The 2016 budget assumes authorization of mandatory funding for the Compact occurs in 2015. The cost for this proposal is estimated at $163 million for 2016 through 2024.

Payments in Lieu of Taxes – The Consolidated and Further Continuing Appropriations Act of 2015 provides $372.0 million in current funding and the National Defense Authorization Act for Fiscal Year 2015 provides mandatory funding of $33.0 million in 2015 and $37.0 million in 2016. The 2016 budget proposes to extend authorization of the program an additional year while a sustainable long-term funding solution is developed for the PILT Program. The PILT payments help local governments carry out vital services, such as firefighting and police

protection, construction of public schools and roads, and search and rescue operations. The cost of a one-year extension is estimated to be $452.0 million in 2016.

Reclamation of Abandoned Hardrock Mines – To address the legacy of abandoned hardrock mines across the U.S. and hold the hardrock mining industry accountable for past mining practices, the Department will propose legislation to create a parallel Abandoned Mine Lands Program for abandoned hardrock sites. A new AML fee on hardrock production on both public and private lands would generate an estimated $1.8 billion to reclaim the highest priority hardrock abandoned sites on Federal, State, tribal, and private lands.

Reform Hardrock Mining on Federal Lands – Interior will submit a legislative proposal to provide a fair return to the taxpayer from hardrock production on Federal lands. The legislative proposal will institute a leasing program under the Mineral Leasing Act of 1920 for certain hardrock minerals including gold, silver, lead, zinc, copper, uranium, and molybdenum, currently covered by the General Mining Law of 1872. The proposal is projected to generate net revenues to the U.S. Treasury of $80 million over ten years, with larger revenues estimated in following years.

Return Coal Abandoned Mine Land Reclamation Fees to Historic Levels – The budget proposes legislation to modify the 2006 amendments to the Surface Mining Control and Reclamation Act, which lowered the per-ton coal fee companies pay into the AML Fund. The proposal would return the current fee of 28 cents per ton of surface mined coal to 35 cents a ton, the same level companies paid prior to the 2006 fee reduction. The additional revenue, estimated at $306 million over ten years, will be used to reclaim high priority abandoned coal mines and reduce a portion of the estimated $4.0 billion needed to address remaining dangerous coal AML sites nationwide.

Termination of AML Payments to Certified States – The budget proposes to discontinue unrestricted payments to States and Tribes certified for completing their coal reclamation work. This proposal terminates all such payments, with estimated savings of approximately $224 million over the next ten years.

Termination of Geothermal Energy Payments to Counties – The Department proposes to repeal Section 224(b) of the Energy Policy Act of 2005 to permanently discontinue payments to counties and restore the disposition of Federal geothermal leasing revenues to the historical formula of 50 percent to the States and 50 percent to the Treasury. This results in estimated savings of $4.0 million in 2016 and $47.0 million over ten years.

Bureau of Land Management Foundation – The budget proposes legislation to establish a congressionally chartered National BLM Foundation. This Foundation will provide an opportunity to leverage private funding to support public lands, achieve shared outcomes, and focus public support on the BLM mission.

Migratory Bird Hunting and Conservation Stamp Act – The passage of the Federal Duck Stamp Act of 2014 raised the price of a Duck Stamp for the first time in more than 20 years. To provide greater stability in the future, the budget includes a legislative proposal to provide the

Secretary limited authority to increase the price of a Duck Stamp, with the approval of the Migratory Bird Conservation Commission, to keep pace with inflation.

Offsetting Collections and Fees

The budget includes the following proposals to collect or increase various fees, so industry shares some of the cost of Federal permitting and regulatory oversight. The budget also includes a proposal to recover costs from anyone who damages a national wildlife refuge.

New Fee for Onshore Oil and Gas Inspections – Through appropriations language, the Department proposes to implement inspection fees in 2016 for onshore oil and gas activities subject to inspection by BLM. The proposed inspection fees are expected to generate $48.0 million in 2016, $6.9 million more than the 2015 enacted program funding level, thereby expanding the capacity of BLM's oil and gas inspection program. The fees are similar to those already in place for offshore operations and will support Federal efforts to increase production accountability, human safety, and environmental protection.

Grazing Administrative Fee – The 2016 budget proposes a new grazing administrative fee of $2.50 per animal unit month. The BLM proposes to implement this fee through appropriations language on a pilot basis. The provision will generate an estimated $16.5 million in 2016, more than offsetting a decrease of $3.1 million in appropriated funds in the Rangeland Management program. The net increase of $13.4 million in funding will assist BLM in processing backlogged grazing permits. During the period of the pilot, BLM will work to promulgate regulations to continue this cost recovery fee administratively, once the pilot expires.

National Wildlife Refuge Damage Cost Recovery – The budget proposes appropriations language to authorize the Fish and Wildlife Service to pursue and retain recoveries from responsible parties, to be used to restore or replace damaged National Wildlife Refuge resources.

Conclusion

Thank you for the opportunity to testify on the President's 2016 budget request for the Department of the Interior. This budget is responsible, and proposes to maintain core capabilities with targeted investments to advance the stewardship of lands and resources, renewable energy, oil and gas development and reforms, water conservation, youth employment and engagement, and improvements in the quality of life in Indian communities. I thank you again for your continued support of the Department's mission. I look forward to answering questions about this budget. This concludes my written statement.

Sally Jewell

Secretary of the Interior

Sally Jewell was sworn in as the 51st Secretary of the Interior on April 12, 2013.

In nominating Jewell, President Obama said, "She is an expert on the energy and climate issues that are going to shape our future. She is committed to building our nation-to-nation relationship with Indian Country. She knows the link between conservation and good jobs. She knows that there's no contradiction between being good stewards of the land and our economic progress; that in fact, those two things need to go hand in hand."

As Secretary of the Interior, Jewell leads an agency with more than 70,000 employees. Interior serves as steward for approximately 20 percent of the nation's lands, including national parks, national wildlife refuges, and other public lands; oversees the responsible development of conventional and renewable energy supplies on public lands and waters; is the largest supplier and manager of water in the 17 Western states; and upholds trust responsibilities to the 566 federally recognized American Indian tribes and Alaska Natives.

Prior to her confirmation, Jewell served in the private sector, most recently as President and Chief Executive Officer of Recreation Equipment, Inc. (REI). Jewell joined REI as Chief Operating Officer in 2000 and was named CEO in 2005. During her tenure, REI nearly tripled in business to $2 billion and was consistently ranked one of the 100 best companies to work for by Fortune Magazine.

Before joining to REI, Jewell spent 19 years as a commercial banker, first as an energy and natural resources expert and later working with a diverse array of businesses that drive our nation's economy. Trained as a petroleum engineer, Jewell started her career with Mobil Oil Corp. in the oil and gas fields of Oklahoma and the exploration and production office in Denver, Colo. where she was exposed to the remarkable diversity of our nation's oil and gas resources.

An avid outdoorswoman, Jewell finds time to explore her backyard in the Pacific Northwest where she enjoys skiing, kayaking, hiking and other activities. She has scaled Mount Rainier on seven occasions, and recently climbed Vinson Massif, the highest mountain in Antarctica.

Jewell has worked to ensure that public lands are accessible and relevant to all people from all backgrounds, and to build a connection between the great outdoors and a new generation of Americans.

Jewell is a graduate of the University of Washington. She and her husband, Warren, have two adult children, Peter and Anne.

Mike Connor

Deputy Secretary of the Interior

Michael L. Connor serves as Deputy Secretary of the U.S. Department of the Interior. President Obama nominated Connor for the position in July 2013 and the U.S. Senate confirmed him without opposition in February 2014.

As Deputy Secretary, Connor is the second highest ranking official at the Interior Department with statutory responsibilities as the Chief Operating Officer of an agency of more than 70,000 employees and an annual budget of approximately $12 billion. Connor is a key leader in implementing the Administration's priorities for the Department of the Interior, including water policy and relations in the face of an unprecedented Western drought, as well as serving as the head of the Department's Land Buy-Back Program, the land consolidation component of the Cobell Settlement.

Connor has more than two decades of experience in the public sector, having served as the Commissioner of the Bureau of Reclamation from 2009 to 2014, where he led efforts to promote the sustainable use of water to effectively address current and future challenges associated with water supply and power generation in the American West. As Commissioner, he forged major Indian water rights settlements and worked to resolve water conflicts in California, New Mexico, Oregon and other western states. Connor led the Department of the Interior's efforts and completed two major binational agreements with Mexico on the Colorado River that have received international attention and acclaim. Connor also directed Reclamation's efforts to expand hydropower generation at existing facilities.

From 2001 until his confirmation as Reclamation Commissioner, Connor served as Counsel to the U.S. Senate Energy and Natural Resources Committee where he helped enact a significant amount of legislation addressing issues involving both the Bureau of Reclamation and the U.S. Geological Survey, as well as Native American issues that were within the Energy Committee's jurisdiction. Connor previously served in the Department of the Interior from 1993 to 2001 in the Solicitor's Office, and then as Director of the Secretary's Indian Water Rights Office where he led the Department of the Interior's efforts on a number of important water rights settlements.

Connor received his J.D. from the University of Colorado Law School and is admitted to the bars of Colorado and New Mexico. A native of New Mexico, he previously received a Bachelor of Science degree in Chemical Engineering from New Mexico State University and worked for General Electric.

Mr. CALVERT. I am happy to yield to the full committee chairman, Mr. Rogers, for his questions.

STREAM PROTECTION RULE

Mr. ROGERS. Thank you, Mr. Chairman, for yielding. Madam Secretary, the Office of Service Mining has spent more than $8 million over the past several years to develop a rule on stream protection to replace the 2008 stream buffer zone rule which was tossed out by the Court. It has been wrought with controversy, and this subcommittee and committee has taken action to stop that process every year for the last 4 years.

The main thing I wanted to ask you about is cooperation with the States. As you well know, under the Surface Mining Control and Reclamation Act, SMCRA, the statute by which you are claiming authority to draft this new rule, the States have the lead authority in regulating mining operations, with your Department operating merely in an oversight capacity, which means you are bound by law to work with the States in developing this rule.

And I am hearing from a number of the States saying that they are not being consulted adequately, that their suggestions are ignored, that they do not feel like they are getting proper information into developing the environmental impact statement for the rule. And I am wondering if you can tell us what kind of cooperation are you giving to the States as you discuss this proposed rule.

Secretary JEWELL. Mr. Chairman, I know this rule has been pending for a very long time. We are getting close to submitting our rule for public comment so we can finalize it. I know those discussions have involved States and many stakeholders, businesses, environmental groups, and community citizens who live in the proximity of these mines no matter where they are around the country.

The OSM in its efforts have been very broad in taking in input, and once we release the rule, there will be an opportunity for a tremendous amount of public comment and reaction. I will say that in my experience as we work to update very old regulations, and this is one of them. It has been around for, I think, more than 30 years. Science moves. We learn more than we knew at the time. We understand more about the impacts. We understand the benefit of these resources, and so all of that will be taken into account. Certainly we will be taking input from States along with others as we have on this journey when the rule is released and we are in the public comment period, which we expect will happen relatively soon.

Mr. ROGERS. Well, I know that the law, the statute on the books, mandates that you consult heavily with the States, that the States have the premier authority in regulating mining operations, and yet they tell me that it is like talking to a brick wall with your Department. The States are not being consulted properly. They say they do not feel as though OSM has incorporated any of their comments into draft statements, and they are threatening to walk away from the process all together. So something is not right here. Can you help us out?

Secretary JEWELL. Certainly I will talk with our people at OSM. I know that Joe Pizarchik, who leads that activity, was a State reg-

ulator in the State of Pennsylvania. In my conversations with him he seems keenly interested in input from the States and recognizes the importance of coal in those communities, and also the long-term impacts it has had on some of the hydrology of those areas. He is walking a fine line to balance those things, but I will certainly have a conversation with him about your concerns, Mr. Chairman.

Mr. ROGERS. The few times when OSM has asked for the States for comments on draft documents, the timeframes they are given to answer are unrealistic, some less than 5 days to respond to OSM. And I know many of the States are wondering if OSM even still considers them to be a partner in the process. If this partnership is still intact, does OSM have any plans to make a more earnest effort to seek input from the States in the form of substantive comments?

Secretary JEWELL. I will certainly speak with OSM about that. My understanding from them is they are very interested in State input, and I cannot respond to the 5 days response time, but I will look into that, Mr. Chairman.

Mr. ROGERS. Can your Department provide this subcommittee with a memorandum of understanding that they executed with the States when this process began?

Secretary JEWELL. I will do that if there is such a thing. I do not know. Is there a memorandum of understanding? Is that your awareness?

Mr. ROGERS. That is my understanding.

Secretary JEWELL. Okay. We will track that down for you.

[A sample of the memorandum of understanding with the States follows:]

MEMORANDUM OF UNDERSTANDING

between

The Office of Surface Mining Reclamation and Enforcement

and

Commonwealth of Kentucky, Energy and Environment Cabinet,

Department for Natural Resources

for EIS activities under NEPA for Stream Protection rulemaking

August 25, 2010

A. STATEMENT OF PURPOSE, BACKGROUND

The purpose of this Memorandum of Understanding (MOU) between the Office of Surface Mining Reclamation and Enforcement (OSM) and the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Natural Resources (KYDNR) (the Cooperator) (collectively referred to as the signatories) is to establish responsibilities of each agency concerning preparation of OSM's environmental impact statement (EIS) under the National Environmental Policy Act, 42 U.S.C. § 4371 et seq. (NEPA) for a rulemaking concerning stream protection (the rulemaking) under the Surface Mining Control and Reclamation Act of 1977, 30 USC § 1201 et seq. (SMCRA). This MOU implements NEPA, consistent with the Council on Environmental Quality (CEQ) regulations at 40 CFR 1501.6 and 1501.8, and the January 30, 2002, CEQ Memorandum for the Heads of Federal Agencies (Subject: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act).

Authority for OSM to enter into this MOU includes, but is not limited to:

1. SMCRA;
2. NEPA and implementing regulations, cited above; and
3. Intergovernmental Cooperation Act of 1968 (40 U.S.C. 531)

Authority for the KYDNR to enter into this MOU includes, but is not limited to:

Kentucky Revised Statutes (KRS) 350.020, 350.050(2) and 350.465(3)(i).

SIGNATORIES' ROLES AND RESPONSIBILITIES

This MOU describes OSM's and the Cooperator's roles and establishes a framework for cooperation between the signatories, with regard to preparation of the EIS.

OSM'S ROLE: OSM is the lead agency for the federal government's preparation of the draft and final EIS, and has responsibility to ensure compliance with the requirements of NEPA for the rulemaking. In this capacity, OSM has the following responsibilities, among others:

OSM is responsible for requesting participation of other federal, state, and tribal government agencies, as appropriate, and for cooperatively using their expertise in development of the EIS.

OSM has responsibility for determining the purpose and need of the project, the conclusions of the environmental analysis, which alternatives are selected, and what mitigation measures will be included; and making final determinations on the content of the EIS documents.

OSM will provide the cooperator with copies of key or relevant documents underlying the EIS that OSM identifies as pertinent to the Cooperator's jurisdictional responsibility or special expertise, including technical reports, data, information, analyses, comments received, and working drafts relative to the environmental reviews, draft and final EISs.

When providing the Cooperator with documents and working drafts, OSM will, to the extent possible, give a reasonable time for review and return of consolidated and comprehensive comments.

OSM will consider for incorporation, to the extent consistent with SMCRA, NEPA, and other applicable law, and the purpose and need for the underlying federal action, the comments, recommendations, and/or data submitted by the Cooperator in the EIS process. Insofar as possible under the EIS schedule, OSM will provide the Cooperator the opportunity to review appropriate sections of administrative drafts of the EIS to determine if data and comments provided by the Cooperator have been accurately represented.

In instances involving questions as to the content or relevance of any material in the EIS, including all data, analysis, and conclusions, OSM will make the final determination.

OSM will provide the Cooperator with relevant information on the EIS schedule, including review timeframes, and with any changes to the schedule as early as practicable.

OSM will provide to the KYDNR written or email confirmation of the other cooperating agencies, and their representatives. OSM will timely inform cooperating agencies about the representatives for the EIS.

In meeting these responsibilities, OSM will follow all applicable statutory and regulatory requirements.

THE COOPERATOR'S ROLE: The KYDNR is a cooperating agency on the EIS. OSM recognizes that the Cooperator has jurisdiction and special expertise relevant to the preparation of the EIS.

The Cooperator will provide information, data, and comments to OSM regarding those elements of the EIS, and the data and analyses underlying them, in which it has jurisdictional authority or special expertise or for which OSM requests information and comments. The Cooperator will help collect data to the extent possible, participate in discussions about data assessment and technical reports, and provide technical expertise in order to assist in evaluating the effectiveness of all alternatives and the EIS.

The Cooperator will provide timely review (as established in the schedule) and comments on material provided by OSM pertaining to the preparation of the Draft EIS and subsequent NEPA documents regarding information relating to surface coal mining and reclamation regulatory programs and other areas for which the KYDNR has special expertise or jurisdiction. Information, comments, and analysis provided by the Cooperator may address, but are not limited to, the following: data and analyses regarding existing surface coal mining and reclamation regulatory programs; relevant statutory and regulatory requirements related to surface coal mining and reclamation; impacts of alternatives on surface coal mining and

reclamation regulatory programs; and conclusions regarding alternatives with respect to surface coal mining and reclamation regulatory programs or other areas for which KYDNR has special expertise or jurisdiction.

All KYDNR input to the process of EIS preparation will be through OSM.

The Cooperator agrees that all internal working draft documents for the development of the EIS are pre-decisional and will ensure these documents will not be made available for review by individuals or entities other than the signatories to this MOU. All requests for release of any information to anyone outside of the signatories must be determined by OSM, in compliance with federal law. All data, information, draft documents, and comments provided to and considered by OSM, will be part of OSM's working papers related to preparation of the EIS, and OSM will include them as appropriate in the decision record and administrative record for the EIS . These materials may only be released by OSM. The Cooperator understands that all data, information, drafts, and comments provided will be made available by OSM for public review except as protected under federal law including, but not limited to, the Freedom of Information Act, the Privacy Act, and trade secrets law.

In particular, the Cooperator will provide appropriate information and comments on the following topics:

a. Data on surface coal mining and reclamation operations, stream protection, environmental compliance data, and cost data related to the implementation of surface coal mining and reclamation programs for which KYDNR has special expertise or jurisdiction;

b. KYDNR will provide timely review and comments on material provided by OSM pertaining to the preparation of the Draft EIS and subsequent NEPA documents regarding information relating to surface coal mining and reclamation regulatory programs. KYDNR's role as a cooperating agency is to provide guidance to OSM in preparing analyses and to provide technical review of these analyses for the EIS.

At the administrative draft stage of the EIS, KYDNR will review technical documents on impacts to surface coal mining and reclamation regulatory programs and will advise the OSM on the technical adequacy and completeness of these documents.

KYDNR's participation does not imply endorsement of OSM's action or preferred alternative, and does not affect the legal responsibilities of the KYDNR.

Information, comments, and analysis provided by the Cooperator may address, but are not limited to, the following: data and analyses regarding existing surface coal mining and reclamation regulatory programs; relevant statutory and regulatory requirements related to surface coal mining and reclamation; impacts of alternatives on surface coal mining and reclamation regulatory programs; and conclusions regarding alternatives with respect to surface coal mining and reclamation regulatory programs or other areas for which KYDNR has special expertise or jurisdiction.

c. Other information based on KYDNR's special expertise and/or jurisdiction that may be relevant to the EIS data or analysis.

The Cooperator will return consolidated and comprehensive comments on working drafts and other material provided for review to OSM in a time consistent with the planning schedule. The schedule will be provided to KYDNR upon signature of this MOU and may be updated on a

periodic basis. OSM will provide KYDNR all updated planning schedules as soon as possible to allow for participation in the process.

The Cooperator will not be responsible for the actual preparation of any portion of the EIS or related reports, or for developing any new information; nor will the Cooperator be responsible for the overall adequacy of the EIS.

The Cooperator will designate in writing a representative and backup representative to serve as a contact and ensure coordination during preparation of the EIS. Staff time and budget permitting, the Cooperator will have its representatives attend scheduled meetings pertinent to their responsibilities, and discuss the project and the review process (including agency responsibilities and work schedules). The Cooperator may change a representative at any time by providing a written designation to the other cooperating agencies.

RESPONSIBILITIES OF THE SIGNATORIES: The signatories agree to participate in this NEPA evaluation process in good faith and make every effort to resolve any perceived areas of conflict.

Each signatory will communicate regularly with the other including, at minimum, immediate information of schedule changes that would affect its ability to provide timely input to the document.

For activities related to EIS development, the signatories agree not to employ any third party having a financial interest in the outcome of the EIS. The signatories also agree to take all necessary steps to ensure no conflicts of interest exist with any officers, agents (including consultants), or representatives they may employ in the development of the EIS.

The signatories agree that if comments are not provided in a timely manner that OSM may consider the lack of comments and input to indicate that the KYDNR has no comment on the material reviewed.

Nothing in this MOU limits, affects, or binds the authority or legal responsibility of the signatories to perform beyond the respective authority of each, or requires the signatories to assume any obligation or expend any sum in excess of available authorizations and appropriations.

B. TERMS AND CONDITIONS

This MOU will take effect immediately upon being executed.

Both signatories must agree to any changes, modifications, and amendments in writing. Either signatory may renegotiate or terminate this MOU at any time following at least 30 days written notice.

If not terminated sooner, this MOU will end when the Record of Decision is approved by OSM or the designated official in the Department of the Interior.

C. LIMITATIONS

All commitments made in this MOU are subject to the availability of appropriated funds and each agency's budget priorities. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the signatories to this MOU will be handled in accordance with applicable laws, regulations, and procedures, including

those for government procurement and printing, and will be subject to separate subsidiary agreements that will be effected in writing by representatives of both signatories.

This MOU does not direct or apply to any person outside OSM and the KYDNR.

This agreement is intended only to improve the internal management of the Executive Branch and is not intended to, nor does it, create any right to administrative or judicial review; nor does it confer any right or benefit, substantive or procedural, enforceable at law or equity, by a party against the signatories, the United States, its agencies, its officers, or any person; nor does it constitute final agency action on any issue.

This MOU in no way restricts either signatory from participating in similar activities with other public or private agencies, governments, organizations, or individuals. Nothing in this MOU will be construed as affecting the authorities of the signatories to act as provided by statute or regulation or as binding beyond their respective authorities.

Any public information releases that reference this MOU, or the EIS, shall be subject to prior approval of OSM. The signatories agree that all inter- and intra-agency documents designated as privileged, confidential, pre-decisional or deliberative shall not be released to the public, except as those subject to release pursuant to a Freedom of Information Act request. No documents shall be released without prior consultation and approval of OSM, except as otherwise required by law. OSM's Office of Communications shall be designated as the Point of Contact for all information releases to the public, with the exception of each cooperator's comments required to be made public according to law.

D. STIPULATIONS

The signatories will: Comply with all necessary provisions of NEPA. OSM will complete an EIS analyzing the impacts associated with the stream protection rulemaking. The KYDNR will perform its duties as a cooperating agency.

The signatories will: *Complete tasks mutually agreed to according to the planning schedule which will be provided separately.* Each agency will be responsible for the task assigned and OSM will have overall responsibility for completion of all tasks. Once complete, OSM will confirm, in writing, completion of these tasks. The tasks to be completed and the planning schedule may be updated by mutual agreement of OSM and the KYDNR designated representatives. The agencies will identify their designated representatives by letter.

OSM will serve as lead agency for the development of the EIS.

E. DISPUTES

The following procedures shall be utilized to elevate any conflict or disagreement between the signatories. The designated representatives of the signatories will jointly prepare a document that contains a joint statement of facts and succinctly state each agency's position and recommendations for resolution. If the agencies are aware of a dispute, they will defer taking final action, where consistent with applicable legal deadlines, to allow the issue to be resolved through the elevation process. The following procedures shall be utilized to elevate any conflict or disagreement between the signatories regarding their responsibilities under this MOU. If the designated representatives from OSM and the KYDNR cannot resolve any contentious issue within 14 days, the issue will be raised with the Director of OSM and the Commissioner of the KYDNR, or their representatives, who will attempt to resolve the dispute. The Director and the

Commissioner will attempt to negotiate a decision resolving the dispute within 14 days after elevation. A decision will be binding upon the agencies. In every case, the decision rests with the agency exercising the statutory or regulatory authority in question. For matters related to the EIS, the final decision rests with the Director of OSM.

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The signatories have executed this MOU on the dates shown below.

Commonwealth of Kentucky, Energy and Environment Cabinet,
Department for Natural Resources
2 Hudson Hollow Road, Frankfort, KY

Carl E. Campbell Date August 24, 2010

Carl E. Campbell, Commissioner

Office of Surface Mining Reclamation and Enforcement
1951 Constitution Avenue, NW, Washington, DC

Joseph G. Pizarchik Date 8-31-10

Joseph G. Pizarchik, Director

OSMRE BUDGET

Mr. ROGERS. The States, as I said, are primarily responsible for most of the regulatory work, but yet OSM is asking for a $5.5 million increase for itself and cutting the States' grants by more than $3 million. What would that extra $5.5 million go for?

Secretary JEWELL. Do you have anything specific on that, Mike, if you can look at that? Let me talk to the $3 million difference while Mike is looking for that. The money to the States for state requirements is equivalent to the amount we have put in the budget. It is about $3 million. We did not have State requests up to the amount we had last year, so there is some carryover. We put in the budget an amount that we believe will be adequate for what the States' needs were, but if they end up going a few million dollars over that, we have carryover from the prior year we could apply. There is essentially no cut from what we believe the demand from the States will be.

Mr. ROGERS. Well, what I am talking has real consequences in real life. I have got 9,000 miners in my district laid off in the last few years. I have got able-bodied young men with families formerly making $70,000, $80,000 a year in the mining business now trying to find a job at McDonalds or ever, unsuccessfully I might add. They have young kids. They have mortgages to pay. They are able-bodied. They are great workers, with the best work ethic in America. They are being shoved out the door, and unfortunately by their own government, and it is not right. I yield.

POWER+

Secretary JEWELL. Mr. Chairman, may I just quickly respond? You referenced this in your opening, Mr. Chairman. The Power+ proposal takes some of the Abandoned Mine Land funds sitting in the Treasury and asks them to be accelerated forward to address exactly that issue—$200 million a year over 5 years from money that is existing in the Treasury for Abandoned Mine Land funds. We propose to use the funds to help those communities, like the ones you just described, to help re-train them in areas such as mine restoration, fixing some of the devastating impacts of mining over years past to those communities, and developing skills for jobs of the future.

The Power+ proposal is certainly an attempt on our part to address the very real consequences in many of these coal-producing States where, the least expensive coal has been mined. We appreciate this is a challenge for your State and a number of other States, particularly in Appalachia.

Mr. ROGERS. Well, let me thank you for the Power+ Program. It has a lot of things going for it, and I welcome that. However, unless the law is changed, the OSM money, the Abandoned Mine Lands Fund, could only be used for reforestation, which is good. I have been pushing that for years, but it is a limited use of that money. I wish we could free up that money for economic development to bring in the new jobs of this world that we live in today, so I welcome the attempt to use that $2 or $3 billion that has been collected.

Secretary JEWELL. I think it is 2.4 billion that is sitting in the account. It is a lot.

Mr. ROGERS. I cannot tell you, yes, but it should be used for today's purposes. And the money came from a tax, if you will, on each town of mined coal.

Secretary JEWELL. That is right.

Mr. ROGERS. So the proceeds of that ought to be going back to those areas where it came from, but if it is only for reforestation, it would not provide that many jobs.

Secretary JEWELL. And that is what we are attempting to address with Power+, and I think there is a good case that can be made for legislative action.

Mr. ROGERS. Good.

Mr. CALVERT. Thank you. I am happy to yield to Ms. McCollum.

Ms. MCCOLLUM. Mr. Chair, at this time I would like to yield to the full Committee ranking member, Ms. Lowey.

JOBS AND THE ECONOMY

Mrs. LOWEY. Well, thank you very much. Getting back to jobs and the economy, according to your Department, in 2013, Interior's programs contributed an estimated $360 billion to the U.S. economy and supported more than two million jobs. That is a pretty good record, so I hope we can continue in that direction.

HERITAGE AREAS

The budget request, however, once again proposes to cut national heritage areas this year by 51 percent. In 2013, the National Park Service released a report stating that the 49 national heritage areas contributed $12.9 billion annually to the national economy, supporting 148,000 jobs, generating $1.2 billion in Federal tax receipts. In my region, the Hudson River Valley National Heritage Area, contributes $538 million to the State's economy, supports 6,530 jobs, and generates $66.6 million in tax revenue. So it is an important program to spur tourism and economic development, and is popular obviously among the people who live in the region.

Can you tell me if you are concerned that slashing funding by nearly half would jeopardize the contributions that heritage areas make to promote job creation and outdoor recreation? And can you please explain why the proposed cut to the program is so large?

Secretary JEWELL. Thank you, Congresswoman Lowey, and I appreciate your passion for National Heritage Areas broadly, and specifically in the Hudson River Valley. I share a passion for National Heritage Areas, as we have talked about before.

This is not as big a budget as I would love to have, and we had to make some difficult choices. With the Centennial in 2016, and with the condition of a number of our park facilities being in pretty tough shape, and knowing we are going to have increased visitation broadly, we did prioritize resources toward critical projects to address where we think we are going to have the highest visitation and the greatest challenges with the facilities that need to be repaired.

We did prioritize engaging youth in our parks, getting kids involved in these resources. We have a golden opportunity with the

Centennial to do that because of the increased visibility. We did scale back the National Heritage Areas.

They are one of the areas that has the potential for the highest leverage. In other words, communities support them in a very significant way, so there is no question I would love to support them. I would love to keep the level high or even higher, but we did make some difficult tradeoffs, and that is one of the areas we traded off within the National Park Service budget.

Mrs. LOWEY. Well, I really do hope that working together with the distinguished chairman of the committee and all the members of this committee who care so much about this account, we could work in a bipartisan way so we can end sequestration and bring some thoughtfulness to this process, because it is unfortunate to cut or decrease funding for programs that really do work, and, again, create jobs, strengthen the economy, which is what we are all about, Democrats and Republicans.

HURRICANE SANDY RESTORATION

Let me just ask one other question because I know we are running out of time. It was just 2 years and 4 months ago that Hurricane Sandy battered a wide swathe of the Mid-Atlantic and northeast causing significant damage to communities and natural resources in the areas. National parks, such as the Statute of Liberty, Gateway National Recreation Area, sustained heavy damage. If you can give us an update of what progress has been made in restoring these and the many other natural and historic resources that were damaged by Hurricane Sandy, I would appreciate it. And are these restoration projects being rebuilt to frankly provide more resiliency to any impending storm? These storms we used to think come every hundred years. They seem to come every couple of years. So if you can comment, I would appreciate it.

Secretary JEWELL. Thank you. Well, having been to the Statute of Liberty and the national recreational area New York, Jamaica Bay, working alongside kids on restoration activities, I would say we are well under way. We received about $450 million to mitigate activities within our bureaus, and those are in process. Of course, you know we got the Statute of Liberty reopened on the 4th of July in 2013.

In addition to those projects on our lands, we got $342 million dollars from the Sandy funding to increase resiliency of coastal habitat and infrastructure. With that, we have completed and reviewed resilience projects of $214 million. We had $102 million in competitive grants we put out to communities to basically put forward proposals. Those are highly leveraged dollars. We got $74 or $75 million in additional money over and above the $102 for 54 projects, and we are getting ready to do an evaluation of how those projects work. The money is in the process of being spent, or has been spent or obligated.

And we have learned tremendous lessons, including the science behind what the green infrastructure did to protect communities and how can we replicate that. That is exactly what we are doing in these projects here.

Mrs. LOWEY. Thank you very much. Thank you, Mr. Chairman.

Secretary JEWELL. Thank you.

Mr. SIMPSON [presiding]. We have votes going on, and Ken went over to vote, and he will be right back, and then some of us will go vote. And we are trying to not waste your time too much.

SAGE-GROUSE

A couple of questions. I am a little perplexed by one of the statements in your—I guess not perplexed, but there is a statement in your testimony I do not understand. "I ask the committee to remove the rider included in the 2015 Appropriation Act that prevents the Fish and Wildlife Service from writing rules to list several species of sage-grouse. Our approach to working collaboratively among Federal agencies, States, and stakeholders could provide the path to conserving species and Endangered Species Act protections for both by State."

We agree with that, and we think that is the right way to go. We do not know why the rider is creating complications for that. All we are saying is we are preventing the listing so that the Department has the time to actually do these cooperations with the States and come up with plans so that ultimately—and I think this is what we all want is not to have to list sage-grouse because, frankly, it would be devastating on the West.

Let me ask you this, and obviously I do not know the answer to it or I would not ask it. If a determination is made ultimately whenever Congress allows the determination to be made on listing of the sage-grouse, is it an all or nothing determination? Different States cooperate differently with the Department in trying to save the habitat? Let us just say, for example, a hypothetical. Wyoming is doing a fantastic job working with you, doing the preventative measures to try and preserve the habitat. And let us say Idaho is just being obstinate and will not do anything to protect it. When you make a determination, do you have to say we do not list it in Wyoming, we do list it in Idaho? Can it be that way, or regionally, or is it across the landscape, or nothing?

Secretary JEWELL. The short answer is it is the greater sage-grouse, which is across the broad landscape. That is what we are looking at. I just have to say a couple of things. One is to commend the support from the States for the work of the BLM, and the Fish and Wildlife Service, and the State Wildlife Management agencies. We are working together like has never happened, I think, in the history of the United States when it comes to the preservation of landscapes.

We talk about the greater sage-grouse, but really it is the sage steppe ecosystem, mule, deer, antelope, golden eagles, you name it. There are 350 species that depend on this, and it is really the old growth forest of that region of the country, and a lot of these sage brushes are 150 years old. The greater sage-grouse is the species we are assessing as to whether or not it should be listed.

We have a court-ordered deadline of September 30th, 2015, and the rider in the bill at the end of last year did not change that court-ordered deadline. We are pursuing a determination full speed ahead and considering all of the complexities of really the different ways that different States have to face the preservation of this sage steppe. It is different in Idaho than it is in Wyoming.

Mr. SIMPSON. Sure.

Secretary JEWELL. It is different in Nevada than it is in Utah. We are working with strong State plans, and we had some helpful executive orders from a number of different governors that provide reassurance to the Fish and Wildlife Service that they need. We have revised, I think, 98 different resource management plans for the BLM and consolidated those into I think 15 different EISs being finalized right now. Everybody is working toward a goal of taking care of these sage brush steppe landscapes so that a listing is not warranted.

That is something we all share in common, and we have got to get across the finish line with that, and the Fish and Wildlife Service has that court-ordered deadline.

The rider did not allow us to write any rules to list, so it does not stop the Fish and Wildlife Service from doing its work on a determination. We have got funding in this budget, and there is more proposed in this budget to take care of these landscapes. The Fish and Wildlife Service is going to have to make a determination of whether listing is warranted, which everybody would share, threatened or endangered, and they have to do that unless the court gives us additional time.

We hope listing is not needed, and then the rider will not make any difference. If it is warranted, we will be in a difficult situation where a listing is warranted, but we cannot write a rule to say what that means and how we then go forward.

Mr. SIMPSON. And the reason I ask the question, though, is we are looking at this broad landscape.

Secretary JEWELL. Yes.

Mr. SIMPSON. I mean, it covers the whole western United States essentially. The same thing happened with wolves when they reintroduced them as a non-essential experimental population in Montana, Idaho, and Wyoming. And they put requirements on 10 breeding pair in the three States. Idaho and Montana did their job, and they got breeding pairs in the 30s, 40s, 50s. Wyoming did not, and when Fish and Wildlife Service came in and said we are going to de-list in Idaho and Montana, the judge said, no, you cannot do that, it has got to be all three States. So we are being punished because Wyoming would not do what was required of them, and it was Congress that overrode that and said, no, that is not the case.

And I wonder how we are getting cooperation, and we are getting different levels of cooperation I am sure from all the different States and different levels of concern. I am wondering if those States that are working with you trying to save this sage brush steppe and those States that are not, are we going to get punished because they are not cooperating as well?

Secretary JEWELL. I think it is fair to say we will rise and fall together on this one because of the nature of this bird's range.

Mr. SIMPSON. Can we clip its wings? [Laughter].

I am just kidding.

Secretary JEWELL. But this is an unprecedented effort, and I just cannot say how much I appreciate the cooperation. Yes, we have had some to the table early, and we have had some to the table late. The more teeth there are in their proposals, the more the Fish and Wildlife Service can rely on it. The more voluntary measures

that are unproven, the less they can rely on it. Every governor, every State wildlife person working on this knows that.

We are feeling really good about the amount of work that has been done, and we remain optimistic that listing can precluded if we keep pedal to the metal on this within the timeframe. Did you want to jump in?

Mr. CONNOR. Just on one other point if I could.

Secretary JEWELL. Yes.

Mr. CONNOR. You asked about the complications of the existing rider, and the Secretary has explained everything having to do with greater sage-grouse. One of the complications has to do with the Gunnison sage-grouse, which is under the rule, and so it is listed now. The Service did make its determination prior to the rider taking effect.

One of the things that we can do to provide regulatory certainty is to do a 4(d) rule since it was listed as threatened in which we would basically take the conservation actions that have been committed and put that into a plan. If people are moving forward with those conservation actions, they have got no issues with the Endangered Species Act. That is one thing precluded by the existing rider, that we cannot move forward with that 4(d) rule.

Mr. SIMPSON. Thank you. I have several other questions relative to BIE schools, and PILT funding, and so forth, but I will ask those when my turn comes up and I am sitting over here. [Laughter].

Ms. McCollum.

CLIMATE CHANGE

Ms. MCCOLLUM. Thank you. Secretary Jewell, I note with interest that you are requesting a total of $195 million to help prepare communities for the challenges of climate change. We only have to look at the Washington Post this morning to see how Alaska natives are impacted by this.

There has been debate about the causes of the change. The effects of climate change are seen nationally. Much of the West is in an extended drought, as has been pointed out in some of the questions that the Chairman offered up to you earlier. We have grizzlies that are already awake in Yellowstone National Park, Boston snow pack. Alaska snow is to the point where the Iditarod sled dog race was forced to shift its route again. They have been having more and more problems having reliability with the dates on that race.

So could you talk about the work that you are going to do with local communities to address the impacts of climate change? What steps are you taking on Federal land to better understand and help prepare for the impacts? And how will this program also help our U.S. territories that are dealing with rising sea levels, as well as the coast here on the mainland part of the United States?

Secretary JEWELL. Mike is going to jump in on this.

Mr. CONNOR. Our climate change programs at Interior are on three levels, two of which I think are specifically relevant to your question. We have our real energy program where we are trying to reduce carbon through those programs. Building community resilience, the adaptation action that you referenced, and then I think it is incredibly important we continue to invest in science to inform

ourselves about how the impact of climate change is affecting our resources.

With respect to the adaptation programs and building resilience, we are investing in this budget about $195 million overall. We want to replicate what we are doing with respect to the Hurricane Sandy initiative through our $50 million proposal for coastal resilience grants. We think the first cut reading of the projects that were done as part of Hurricane Sandy is they were very positive, and they will have benefits with respect to storm surge and long-term resilience. We want to replicate that along other coasts.

On the landscape itself, BLM, Fish and Wildlife Service, and National Park Service each have a $10 million challenge cost share grant program for climate related projects. Of course, our budget continues to support the 22 Landscape Conservation Cooperatives that we have as well as our eight Climate Science Centers, so $195 million on the ground to try and deal with resilience activities.

I forgot to mention our $50 million tribal climate program. We have invested about $8 and $10 million over the last couple of years to try and build capacity in tribal communities with tribal leaders to be able to address their needs. This budget would bump up activity in 2016 so we could actually take that capacity and start to do projects on the ground to build resilience.

The last thing I will note is we have $83 million in climate variability science with USGS focused on the Arctic, focused on coastal communities and sea level rise, drought, and storm surge and flooding activities that we expect to increase as a result of climate change. That is the broad portfolio we have.

Secretary JEWELL. I would just add one other number to the complexity. There is $7 million in the budget for climate resilience specifically for Insular areas. They are on the front lines, and I met with them yesterday. They were in town, and they are seeing lots of impacts in very real time. Thank you.

Mr. CALVERT [presiding]. Thank you. Just for information, there are about 2 minutes left in the vote. 300 members have not voted yet. [Laughter].

Secretary JEWELL. Wow.

Mr. CALVERT. I have already voted, so I am just going to continue this until the next vote is called, and then I will have a 10–minute recess, and then we will just come right back after the next two votes.

Ms. MCCOLLUM. I would have gone up and voted with you had I known that.

Mr. CALVERT. Oh, I am sorry.

Ms. MCCOLLUM. Because now none of us have voted.

Mr. CALVERT. I know.

Ms. MCCOLLUM. I trust you with my life.

Mr. CALVERT. I will not do anything too controversial. [Laughter].

Mr. ISRAEL. Mr. Chairman, I will not be able to return, so I will submit my questions in writing.

Mr. CALVERT. Okay.

Mr. ISRAEL. Thank you.

Mr. CALVERT. Thank you. Okay. We will see you in a few minutes.

Ms. MCCOLLUM. I am keeping my eye on you.

Mr. CALVERT. I am just going to talk just a little bit about the California drought while you are away, how is that?

Ms. MCCOLLUM. Oh, good. [Laughter].

DROUGHT

Mr. CALVERT. A first vote round here, a 15-minute vote usually takes a half an hour. As you mentioned earlier, things never are on time around here. Since you have Deputy Secretary Connor with you today, Madam Secretary, and since California is the only one left here, I thought I might ask a question about our drought. As you know, you and Mike are the water masters of the West and the Southwest, and we have been experiencing severe drought conditions, and in my home State of California probably more severe than the rest of the Western States.

Although there was some rain in December, it was the driest January since we have been taking records as I understand. So could you for the record provide an update on the current extent of the drought, what you have learned from the drought crisis in 2014, and how this year compares to previous droughts?

Secretary JEWELL. Go ahead, Mike.

Mr. CONNOR. I will start with the latter part. This year's drought is every bit as bad as last year's drought with respect to the lack of precipitation. We did have a decent December, but then it all dried up in January, as you pointed out, Mr. Chairman. The problem is we went into this season with substantially less water in storage than we had even last year, and the impacts of the ongoing drought will be as deep or even deeper than they were last year. Of course, last year was the harshest time ever.

I think overall, the landscape is very difficult with respect to the challenges we are facing. Just to give some context, historically we have pumped around, in good years 5 and half million acre feet per year to supply the Federal project and the State water project. Over the last couple of years with respect to the drought, in 2012 and 2013 we pumped anywhere between 4.2 to 4.8 million acre feet, so significantly lower.

Last year with the impacts of the drought, we ended up pumping about 2 million acre feet of water, so less than half of what we had even done in 2012 and 2013, and that situation is likely to continue. It is very much a function of the drought. I would just note we are about 2 to 2 and half million acre feet below even the water levels of previous droughts, and I know there has been a lot of focus on the Endangered Species Act, and certainly that is affecting the availability we have for pumping water because of restrictions. But of that reduction last year, only about 65,000 acre feet was related to the Endangered Species Act. That is 65,000 feet that is incredibly important to somebody, and I certainly understand that, but it is 2 percent of the overall reduction we have had because of the drought.

Nonetheless, I think on the positive side, we did learn some lessons in last year's drought, and we have improved our monitoring capabilities, our ability to, in real time, understand where the fish are with an overall goal of trying to improve operations when we can during those precipitation events like we had finally at the

start of February. One of the improvements from last year is last year we allowed some increased pumping over what the biological opinions would normally allow, but then we required mitigation on the back side of that. There were certainly concerns about whether or not we were having net gain.

This year, we have re-looked at the science. The Fishery agencies concluded they do not necessarily have to get immediate mitigation. We can look at other opportunities to mitigate for higher levels of pumping. If we have the opportunity for higher levels of pumping as part of our drought strategy, we are going to do that. We are going to implement those higher levels and try and take as much water as we can. We did that for about a week in the aftermath of the storm we had a couple of weeks ago.

Mr. CALVERT. And I am glad to hear that you are using your tools the best way you can, and modeling, forecasting in the future. But as you mentioned, the regulatory constraints, in this case the Endangered Species Act, the biological opinions that you are operating under presently. As I understand, this last storm surge we had, for instance, this small storm, we talked previously about this. But what I hear anecdotally from people in California was they still were not able to pump to the maximum degree possible because of the way some people were interpreting the biological opinion. I think you can pump up, what, to 7,500 CFS in that instance, and I understood you never got to 7,000 CFS. Is that correct?

Mr. CONNOR. What it would allow is us going up to about 7,500 CFS. The controlling factor is reverse flows on Old Middle River, and if you are at the maximum levels in our drought strategy, it does allow about 7,500 CFS of pumping. I think we got over 7,000 for a couple of days. We were well over 6,500 for a couple more days. We did better, but you are correct in relating we were not at that maximum level the entire time. What was happening was a daily decision about what we could do.

Mr. CALVERT. Right. Some of the critics on the ground would say that you could have operated under the biological opinion, and I know you are operating this very conservatively, but at least 10,000 acre feet or more was lost because of that. And as you know, 10,000 acre feet of water in this environment is a lot of water, but if we get these storm surges from time to time in an emergency that we are in, every drop of water counts.

And so, if we are not endangering any fish, if we are not endangering the smelt, you know, I would continue to emphasize that we need to make sure that we operate that with the maximum flexibility possible to make sure that we get every drop of water we possibly can in this emergency because I suspect this summer things are going to get a lot worse. And I am not sure what the Metropolitan Water District is going to do in Los Angeles, and what others are going to be doing throughout California and the West, but it is a significant problem.

COLORADO RIVER STORAGE

Let us talk about the Colorado River a little bit. What percentage are you down in storage in the Colorado River system now?

Mr. CONNOR. I think overall, we are at about 45 percent storage capacity between Lake Mead and Lake Powell right now. Once

again, the 15-year drought in the Colorado River system is every bit as bad as the situation in the Central Valley of California. The difference has been the storage that we started with. And, 15 years ago in 2000 when the drought cycle started, those two reservoirs were at full capacity. We basically had a few good years within the 15 years, but most of them have been below average. Because of that, we have not yet incurred any shortages on the lower Colorado River.

When we hit elevation 1075 at Lake Mead, the States of Nevada and Arizona will start talking shortages. Right now, we will not have a shortage in 2015, but we are looking at significant possibilities starting in 2016 and 2017, and I think there is around a 20 percent chance we will be in a shortage condition in 2016. It goes up to almost 50 percent after that, so it is also a serious situation.

Mr. CALVERT. The storage in the Colorado River system is how many acres?

Mr. CONNOR. It is about 60 million overall, and those two reservoirs are 50 million of it.

Mr. CALVERT. Right, and that kind of tells the story in the Bay Delta area. How much storage do we have up there?

Mr. CONNOR. Oh, I think between all the reservoirs, Shasta is the largest and it and Oroville are the two largest, and they are about, I would say, 10 to 12 between all of them.

Mr. CALVERT. So in the long term we have got to get additional storage in that area. And there is a lot of frustration that many years have been spent, and I drafted the legislation originally to do this, and I think that has been 12 years ago.

Mr. CONNOR. 2004, yes, sir.

Mr. CALVERT. And how far along are we to the point where we can actually start issuing permits to start developing these water storage projects?

Mr. CONNOR. We are at the tail end of several of the feasibility studies and EISs, and I am going to segment it that way because issuing permits will necessitate us figuring out the financing for our facilities. The threshold is to finish the environmental work and the feasibility work. With Shasta Dam raise, we will be including that this year, the feasibility studies and the final environmental impact statement.

We have a draft feasibility and a draft EIS with respect to Temperance Flats on the San Joaquin. One of the storage studies that was contemplated was Los Vaqueros Dam in the delta, and we completed the raise itself. We are doing the environmental analysis and Contra Costa is paying for a dam raise there. They are now evaluating a second raise at that facility.

Then sites off stream on the Sacramento are lagging a little bit because for several years we did not have a cost share partner with the State. I think all of that is ready to change. We are working with the Joint Powers Authority up in the Upper Sacramento, and the State, I think, will have a new agreement to move forward with those feasibility studies.

We will probably at that point in time for efficiency purposes turn over the EIR process, the environmental impact review process, to the Joint Powers Authority and the State itself and let them take it forward. But they do want us to finish the feasibility work.

Mr. CALVERT. And we understand that, all the work has been taking place. I know that you do not run the EPA. You have enough issues on your table, but it is under our jurisdiction, was involved in every meeting and was there every time, and then they recently have thrown a monkey wrench into the entire process, which is somewhat frustrating because everybody has been working reasonably well together like good boys and girls, and all of a sudden they throw a wrench in this process, is somewhat frustrating.

We have the same frustration with the State Water Resources Board. As you know, recently we had a number of agencies that agreed that we needed more flexibility in the short term to operate the system up in the north, and then for whatever reason, the State Water Resources Board thinks they know best, so they stopped that. Senator Feinstein, myself, and a number of members, sent a letter urging them to reconsider.

But short term, we need flexibility to operate so we can get every drop of water that we can, and long term obviously we need to build this additional storage in the north to make sure that we prepare ourselves. If climate change is occurring, we have to be prepared to capture this water as rain rather than snow, and we have to do what is necessary as quickly as possible.

I am going to recess because I think the second vote is going to start any second. And we will be back in about 10 or 15 minutes, so thank you.

[Recess.]

Mr. CALVERT. The hearing will be reconvened. First, we will recognize Ms. Pingree for her questions.

ENDANGERED SPECIES ACT

Ms. PINGREE. Thank you very much, Mr. Chair. Thank you, Secretary Jewell. It is a pleasure to have you here before us, and I appreciate the hard work you are doing for us in so many areas. And I am glad to see some of the questions I care about and some of the issues that I wanted to talk about climate change have already been brought up. I know you are working very hard on the centennial of the national parks, and we are excited about that in Maine.

I wanted to do something that probably is not always the right thing to do, but I wanted to say something in favor of the Endangered Species Act. I come from a State where we have had our challenges with it, and every once in a while I am posed with a species that I do not think should be listed or I think there are serious questions that should be asked.

But I have learned over the years that there are times when it is a really important tool that we have as an indicator species, some plant or animal that lets us know that something is going dramatically wrong. And I wanted to use as my favorite example of what has happened in my State and so many others with the bald eagle.

When I came to Maine as a teenager, it was almost never that you saw a bald eagle. There were 30 nesting pairs in Maine in 1967, and as you know, that was one of the first species ever to be listed. They were always in a remote part of the State. We are pretty clear that the problem had been DDT, which was kind of a

miracle chemical for all kinds of other pest problems, but it turned out to be a real damaging thing for the bald eagle.

It has worked. It has made a comeback. In 2007, we were very excited that the bald eagle was actually removed from the list, so it took a long time. But now there are 650 pairs of bald eagles in Maine, and we see them like we do robins. They are outside my house and other people's houses all the time, and it just a majestic species, and it has also taught us a lot about the particular pesticide.

I did bring a prop. This was a bald eagle that was sitting on the ice outside my office just last week in Portland Harbor, right in Maine. So I do think there are times when it is critically important, and, of course, I have a species I am concerned about, and, again, I am not sure it will qualify for listing. It has already been accepted by the Fish and Wildlife Service, but the monarch butterfly has diminished in population dramatically. And it is one of those species that I think most of us learned about them as a kid. We watched them go from a cocoon to a butterfly, and we thought it is such a commonplace thing. It would never be gone.

But as you know and so many people know, it is practically diminished and practically gone and could be gone soon, and, again, it could be an indicator species. I have heard people call it the canary in a cornfield because probably it is diminishing now because of the lack of milkweed around the country. Much of that is because of the effect of roundup and GMO ready crops and roundup ready crops that are able to resist roundup. So the excessive use of roundup has probably wiped out the milkweed, and we may see the end of the monarch butterfly.

And for a lot of people, they will say, well, "that is a silly thing, who cares." But the fact is I do think it is an indicator. I think it is telling us a lot of things that we needed to know about, just as the bald eagle taught us about DDT and other chemicals that were not safe for us in many other ways.

So I will use that as my first question if you want to talk anymore about it. I truly understand the challenges that people often have, and the difficulties, and the time it takes for a listing, and sometimes the concerns that the chair raised that there are interest groups who decide it is a way to expand their support base. But the fact is it is still a critical tool, and if we care about our environment as well as our economy, it is something that we have to have.

Secretary JEWELL. Well, thank you so much, Congresswoman Pingree, for your support of the Endangered Species Act. I think it is easy to make fun of an individual species, but when you step back and you look at our greater understanding of our ecosystems, and the greater sage-grouse is a good example of that right now. So many species depend on that ecosystem although inspired by the pressure of time on one particular species, it will make a difference for 350 species.

The bald eagle is a great example. The American alligator is another one, and it was mentioned in some of the opening comments. Actually this Administration has delisted more species due to recovery than any other Administration. I have it, and I will find it by the time I get around, or maybe Mike can look up how many. I do not want to quote you the wrong number.

But the monarch butterfly is indeed in trouble. There still are a lot of them. But the Fish and Wildlife Service is actually working cooperatively on this one with Canada and Mexico because the migrating monarch butterfly is an extraordinary example. We are working with our public lands and Fish and Wildlife Service refuges around the country. We are working with rights-of-way with the utility industry. We are working with the Department of Transportation on road rights-of-way to plant milkweed, and then there is an effort around many communities to do the same.

The monarch butterfly is one part of a broader strategy around pollinators in general, which are in real trouble. There is quite a significant amount of effort going on for pollinators, of which monarch butterflies are one. I do not know, Mike, if you have pulled up numbers regarding the pollinators. Do you have them handy?

Mr. CONNOR. Not the specific budget investments.

Secretary JEWELL. Okay. But they are in there, and we certainly are working cooperatively on the monarch in specific, but on pollinators in general.

Ms. PINGREE. Great. Well, I appreciate that. I apologize to my colleagues who have to look at the other side of this. But just think if we had lost the bald eagle and it did not come back. Remember Benjamin Franklin wanted the turkey to be the American bird, and that would have been embarrassing.

Mr. SIMPSON. Would the gentlelady yield for just a moment?

Ms. PINGREE. Absolutely.

Mr. SIMPSON. The monarch butterfly, I have recently had several individuals ask me, the comment period ends roughly March 1st, or 2nd, or 3rd.

Secretary JEWELL. I do not know. I will have to find that out.

Mr. SIMPSON. Would you be willing to extend the comment period for 60 days?

Secretary JEWELL. Comment period on what specifically?

Mr. SIMPSON. On the monarch butterfly.

Mr. CONNOR. There is a proposal for a listing.

Mr. SIMPSON. Right.

Mr. CONNOR. And the Service did a threshold analysis saying it deserves further review, so it has not been listed or anything. I did not know that we were in the comment period yet, so we will go back and find that out and address it. I know it is going to get further review and further public engagement, but I am not sure we have actually had the comment period initiated yet.

Secretary JEWELL. And 11 species were delisted due to recovery, and nine are pending delisting proposals, which is pretty good. I think there are 22 over time from recovery, but only actually two due to extinction of 2,200 species.

Mr. CALVERT. If the gentlelady would yield, I think a number of those delisting applications have been going on over the last number of years. Is that not correct?

Secretary JEWELL. The 22 over the last, for the 40 years since it has been in place, 11 since 2009, half of them.

Mr. CALVERT. Right, but those applications were done many, many years ago.

Secretary JEWELL. Oh, many years. Many years, no question about it. There was a comment that we are not working on delistings. We are working on delistings as well.

Mr. CALVERT. Take, for instance, the Stephens' kangaroo rat, which seem to be propagating very happily out in California. It has been frustrating that that has not been delisted.

Secretary JEWELL. I see. Okay.

Mr. CALVERT. A number of them, but that is just pointing out one.

Ms. PINGREE. I yield back.

Mr. CALVERT. Mr. Cole, you are next, but before you begin, I just want to let you all know that we are going to proceed with member questions in the order members arrived after the hearing began. And with that, Mr. Cole, you are recognized.

Mr. COLE. Thank you. I thought Simpson was going to get a third round somehow there. [Laughter.]

INDIAN AFFAIRS

Mr. COLE. It is supposed to be the ex-chairman's prerogative. First, I want to begin by, number one, just thanking you and thank your Department. You guys have been absolutely terrific to work on Native American issues. Frankly, you have been terrific across the board in my view, but particularly in that area. And as you know, this committee on a bipartisan basis has prioritized that even in very difficult budget times, the last 4 years we actually have done more than the President asked us to do. I am glad you upped the ante this time, particularly in the area of education.

But as our chairman said, that is going to be particularly difficult because your numbers are based on, you know, taxes, and fee increases, and mandatory spending changes that are unlikely to happen in my view, and frankly are beyond our purview as a committee regardless, as much as we would hope that we can find some common ground with the Administration there.

BUDGET PRIORITIES

Given that, you know, let us assume we have a flat budget again, which is, I think, the default position that it is really is the BCA. Until we get serious negotiations at a level above, you know, anybody in this room with the congressional leadership to the President level, I do not think that is going to change.

So assuming that, what are your areas of priority, and, you know, where would you like us to put emphasis? We are going to have to make some touch touches again, I suspect.

Secretary JEWELL. You may not like my answer.

Mr. COLE. Well, you told me that yesterday. [Laughter].

Secretary JEWELL. I did, but I did not want to repeat that.

Mr. COLE. You said if I asked you this question, I would get an answer I did not like.

Secretary JEWELL. Well, I think it is pretty clear that this budget moves beyond sequestration, which is exactly what we believe we should do. My first year in this job was 2013. It was a miserable start in this job when we had across-the-board cuts. It did not matter how important the work was. The staff was demoralized. We were cutting things that should never be cut like grant support

costs for schools in Indian country because of sequestration. I hope upon hope that you and your colleagues will move us beyond sequestration because as a business person, it is a crazy way to run a country.

This budget assumes we move beyond that. This budget does lay out our priorities. As you heard in my response to Congresswoman Lowey, it does not have all the things in there we might like. It was not actually easy on any of the bureaus to come up with these numbers, and we asked them to prioritize, and that is what we reflect here.

So strong priorities around upholding our trust and treaty obligations to Native Americans, particularly education where we have been spending money and not doing a good job for these kids for many years, and we just have to change that. I cannot postpone the National Park Centennial. It is happening in 2016 whether I like it or not.

I have heard from many members of Congress about we wish you were permitting our oil and gas wells faster. We wish you were moving forward quicker on our coal leasing permits. These are all things that take resources, and one of the reasons we are not as fast as we aspire to be is because our budgets have been squeezed, and we are operating with fewer people in some of these areas than we were before. No one has reduced the complexity for us in terms of what we are required to do.

We are trying to reduce the complexity to the extent we can. Mike is our representative looking at what is it in our regulations we have control over that we can make smarter so it costs us less time? There are proposals out there like, for example, tribal recognition, which is a very long and laborious process for us and very expensive for tribes. We are looking at making sure that it is rigorous and difficult, but not inconsistent, takeing forever, and costing millions of dollars. We think there are things we can do about that.

We know there is a lot in this budget that means a lot to people, particularly, I would say, across the West. PILT we believe should be funded on a mandatory basis. I also, as you know, believe that the Land and Water Conservation Fund should be fully funded as was intended when it was passed 50 years ago. I think there are things we can work on together to address some of those things on the mandatory side. PILT combined with Secure Rural Schools and LWCF is a good way to do that.

I cannot say to you that we should prioritize tribes over the National Park Centennial, or that we should hammer away anymore at the BLM budget that it already is when people want permits to drill for oil and gas on their lands. This is a budget that is not lavish. It is a budget that gets us back to doing what I think the American people expect us to do as a steward of 20 percent of the Nation's lands and as one of the primary points of contact and advocacy for Native Americans. And frankly there are things I know people care about—droughts, floods, stream gauges, Landsat images, U.S. Geological Survey is working induced seismicity and why is that happening in Oklahoma, all of those things.

That is what is in here, and at this point our budget reflects our priorities.

SEQUESTRATION

Mr. COLE. And I think that is a fair answer, and I do not disagree, and I do not take offense. As a matter of fact, one of the reasons I asked the question was so you could make exactly the point that you made. But sequester is not a choice. It is the law, and it was a law that was not only signed by the President. We refer people to go read Bob Woodward's The Price of Politics. Sequester was suggested by the President as a mechanism. So if we are going to get rid of that mechanism, something I agree with you on, quite frankly, because I think far too much of the spending reductions come out of the discretionary budget. We all know the numbers. I think Chairman Rogers quoted them in an early hearing today, $165 billion less in discretionary spending than we saw in the last year of the Bush Administration. And a lot of my colleagues here sit on Defense, and we know what the consequences are there, and we are extremely concerned.

But, again, this was a mechanism proposed by the President. And so far, the proposal, I will just tell you—we can debate the merits of it—is not going to happen, as envisioned by the President. There needs to be an engagement at some level, and I would say our side needs to be engaged, too. I do not want to put this off entirely on the Administration, but it is going to require presidential leadership to do that or we will be back at BCA levels. I would just state that for the record. It is not where I want to be, but I think that is exactly where we are headed unless we get some engagement.

Maybe we can get a Ryan-Murray type deal again after the deal, but my guess is through the appropriations process we will appropriate at the BCA levels because I do not see a deal coming before then. So, again, I am not going to ask you. It is like asking a parent to choose between their children. I recognize that you put a lot of work and effort into this, and I broadly agree with your priorities to tell you the truth. I will say for the record, if it comes down between celebrations of national parks and Indians, I know which side I am going to be on because people trump celebrations, quite frankly. And healthcare trumps these things. Education trumps these things.

And we have a unique obligation here, a trust responsibility, and a treaty responsibility on the part of the population that has probably been more neglected than any others. And I know there have been plenty of tough stories in American history, but this one is particularly sad. And it is a particular and peculiar Federal responsibility and a focus of this committee.

So I just want to end with that. I have taken more time than I should have. I just want to again thank you. I want you to continue to make the point that you make that we are putting you, and others, in almost impossible situations, as managers of our resources as being in charge of these departments. But I think we are doing that, by the way, to Secretary Carter, and Secretary Burwell, and I can go through the list. They are all having to make choices they should not have to make.

Unless the President is willing to put something on the table that is politically realistic—it does not have to be done publicly—

then this will happen. This is where are we going because it is the law. It is not a choice of Congress. It is the law that it has to follow that, again, the President recommended and the President signed.

So I am anxious that we sit down. I think we can sit down at some point and get there, but again, I do think from an Administration standpoint you can simply propose a lot of things that are based on assumptions that, politically speaking, are not going to happen. We cannot operate that way here. I wish we could. I wish we could. I wish we could take your top line and work with you on that. I suspect we would come out pretty close to the same place. But I doubt we are going to get a 302(b) allocation that reflects the number you, and I, would like to see, absent a deal well above our pay grade.

With that, Mr. Chairman, I yield back.

Mr. CALVERT. I just want to use the discretion of the chair to say I agree with the gentleman. All three of us are chairmen of three different committees—Interior, of course, Energy and Water, and Labor. None of want to be in the situation that we are in, but we have no other recourse than to follow the law. And unless the President and others get together and work out some kind of accommodation, we will pass our 12 bills. None of us will like it, but that is what we are going to have to do because we are obligated to follow the law. And with that, I recognize —

Ms. MCCOLLUM. Mr. Chairman, on this point if I may have a moment.

Mr. CALVERT. Sure, Ms. McCollum.

Ms. MCCOLLUM. You know, I did not vote for sequestration, but I have to work within the law as you point out. And I appreciate what my colleague, Mr. Cole said about the President being part of the discussion. But we can take the first step to end sequestration. We can take the first step as a Congress to end sequestration. And, yes, it is going to mean all parties coming together, but with one party in the majority in both bodies, I think a discussion between the Republican Senate and the Republican House to say to the President that they are open for lifting sequestration would also be something on which you could move forward.

And, Mr. Chair, to that point, we do not have our allocations yet. We are having our budget meetings. Are we going to kind of reconvene after we get our allocations again with the Secretary?

Mr. CALVERT. We are going through this process of oversight, meeting with the various secretaries and various committee heads and so forth. I suspect we will have a budget number some time end of March.

Ms. MCCOLLUM. And for that, Mr. Simpson, I thank you for your service on the Budget Committee, sir, but——

Mr. CALVERT. Me, too. I really appreciate——

Ms. MCCOLLUM. But, Mr. Chair, the point is after we get our allocations back, if we need to, are we going to reconvene with the secretaries and the agencies if what we have is less than sequestration levels?

Mr. CALVERT. We are going to be talking about the priorities with the various secretaries as we move along in this process. I think we have been very clear from day one that we are operating under present law.

Mr. COLE. Will the gentlelady yield?

Ms. MCCOLLUM. Yes, if the chairman indulges me.

Mr. CALVERT. Certainly, I indulge the gentlelady.

Mr. COLE. He might not indulge me, but he is probably going to indulge you. [Laughter.]

Just to add one other wrinkle here, and as was mentioned by my friend from Minnesota, there is another body here, the United States Senate. And they are going to have to come up with their budget, frankly something that neither of them on either side of the aisle have been particularly good at in recent years, no matter who was in the majority. They are going to have to reconcile to our budget. So we are probably mid-April minimum before we actually reach a number.

And I hope in that process there is some Administration involvement because this is not going to happen absent some dialogue at some level. We need some sort of format like the Ryan-Murray mechanism that was established last time. It has to be set up, again, by folks in the Administration and in the Congress.

Ms. MCCOLLUM. Thank you, Mr. Chair.

Mr. CALVERT. Thank you. Mr. Kilmer?

TREATY RIGHTS

Mr. KILMER. Thank you, Mr. Chairman, and thank you, Secretary Jewell, for being with us. I would associate myself with the comments from Mr. Cole about the importance of our treaty and trust obligations to our tribes. Last year, you were kind enough to come out to our neck of the woods and meet with some of the tribes from our region. And at that meeting Billy Frank, the late chairman of the Northwest Indian Fisheries Commission, talked about the treaty rights at risk initiative, specifically as it pertains to the protection of salmon.

I was hoping you could speak about what the Department is doing under your leadership to protect and advance the protection of treaty rights.

Secretary JEWELL. Well, thanks very much, Congressman Kilmer, and thanks to you we both saw Billy about 7 days before he died, so that was a gift.

There is no question we are fully committed to upholding trust and treaty rights. The process of supporting those rights has resulted in the settlement of 82 outstanding trust litigation lawsuits, the largest being with the Navajo Nation north of $400 million. We want to move past some of the things our predecessors, over many years, have not done that we are obligated to do as a Nation. I think that illustrates very much a new day with tribes in this country.

The President has hosted the annual White House Tribal Nations Conference 6 years in a row, his creation of the White House Council on Native American Affairs that he asked me to chair, the efforts we are making in Indian education, which is a trust responsibility, and doing that by really focusing on tribal self-determination and self-governance, recognizing now after really many years of being paternalistic that the right answers oftentimes rest with the tribes themselves if they want to step up.

I think treaty rights are less at risk than they were, and I think pioneers like Billy Frank and his work with the Northwest Indian Fisheries Council, standing up, getting arrested multiple times about really the rights of the Native Americans in the Northwest, to the fisheries, was inspirational to many across this country as they stand up for their own rights.

That is our positon on it, and I am very hopeful, no matter who is in the White House in years forward, that this momentum will continue and we will be really in a new chapter of our relations.

CLIMATE CHANGE

Mr. KILMER. I also want to piggyback on something that Ms. McCollum asked about. In the area of Washington that I represent, a number of the tribes are dealing with the reality of changing landscapes and severe weather events. In fact, we have got three tribes that are in the process of trying to move to higher ground because of persistent floods and very severe storms. At the same time, they have very constrained resources financially and are struggling to figure out how they can get the funding so that they can protect sacred sites and have some semblance of public safety when these floods and storms hit.

I was pleased to see in the President's budget a number of initiatives focused on helping tribal communities, specifically with the issue of coastal resilience. But I think this is a big deal, and I think we need to do more on this front in part because we have a treaty and trust obligation. So give us some direction. How can Congress support the need of coastal tribes that are struggling to deal with these issues and initiate projects that promote public safety and protect sacred sites?

Secretary JEWELL. Thank you for raising everyone's awareness on that. For those of you that had an opportunity to look at the lead story in the Washington Post today, it is exactly about this issue. It happens to be Kivalina, Alaska, but it could be the Quileute in Washington State, and many other communities that are at risk, including our insular areas, as Congresswoman McCollum brought up earlier.

We have a modest amount of money in the budget to begin to deal with sort of planning and identifying issues specific to tribal communities, $8 million in grants that we are about to put about. It's $50

Voice. It is $8 million that we are about to put out, and $50 million in '16.

Secretary JEWELL. Yes, so the 2016 budget has $50 million. That is really a competitive grant program to have tribes come forward and say, you know, we are here, we would like to be able to help, what are your needs and issues. I think one of the important things we have to work on is how does that money go to the tribes that need it most, not the tribes that are most effective at getting grants, because oftentimes they are not the same.

That does not address the issue of potential for relocation. You know, $60 billion is what the Federal government appropriated after Hurricane Sandy. $60 billion. We do not really have a great mechanism for investing up front so that we can spend less over the long term. As we look at sea level rise and as we look at the

vulnerability of our communities at a time of a changing climate, I think we need to be a little more proactive so we can invest up front as opposed to having a catastrophe. It is just a lot easier, I recognize, for people to respond to catastrophes.

But there is money in the budget to continue to make progress, to understand and study what the vulnerabilities are to help us and those communities prioritize what their best next steps are. It is not a lot, but it is certainly an important step in that direction.

Mr. KILMER. Thank you. Thank you, Mr. Chair.

Mr. CALVERT. Thank you. Mr. Jenkins, you are recognized.

STREAM PROTECTION RULE

Mr. JENKINS. Thank you, Mr. Chairman. Madam Secretary, thank you for the courtesy call. How are you today? Good.

As a new member, I understand the complexities of all the hats you must wear, certainly projects, programs, like the National Park Service and all. I appreciate the investment, the work in West Virginia, the national parks in my district, so thank you very much. I want to focus a little bit on the OSM and follow up most specifically on Chairman Rogers' questioning. I would agree totally with the comments that he made. Let me just kind of dive in on a couple of specifics.

Number one, he referenced a study that indicated that the stream buffer zone rule would look at an effect of probably saving in the neighborhood of about 15 miles of stream. Is that an accurate number?

Secretary JEWELL. That is the first time I had had heard that number, so I am not sure where that came from.

Mr. JENKINS. Based on the work that you all have done in the preparation of this rule, what number do you think it is?

Secretary JEWELL. I do not have a number. You know, this is really about the hydrology that we have learned about over the 30 years since the rule has been written, and the very dramatic impacts that mining has had on the hydrology, and trying to put a rule in place that is more consistent with what we know today.

Mr. JENKINS. Okay. So basically then you are not estimating the effects and consequences in terms of stream miles of the effects of the rules that you would put into place. I think I heard you just say that you do not know what it would be.

Secretary JEWELL. I do not know. That is correct.

Mr. JENKINS. Do you not think it is important to analyze in the rulemaking process as you contemplate different policies what the effects of those are? So we may not save any stream miles. You do not know.

Secretary JEWELL. I do not know. I know this. We will be coming out with an environmental impact statement that people will be able to comment on that will be very detailed. I have not read that yet. I typically would not until we are close to final because there are many more bites of the apple, if you will, in terms of comments from the public, from States, and otherwise that will be happening once the rule is put out.

Mr. JENKINS. Your opening statement submitted to the committee is replete with comments about economic engines, and fair returns, and the growth of domestic energy portfolio. I come from

a coal district. We have a lot of surface mines in my district. Do you anticipate the stream buffer zone rule to grow and expand surface mining activity in my State?

Secretary JEWELL. I do not know what its impact will be, positive or negative. That will be part of the study that comes out. I do know that from public lands largely not in your State, public lands in the Rocky Mountains that we supply about 40 percent of the Nation's coal.

Mr. JENKINS. Well, the Office of Surface mining responsible for the regulation of surface mine activities in my State, is under your jurisdiction.

Secretary JEWELL. That is correct.

Mr. JENKINS. Okay. So, again, you have been working on this rule for some time, and I think you have indicated that you are pretty close to having this rule issued.

Secretary JEWELL. That is correct.

Mr. JENKINS. And at this point you still do not know what this proposed rule's impact will have on surface mining activity in my State or anyplace else.

Secretary JEWELL. I do not know. Mike, do you have more insights into that? I have not read it yet because it has not been released.

Mr. CONNOR. It has not been released. It will be a proposed rule. There will be a lot of public process involved in that timeframe. There will be a draft environmental impact statement that will weigh out the analyses associated with the rule. There will be economic analyses that are a part of that rule, but it will proposed at that time. It has not even left the Department, and it is being prepared by the Office of Surface Mining.

So it is very early in this process. Typically with these regulatory processes, we make lots of changes between proposed and final. I anticipate we will take lots of comments, and we will go through that analysis and that input, and we will have this dialogue as it continues over the next year to 2 years.

Mr. JENKINS. But my sense is in developing the proposed rule, the modeling should have already occurred. The modeling should be conducted in order to develop at least the proposed rule, and that if you are getting ready to issue this, I would hope that the modeling would have already occurred. But what I have heard thus far is you do not know if this is going to protect one inch of extra stream. We do not know if this is going to have one positive or negative impact on surface mining in my State or anyplace else. And to me, it just seems odd that we are the top of the 9th inning, and you are here telling us you still do not know.

Secretary JEWELL. Let me be clear on one thing. I have had a briefing, several briefings, in the course of my time with the Office of Surface Mining.

Mr. JENKINS. Can you tell me how much stream——

Secretary JEWELL. That was not part of the briefing.

Mr. JENKINS. Was there a briefing on the jobs impact?

Secretary JEWELL. There was a briefing on the economic impact. I do not recall the specifics.

Mr. JENKINS. Let me ask you this. Is there a jobs impact? I was an advocate of jobs impact reviews at the State level in West Vir-

ginia. You know, we talk about environmental impacts. We talk about fiscal notes for fiscal impacts, what is the cost of government. I am a passionate believer in a jobs impact review. There are some incredibly powerful modeling tools, like the REMI model and others. Did you do a jobs impact of the stream buffer rule proposal, and what is the result of that jobs impact?

Secretary JEWELL. So, yes, there was definitely a jobs impact by region. I do not recall the specific numbers.

Mr. JENKINS. Can you get those for me?

Secretary JEWELL. Absolutely. We will be happy to get those to you.

Mr. JENKINS. So we do not know about the stream beds, we do not know about the coal mining activity, and we do not know, at least here today, what the jobs impact is.

Secretary JEWELL. Yes, the jobs impact is known, and that is part of the rulemaking, and they will be released when the study is released with the EIS. But I will talk to my team to see if we can get any of that to you in advance of that coming out.

Mr. JENKINS. You talk, and, again, your comment earlier, "our budget reflects our priorities." And your priorities, you have listed throughout things like climate change, and you are talking about making targeted increases to carry out that climate change agenda. And you talk about this Power + Program and the money from the Abandoned Mine Fund.

What in this budget invests in the West Virginia communities, like Chairman Rogers' from Kentucky, that have been decimated by the loss of coal jobs? We, too, are in the 8,000-, 9,000 jobs lost because of this war on coal. And so, throughout I see you keep promoting your climate change agenda, and you say that your budget reflects your priorities. I think your priority is the climate change agenda, and that you are putting money into furthering that agenda. You talk about communities and wanting to help people and help communities. It is wiping out southern West Virginia, Madam Secretary. And the rule that you are being charged with crafting is going to have a devastating impact and exacerbate the problem. What are you going to do for us?

Secretary JEWELL. May I respond?

Mr. CALVERT.—Please let the gentlelady respond.

Secretary JEWELL. First, I want to reassure you I do not and neither does this Administration have a war on coal. I appreciate that many of the communities in Appalachia, in West Virginia, and Kentucky, and other communities are hurting. I do appreciate that. Much of the easy coal in this part of the country has been obtained, and so the economics are changing as well. I also appreciate we have had impacts from coal mining in this region. We have learned alot over the last 30 years, so we are trying to update the regulations, but certainly not undermine an important industry.

We have the Power+ proposal in the President's budget. It accelerates a billion dollars from the Abandoned Mine Land Fund to put specifically into work in the communities that have been so impacted, like the ones you referenced in West Virginia and in Kentucky.

Mr. JENKINS. Can I ask you one quick question? Chairman Rogers, or maybe it was another member, said that Power+ cannot be

implemented under the current statutory structure in that the money from the Abandoned Mine Fund can only be used for reforestation. So is it accurate to say that the President's proposal to use money for these Power+ projects cannot occur without congressional action?

Secretary JEWELL. I believe that is true, and I also believe that with the funding source, I do not believe this will score. I think that there will be members of the House and Senate along with the Administration that should align on this proposal, and that will be our strong recommendation.

Mr. CALVERT. Mr. Joyce.

Mr. JOYCE. Thank you. Hello, Madam Secretary, and thank you very much for the call last week. I am sorry we did not touch base.

GREAT LAKES RESTORATION INITIATIVE

I just wanted to follow up on the President's 2016 budget. He requests $250 million for the Great Lakes Restoration Initiative, or the GLRI. This current Fiscal Year, the GLRI receives $300 million in appropriated funding. Given that the Department of the Interior has been the number two recipient of funds from the GLRI, how is this proposed $50 million decrease expected to impact the Department and its Agencies' work in, among other things, restoring habitat, performing invasive species research, monitoring and control, and providing technical assistance?

Secretary JEWELL. I am going to ask Mike to find the specifics on the GLRI because I do not want to keep scrambling through my paperwork. We believe strongly in the work that is happening in the Great Lakes. We have had a significant increase in this budget request for invasive species and, say, of one species, and that goes to the Asian carp, which is one of the greatest threats we have to the ecosystem up there.

There is about a $2.4 million increase in the Fish and Wildlife Service budget, and we have got an ongoing almost $6 million in USGS, so a total of about $14 million for Asian carp specifically. That is continuing to advance the science and the ability for early detection and so on in the Great Lakes.

Mr. CONNOR. Yes, of the $250 million that EPA has requested, we have a request for $68.2 million for the Great Lakes Restoration Initiative. Of that, we have $42.6 million in the Fish and Wildlife Service budget for coastal wetlands and national wildlife refuge activities, which is actually $2.5 million more than we had previously.

In some cases we have a little bit of an increase. I do not have a delineation of the impacts of the minus $50 million that you referenced, and we can dig down a little deeper and get you that information.

Secretary JEWELL. Yes, that may be on the EPA side of the budget. I am not familiar with that.

Mr. JOYCE. But you receive a good portion of that. That is why I wanted to go through this issue because our President is from Illinois along the Great Lakes, and the GLRI is a tremendous bipartisan initiative. Last year he proposed funding it at $275 million, and this year he proposed funding it at $250 million. That number keeps decreasing, and the number should be set a lot higher than

that, because of the bipartisan nature. The GLRI is currently funded at $300 million, and we are hoping to continue that ?????, and you will be a recipient of that. We are fighting for you.

The GLRI has provided approximately $1.96 billion toward restoration efforts since its initial year of funding in FY 2010. As of August 2014, it has spent $1.23 billion on 2,214 projects in the Great Lakes ecosystem. GLRI funding had led to the de-listing of three areas of concerns: Presque Isle Bay, in Pennsylvania, Deer Lake in Michigan, and White Lake in Michigan. The funding has also been used to complete all necessary remediation and restoration activities at three areas of concern in 2014, one of which is the Ashtabula River in Ohio. I was there on the day it was being delisted.

This is the final step before this legacy pollution area can be delisted entirely. Given, Madam Secretary, the progress made in completing all of the necessary remediation and restoration actions, I request that you advise as to what support will the Department of the Interior and its services, such as the Fish and Wildlife Service, as part of the Great Lakes Interagency Task Force provide to Ashtabula and the surrounding watershed should the area of concern be fully delisted. What post area of concern support will be provided to these communities?

Secretary JEWELL. I will give you a quick answer, and if you want more detail, I will get somebody that has got a little more detail to go through that with you.

We will continue to work on these resources, even if they are no longer listed as areas of concern, so there is an example here. USGS has been the science lead for siting constructed fish spawning reefs in rivers feeding the Great Lakes, and evaluating their contribution to the restoration of iconic species, like the walleye and the lake sturgeon.

Spawning reefs are an important contribution to de-listing the areas of concern, a centerpiece of the GLRI. We have delisted them because of activities that have worked. We are going to continue those activities there. We are going to take this learning into other areas, and hopefully address the long-term needs of the Great Lakes. There are lots—mussels, Asian carp, mercury accumulation, challenges in the wild rice harvest which I have heard about from native tribes up in that area. There is work in every one of those dimensions as part of this in our Department.

ASIAN CARP

Mr. JOYCE. One last question if I could. The funding numbers from 2009 to 2013 show that more than half a million dollars went towards efforts to prevent the spread of Asian carp between the Ohio River and the Great Lakes basins. Moving forward, what is the timeline for establishing an entity similar to the Asian Carp Regional Coordinating Committee for the Ohio River Basin? What levels of support, both financial and technical; resources are planned for the Ohio River Basin Asian carp efforts in the 2016 budget?

Secretary JEWELL. I do not think we have that kind of specificity, do we, Mike? Do you know?

Mr. CONNOR. I think we have our overall program numbers with respect to Asian carp investments in science and control and monitoring between the USGS and the Fish and Wildlife Service. That is the $14 million overall, of which about $6 million is for USGS, and the balance is for Fish and Wildlife Service. But I do not have it broken down into the Ohio section of that. I think we can get you those details.

Secretary JEWELL. Yes, we can have the Fish and Wildlife Service get back to you. I do not know about what——

[The information follows:]

ASIAN CARP

The funding proposed for Asian carp work in the Great Lakes is allocated to specific projects during the year of execution, 2016.

Mr. JOYCE. The Fish & Whie service has been very good about cooperating.

Secretary JEWELL. Okay, great.

Mr. JOYCE. I am not trying to put you on the spot. We just need help. And I yield back.

Mr. CALVERT. Thank you. Mr. Stewart?

Mr. STEWART. Thank you, Madam Secretary. Again, I appreciate, like other members, the call. We had the opportunity to talk last week. I suspect you may not look forward to these hearings as much as we look forward to them. [Laughter].

Secretary JEWELL. I thought you were going to say as much like hiking in Utah, for example.

Mr. STEWART. Yes. It is a tough job. I mean, all politics are local, and this is particularly true of this committee. Most of us represent some interest that is very important to our State, our district, in some cases, and I imagine you feel like you get grilled. We have Secretary Kerry upstairs, which we are kind of bouncing back and forth. This hearing is harder for you so far than his hearing has been for him because of that one reason, because of that intense local interest. But they do have, again, some important projects to my district that I would like to talk about in my State.

PRARIE DOG

I would like to start out with some good news, and congratulate you and thank you, if I could. And that is we have had real success in a local ESA issue, the prairie dog in Utah. Neil Kornze and Dan Ashe have been good to work with us. We have made more progress in 8 months than we have made in 20 years, and we hope to have a conclusion to that, and we are grateful for the consolidated effort that we have had in moving that forward.

WILD HORSES

I would like to mention just very quickly that we look forward to the same kind of success with the wild horses issues. It is a huge deal. I mean, they are doubling every 4 to 5 years. You know that. If you love these animals like I do, and I will bet you do. I grew up on a farm and ranching, and you see the health of these herds. It is not good for the animals, and it is not good for the environment or the range.

And we believe that we have to have a much more aggressive approach to that than what we have seen so far, and we would encourage you to look at that, if you would, please. A 10- to 12–year plan just simply will not work when these horses, as I said, their herds are doubling every 4 to 5 years.

JUAN PALMA

And the last thing as far as good news, and that is to thank you for the State director there, Juan Palma, who has recently retired, he has been excellent. He understands the people, the culture. He understands the issues. And I hope that your replacement for him will be nearly as good because he has been a real advocate that we felt like we could work with.

So now, the bad news, if you would.

Secretary JEWELL. Keep going. [Laughter].

BLM LAW ENFORCEMENT

Mr. STEWART. Good news and bad news. And I will mention these quickly and ask you to respond. I know some of them you may be able to, maybe not. One of them is a real concern for us, and that is BLM law enforcement, and some strife that we have with local personnel, especially the State director. He does not answer—I am sorry, the State law enforcement director, who has no accountability to the State BLM director. And I will just tell you he has lost the trust of local law enforcement. He has lost the trust of community leaders and of communities in general, and I do not know how you fix that. I just think we have to make a change. I do not know if you are aware of this before, and I do not want to go into it any more than this. But we would ask you to look at that if you have not. Are you familiar with this issue there?

Secretary JEWELL. I am familiar, and I will say that I am not going to get into personnel matters here.

Mr. STEWART. I understand, yes.

Secretary JEWELL. But, yes, I am familiar.

ENERGY DEVELOPMENT

Mr. STEWART. Okay, thank you. And, again, we would ask for your consideration on that. The second thing would be a problem we have with energy development, which I know it is not the first time it has come up in this hearing. We have specific examples: coal mines in my district in the State, as well as some oil and gas.

But the problem we see is that they will go through the EIS or the NEPA process. They will make good progress. As I said, we have a good team and a good coalition between those teams on the State level. But then it comes to Washington, and it is gets sucked into this big black hole where we hear very little from it after that. There is very little progress. As an example, there has been a supplemental draft EIS that has been here in D.C. for more than a year, which is far too long. This is 350 jobs in a rural part of the State. That 350 jobs has an enormous impact. I mean, it would be like 100,000 jobs here in the District.

And I would just ask for your support and commitment to try to expedite some of those activities, particularly with the Alton coal mine.

Secretary JEWELL. Okay.

Mr. STEWART. And, again, I will not ask you to respond, Madam Secretary. It is just you know way down on your radar, but your help would be greatly appreciated on that. And the final comment on that, we are not asking for any special consideration. We are not asking for any exclusions. We are just asking for the process as it is outlined by regulations and by law to work, and right now it is not. It is going much, much more slower, and much less responsive than I think that you or anyone else would find adequate.

CENTRAL UTAH PROJECT

And the last thing and then I will be finished, Mr. Chairman, and that is essentially the Utah water project. The Federal government actually owes my State $48 million. The funding on this got cut from $36 million a year to $6 million, which allows us to do nothing other than just to keep the contractors on hold. Do you know why this funding was cut so dramatically for the State of Utah for this project, and can we hope that that will be replaced in the next year?

Secretary JEWELL. So I am going to let Mike answer that last question first, and I would like to make a quick comment on some of the other stuff if that is all right?

Mr. STEWART. Yes, please.

Secretary JEWELL [continuing]. Because Mike has been very intimately familiar with CUPCA.

Mr. CONNOR. When we had CUPA in the budget around 2012, 2013, we really ratcheted back on the Central Utah Project under the theory that projects we were paying for and getting repayment from or where we were cost sharing a certain percentage of the costs, and local entities were coming up with the balance, were a lower priority than other obligations we had. I think you may remember we cut back to, I think, $3 and a half million a couple of years ago. Since that time, that has sparked.

We are trying to build that back up because I think there were some very productive discussions with the conservancy district out there. I think if we could complete the Utah Lake system, that triggers repayment to the Federal government. I think it makes financial sense for us to do that, and then work out a new cost-sharing strategy. I think we have been in good discussions. It is something I want to continue to work on during the next couple of years because I think it makes sense for everybody if we can bump back some funding.

Mr. STEWART. And if I could just reiterate that because that is absolutely true. You took my words exactly. This is in everyone's interest to have this project complete. The Federal government, the State repays this substantial amount of money. We are all interested in conserving water especially in the West, especially now under drought conditions. There are positive environmental outcomes that comes from this as well. But we cannot do it with the funding that is provided in the last few years.

Mr. CONNOR. Yes.

Mr. STEWART. And, Madam Secretary, did you want to respond to some other——

ENERGY DEVELOPMENT

Secretary JEWELL. Yes, just quickly. On the energy development side, because you got this to us in advance, we did a little bit of background research. This may not be a satisfactory answer to you.

Mr. STEWART. I will just stop you there then and turn my time back over to the chair.

Secretary JEWELL. Well, no, let me just say, in the Alton coal situation, because we have got a massive effort right now that we are undertaking around the greater sage-grouse, they need to do a review of how that mine impacts sage-grouse habitat. That is not normal, you know. This is an unprecedented effort, and we have all these BLM plans that are undergoing EIS right now, and we just need to cross check those, too. So that is what happening there.

JUAN PALMA

On Juan Palma, he is fantastic. I cannot say we can replace him, but we are sure as heck going to try. But we have a lot of people retiring with a lot of experience, and it is one of the biggest risks that we have frankly.

Mr. STEWART. Yes. Well, I know you will miss him. And just in conclusion with the sage-grouse and the coal mine, what we would ask for as a minimum is just some predictability because it seems to us that the process is excruciatingly slow, and that things change mid-stream. We are told X, and 6 months we are told Y, and then we are told Z, and that is very frustrating for everyone, I think.

Secretary JEWELL. I get that, and I think that we are very much in a different place right now than we have been in this process through a huge amount of hard work on the part of the States, and my team, and BLM, and the Fish and Wildlife Service. Hopefully that will be in the past.

Mr. STEWART. Thank you, Madam Secretary.

Secretary JEWELL. Thank you.

Mr. CALVERT. Mr. Amodei.

Mr. AMODEI. Thanks, Mr. Chairman. Madam Secretary, thank you for your reaching out. I also want to say a few months ago I would have thought maybe in speaking like Mr. Stewart did, this might be more fun for us than you. And I am thinking it is probably not much fun for anybody.

WILDLAND FIRE

But I want to thank you for your leadership. You say why is this guy saying that? And, you know, we have been working on this issue since I got here, which seems like about 41 years ago instead of 41 months ago. And, you know, things have started in the intermountain West where you sit there and you take the facts. And I kind of want to go on the things change mentality where you take the facts, and go, wow, Secretarial order. It talks about the importance of suppression. It talks about the order of fuels management. It talks about the importance of habitat restoration. And I am

thinking, that is pretty good. Head person at the Department of Interior. Yay, thank you from Nevada.

And you say, why is that? Because Nevada is a State, as you well know—you indicated in your testimony yesterday—87 percent owned by the Federal government, not all by the Department of Interior, but a lot of it. And you say, why do we have a habitat problem? We have a habitat problem because our indication from the BLM is that we have burned between six to seven million acres in the last 20 years, not that it's anybody's fault, but that is just the fact. That is a lot of acreage. You start out with 56 million, and we have burned six or seven million. And so, you sit there and go, we got to address fire. And so, you have done that, and I appreciate that.

But when Chris talks about things changing, we sit there, and The Director of BLM and his folks are modifying their Resource Management plans and all, great. But I am sitting here going, the number one threat, and I do not think there is much argument about it, is catastrophic wildland fire. And so, when I sit there and I look at things like we have to limit or prohibit surface disturbance, and the map focuses on these three million acres, I sit there and go, so we ask BLM, how many acres have those district managers and those Forest Service district rangers permitted for anything in the last 20 years? A couple hundred thousand, mining, recreation, etc.

And I go, okay, that is well and good. But when I look at those threats and I see Director Ashe's people going we need to exclude this from these three million acres, I go, you know what? If that would solve the problem, if that would stop the lightning from striking, if that would stop the moisture from being low, if that would stop the wind from blowing, then let's do that. But I try to connect the dots on that stuff, and I go absolutely you should manage those manmade things. But the primary thing, if I am saving priority habitat is I need stop the primary threat first. Thank you for acknowledging and concentrating on that.

So my first question is, do you have any influence with the folks at Fish and Wildlife Service in terms of secretarial order? Before you answer, guess what Exhibit A is going to be when I talk to Dan? Hey, Dan, that Sally person that is a few floors above you seems to think that fire is pretty important, and she is talking about restoration, and she is talking about fuels management. And the reason that is important is because nobody wants to continue to lose habitat, and that is going to stop the major source of habitat fragmentation.

And so, when you deal with that directly, I think that is a pretty strong fact for those guys in Fish to go, you are right. And I like your word "unprecedented." So how is communications going with Fish on fire?

Secretary JEWELL. Communications are great with Fish on fire.

Mr. AMODEI. Good.

Secretary JEWELL. We need strong State plans. We need strong Federal plans. The Federal plan is a higher need in Nevada than it is in Montana just, you know, based on the land distribution. We have big issues with fire in Nevada, in Oregon, in Idaho, and I have seen that on the landscapes. We have different issues in Wyo-

ming. What we are trying to do collectively in support of what the Fish and Wildlife Service needs is to feel confident the habitat will be okay for the species is certainty.

My secretarial order gives them certainty we are prioritizing our resources on rangeland fire so they can say this is in writing, there has been action, and we can rely on that. When the Governors of the States issue executive orders, as has happened in a number of States, the Fish and Wildlife Service will look at those executive orders. If they are written in the way we hope they are, we are working closely together with the States, they can say, all right, there is an executive order in place. We can count that.

It will also say when you look at the historic range of the sage grouse and you look at the current range, the biggest challenge is habitat fragmentation. There is a lot less habitat than there used to be, and the habitat that remains that is strong so it has not yet been burned is really important to maintain. That is where the surface disturbance issues come in.

If there is strong critical habitat right now, we do not want to disturb that by fire or by development, so we want to work with those critical areas and the States to say, how does that align with where the minerals are, for example, or not? Are there places that we can direct development where there is less impact? And this is really landscape level on the grandest scale that has probably ever been done in the United States, and there has been excellent cooperation in the States.

Mr. AMODEI. And I would agree, and I appreciate that. I think the point that I would like to make in closing is this. I think your BLM district manager and your Forest Service rangers historically have done a pretty good job. We have almost no sheep left. Cows are down 20 percent for reasons that are not really much to do with you folks, other stuff. But when we sit there and you hear about things from other districts about things change, and it is like, listen, there has been a lot of money spent in Nevada on mapping. That is a good thing. We need to know where the resources are.

So when you go from cot to Fish and Wildlife to coates, and then a map comes out with three million acres that is kind of on the Idaho-Oregon-Nevada border, this three million acres is critical. You are like, listen, I do not know whether it is or it is not, but it is a little late in the process to be going to a new map that is offered by Fish when the State spent $800,000 to create their own.

So, now to Dan's credit, in the meeting we had a little while ago he says, hey, we are coates. But when you look at non-Federal habitat, a bunch of stuff has come up in the last 90 days where you are going where has this data been for the last 3 years? So I would just ask that you continue to show leadership and allow everything to be on the table, but we have to show some leadership in terms of where the threats are, and be transparent in our processes in terms of where something comes up.

Thank you for your access and for the access of your staff. It has helped us to try to focus on the facts, and we look forward to working with you.

Mr. CALVERT. I thank the gentleman. Mr. Simpson has a quick question for you.

BUREAU OF INDIAN EDUCATION SCHOOLS

Mr. SIMPSON. I just have a quick question. And, first of all, thanks for coming out to Hopi Navajo land with us and for your staff for coming out. It was very educational for all of us that were there. And thanks for the budget that you put in Indian education. It is very important to this committee.

A recent newspaper editorial in the Minneapolis Star Tribune stated that while the President's Fiscal Year 2016 budget requests additional resources for school construction, it would still take an estimated 30 years to replace all BIE schools that need rebuilding. Why did the Administration not request enough money, and is that true?

Secretary JEWELL. You want to pile on with the same question?

Ms. MCCOLLUM. My new brother from Minnesota. [Laughter].

Secretary JEWELL. Yes, your new brother from Minnesota.

Mr. SIMPSON. I just believe everything that comes out of Minnesota.

Secretary JEWELL. The Minneapolis Star Tribune did all of us a service by shining a national spotlight on this issue that the committee is well aware of. The short answer is it makes progress, continued progress, but it is nowhere near what we need to do to fix this problem. I look forward to working with you on a longer-term solution that gets the kind of money in the budget, and more creativity on how we might go about using different sources to address these challenges we have with schools.

We do have money to build the remaining schools on the 2004 list. We are in the process of coming out with a final criteria on how to prioritize the remaining schools, and we will make progress on planning for the top ones on the list with this budget. But this is really a drop in the bucket compared to the bigger problem, and we are going to need to work with you on a longer-term solution.

Mr. SIMPSON. Thank you, and thank you for the efforts and support you have done on wildfire fighting. It is very important to us. And also the link to try and fund LWCF and PILT is very important. So thanks for the job that you do and your staff. They do a great job. Thanks.

Mr. CALVERT. Ms. McCollum, any parting comments?

Ms. MCCOLLUM. Just thank you very much to you, Madam Secretary, Deputy Secretary, and the staff for all the preparation and outreach you did on the meeting. Mr. Chairman, I will submitting a question for the record on inspection fees because I want to understand more on how oil and gas inspection fees can protect the environment and keep us from having a potential disaster, which would set everything backwards. So, Mr. Chair, with that, I will be submitting that to the record, and I thank you for your courtesy.

Mr. CALVERT. I thank the gentlelady, and I am sure there will be a number of questions that will be submitted for the record. And so, we will be getting that from members for the Secretary to answer.

Given votes and your schedule, we are going to adjourn the hearing. Before we do, I want to mention that members will have additional questions, as I mentioned earlier, and they will submit those for the record.

Mr. CALVERT. We thank you for your time and your courtesy. This hearing is adjourned.

Secretary JEWELL. Thank you.

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Fiscal Year 2016 Budget Oversight Hearing: Department of the Interior
February 25, 2015
Questions for the Record

Questions from Mr. Calvert

Sage-Grouse

In your January 26, 2015, letters to Governors Hickenlooper and Mead, you stated that the FY15 sage-grouse rider "does not affect the U.S. Fish and Wildlife Service's court-ordered obligation to make a determination by September 30, 2015, as to whether the greater sage-grouse does or does not warrant protection under the Endangered Species Act".

Calvert Q1: Would you like to take a moment to clarify that statement, particularly for those who may interpret it to mean that you are ignoring the law (the general provision included in the fiscal year 2015 Omnibus relating to sage grouse)? Are you?

The exact language of the settlement agreements is *not* to *make a determination*, but to submit to the Federal Register either a proposed rule or a not-warranted finding. By prohibiting the writing and issuance of a proposed rule, the rider prevents the submission of such rule to the Federal Register, thus overriding the Service's court-ordered obligation. This argument may seem like nuance to some, and it becomes moot if a listing is not warranted, but it could matter greatly as September 30 nears.

Answer: I assure you that we are not ignoring the General Provision in the fiscal year 2015 Omnibus relating to sage grouse.

The exact language of the stipulated settlement agreement is, "...the Defendants shall submit a Proposed rule or a not-warranted finding to the Federal Register for the following species no later than the end of the specified fiscal year: ... greater sage-grouse, including any Distinct Population Segments, by FY 2015." We will comply with our obligation to the Court to reach a determination by the end of fiscal year 2015 as to whether a listing proposal is still warranted, or not warranted. Reaching a determination does not involve writing or issuing a proposed rule. If we find that listing is still warranted, the rider language and the Anti-Deficiency Act will prevent us from proceeding to write or issue a proposed listing rule, and I have made clear that we will not do so.

Calvert Q2: If necessary, would you exercise your authority under the terms of the 2011 settlement agreements to request a six-month extension on the deadline for the submission to the Federal Register of either a proposed rule or a not-warranted finding for greater sage-grouse?

The explanatory statement accompanying the fiscal year 2015 appropriation states the following: "The Committees recognize the unprecedented collaboration regarding sage-grouse conservation.

This provision is not intended to impede current conservation efforts; it is imperative that stakeholders continue on-the-ground conservation and monitoring activities. The Committees direct the Fish and Wildlife Service to include with its fiscal year 2016 budget submission an update on the status of all sage-grouse." My position has been and will continue to be that any future legislative intervention in the arbitrary September 30, 2015, deadline should depend upon the status of the species and evidence that conservation is continuing full steam ahead.

Answer: Under the settlement agreement the FWS must submit either a proposed rule or a not warranted finding. The rider does not prevent us from making a not-warranted finding and submitting it to the Federal Register this fiscal year. If that is the outcome of our listing determination, we will be in full compliance with this element of the stipulated settlement agreement and will require no extension or relief.

If the outcome of our listing determination is that listing is still warranted, we will have no alternative but to seek to modify the settlement agreement to relieve us from the obligation to publish a proposed listing rule.

Calvert Q3: In your opinion, has the pace of local, state, and Federal conservation of sage-grouse slowed down in recent months?

Answer: No. It has been gratifying to see local, State, and Federal land managers and partners continue to develop and implement their sage-grouse conservation plans.

Calvert Q4: What is the status of sage-grouse populations?

Answer: As part of their ongoing status review, the FWS requested information from Federal, State, local and private entities regarding the species status and information from the States regarding population trends, conservation efforts and activities that are currently or will likely affect the species in the future. The FWS is currently evaluating the status of the greater sage-grouse as an integral part of the determination of whether listing the species is still warranted. On a smaller scale, a recent study issued by the U.S. Geological Survey and completed in cooperation with other Interior bureaus and the Nevada Department of Wildlife indicates the bi-State population of sage-grouse is stable.

Calvert Q5: BLM's budget request proposes a $45 million increase to implement its sage-grouse conservation plans. This includes $37 million for Wildlife Management and $8 million for Resource Management Planning, Assessment, and Monitoring. The budget provides some information on how these funds will be spent. I believe we need more detail though so that we can prioritize and make good funding decisions.

What specific mitigation measures will be implemented? Do you know where they will be implemented?

Answer: The BLM is currently finalizing the planning effort for Greater Sage-Grouse, which will result in 15 environmental impact statements, affecting 68 land use plans across 10 western States (Wyoming, Montana, North Dakota, South Dakota, Northwest Colorado, Idaho, Oregon,

Nevada, Utah, and Northeast California). The planning process has been complex and highly collaborative, with meaningful coordination across a broad range of stakeholders, including State governors, State Fish and Game agencies, the U.S. Fish and Wildlife Service, the U.S. Forest Service, and many others. The proposed plans will include a suite of measures to conserve key sagebrush habitat, avoid the need to list the Greater Sage-Grouse, and support continued multiple-use and sustained-yield of the public lands. These plans include measures addressing mitigation for impacts to sage-grouse caused by activity in sage-grouse habitat. The plans will be published in late spring 2015.

Calvert Q6: Should we focus first on mitigation and leave most monitoring for later?

Answer: It is essential that BLM pursue both mitigation and monitoring concurrently. The BLM is committed to implement on-the-ground actions for the conservation of sagebrush-steppe landscapes immediately. To ensure the conservation objectives are achieved through these actions, the BLM needs robust monitoring data to inform decisions on conservation investments and efficiently target mitigation and restoration resources toward those projects that have the greatest impact.

Calvert Q7: For the past two years, BLM has worked to revise its resource management plans to incorporate measures to address sage-grouse needs. Generally, the courts have held that in order to avoid a listing under the Endangered Species Act, regulatory mechanisms must be in place; the conservation plans must ensure the target species will not need to be listed in the future; and the plans must actually be implemented.

Will the BLM's plans stand up to court scrutiny? Will they be sufficient to keep the sage-grouse from a listing?

Answer: The BLM's Greater Sage-Grouse conservation planning effort is an unprecedented, collaborative and proactive effort throughout the West to identify and incorporate appropriate conservation measures to help conserve, enhance, and restore the sagebrush steppe. A collaborative, science-based approach has been taken to develop a comprehensive plan with our State, private, and Federal partners to conserve imperiled sagebrush habitat. A team of Solicitors is advising the BLM through the process - from start to finish - giving us confidence that our plans will withstand legal scrutiny. The U.S. Fish and Wildlife Service intends to evaluate those plans, while also considering the other unprecedented efforts of State, public, and private conservation efforts across the species' range to determine whether listing under the Endangered Species Act is warranted.

Calvert Q8: What process has the Department taken to ensure their legal sufficiency?

Answer: The BLM planning process has been complex and highly collaborative with meaningful coordination across a broad range of stakeholders and cooperators, including the Western Governors, State Fish and Game agencies, the U.S. Fish and Wildlife Service, the U.S. Forest Service, and others. Although complex, the BLM is following its usual planning process as governed by applicable law and policy, including the Federal Land Policy and Management Act, the BLM's planning regulations, and the Land Use Planning Handbook. Also, a team of

Solicitors is advising the BLM through process from start to finish, providing confidence that the plans will be legally sufficient.

Calvert Q9: USDA's Natural Resources Conservation Service recently announced that it has worked with private landowners to restore 4.4 million acres of habitat for the sage-grouse over the past four years. More than 75 percent of these acres are in Priority Areas of Conservation. Altogether, NRCS and its partners and landowners have invested nearly $425 million in conserving sage grouse habitat. This is very good news and demonstrates the good things that can happen when we work together.

This information should inform the decision on listing on sage-grouse. Will it?

Answer: The FWS will consider and evaluate the best available information in its review of the species status. NRCS has been and will continue to be an important partner and collaborator in sage-grouse conservation and the information they have submitted to the FWS will be considered in the status review.

Calvert Q10: How will it factor into a decision to list or not list?

Answer: The FWS, in collaboration with USGS and other partners, developed the Conservation Efforts Database, an innovative approach to capturing and understanding on-the-ground conservation efforts. Projects completed and reported to the FWS will be considered in the status of the species, and future commitments, if shown to be effective and likely to occur, will be considered in the evaluation of the future status of the species.

Wildland Fire Management/Budget Cap Adjustment Proposal

The FY 2016 budget once again proposes to establish a new budget framework for the Wildland Fire Management program. Within the Department's proposed budget, $805 million in discretionary funds (70 percent of the 10-year average for suppression costs) is requested for fire suppression. An additional $200 million is requested for fire suppression through a budget cap adjustment.

We have eight members of this Subcommittee as cosponsors of Congressman Simpson's cap adjustment bill and I believe it won't be long before every member on the subcommittee signs on to it. We need to get this done; I remain hopeful we can move this legislation this year. Given the drought situation in California, several of the national forests in my region are already preparing for the worst.

Calvert Q11: For the sake of our new Subcommittee members and the audience can you explain the proposal and how the budget cap adjustment works?

Answer: The proposal provides assured funding for real-time firefighting without disrupting other fire program activities (e.g. fuels management) and agency funding for other programs. Under this approach we will not have to divert funds from other programs to pay for fire costs during fire season and amounts required for future suppression budgets.

The budget cap adjustment proposes to treat wildfires in the same way we treat other natural disasters by providing funding for extraordinary conditions through a cap adjustment.

Under the proposal, funding for 70% of the ten-year average of wildland fire suppression costs would be funded from the domestic discretionary cap. We estimate that this amount is necessary to suppress 99% of our fires. Extraordinary costs would be covered through access to funds in the disaster cap after issuance of a Secretarial Declaration using these criteria:

- the Secretary concerned determines that the fire has required an emergency Federal response based on the significant complexity, severity, or threat posed by the fire to human life, property, or resource; or
- the fire covers 1,000 or more acres; or
- the fire is within 10 miles of a major urban area (50,000 or more inhabitants); or
- the cumulative costs of wildfire suppression operations will exceed, within 30 days, all of the amounts previously appropriated to the Secretary concerned for wildfire suppression operations.

Calvert Q12: How did the Department determine a budget cap adjustment funding level of $200 million for FY 2016?

Answer: The budget cap adjustment funding level was determined by using the 90% confidence level for the Department of the Interior's (DOI) Suppression operation expenditures, as estimated in the U.S. Forest Service Research Service 2-year FLAME projected expenditures. This total estimated amount of $467 million is considered the upper bound of the anticipated expenditures for the year 2016. The $200.0 million is the difference between the estimated expenditures and 70% of the 10-year average suppression expenditure rate.

The 10-year average calculation will continue to be calculated each year, and 70% of the 10-year average will be requested within the discretionary budget caps. The difference between the upper bound of the 2-year projected FLAME report and the 70% of the 10-year average that will be requested within the budget caps will be the amount requested in the budget cap adjustment.

Calvert Q13: Do you anticipate that this number could change before the FY 2016 Interior bill is enacted into law?

Answer: The Budget proposes to phase in the size of the cap adjustment, beginning with a maximum permissible adjustment of $1.5 billion in 2016 that increases slowly to $2.7 billion by 2022 and remains at that level thereafter. At this time, the Administration is requesting only $1.055 billion be funded by the wildfire suppression operations cap adjustment in 2016 ($854.6 million in the Department of Agriculture and $200 million in the Department of the Interior). DOI will update its estimates of the amount needed in a cap adjustment periodically throughout the year so Congress can use the most up-to-date estimate in making appropriations decisions. Also note that the upper limit of the proposed cap adjustment would be set to allow for updated estimates.

Calvert Q14: Short of passing the Simpson bill, the only way to successfully adopt the budget cap proposal is to have the House and Senate Budget Committees (Tom Price and Mike Enzi) get on board.

Do you have any plans to meet personally with the Chairman of the House Budget Committee, Tom Price, or the Chairman of the Senate Budget Committee, Mike Enzi, to press the case for this proposal?

Answer: The Administration intends to work closely with the Committees of jurisdiction, including the House and Senate Budget Committees, to urge support for the proposed budget cap adjustment.

Antiquities Act/National Monument Designations

Last week, President Obama used authority under the Antiquities Act to establish three new national monuments. He has now used the Antiquities Act 16 times—let me repeat that—**16 times**—during his presidency to establish national monuments. In my view, some designations may have merit, others may not. However, what's disconcerting to me and many of my colleagues is that the President circumvents an open, public, and transparent process by using the Antiquities Act to make these designations. His actions demonstrate a complete disregard for the role of Congress, affected state and local communities, and the public in making these designations.

Calvert Q15: Do you support the President bypassing Congress and affected parties to establish new national monuments or do you believe the President should work with Congress and affected stakeholders in a collaborative fashion?

Answer: The Administration believes that local and Congressional input is an important part of the designation process and works closely with local communities and their elected representatives to ensure that the vision and stewardship roles of local stakeholders are understood and respected.

The designation of the new Pullman National Monument in Chicago is strongly supported by congressional, State and local leaders, community groups and historical organizations as a way to promote historic preservation and generate economic activity. This site will be managed by the National Park Service. The area was first recognized as a National Historic Landmark in 1970. In 2013, the NPS completed a reconnaissance survey of the Pullman Historic District that affirmed the site's national significance. Already, the National Park Foundation has raised nearly $8 million in support, a testament to the strong support from the Chicago community to tell the story of Pullman through the national park system.

At the new Honouliuli National Monument in Hawaii, Japanese American organizations and elected leaders in Hawaii have strongly supported preserving and interpreting the camp. This site will also be managed by the NPS. In 2009, Congress authorized the NPS to conduct a special resource study of the site for possible inclusion in the national park system, and NPS sought public comment during the study. The study determined that the Honouliuli Internment

Camp was nationally significant as well as suitable and feasible for inclusion in the national park system. Local on the ground support has provided additional concrete assistance. For example, the Monsanto Company donated the property to the Federal government, making it possible to establish the monument. The University of Hawaii-West O'ahu is actively involved in research and interpretation of the site and has signed an agreement with the NPS to assure public access over its lands adjacent to the site.

With regard to the Browns Canyon National Monument, the local community has worked for more than a decade to protect this area. Legislation to recognize Browns Canyon was first introduced in 2005 by Representative Joel Hefley and Senator Wayne Allard, as well as by Senator Mark Udall in 2013. In December 2014, senior administration officials visited Salida, Colorado, at the request of Senators Michael Bennet and Mark Udall, to hear from the community about its vision for Browns Canyon. The national monument, composed of existing Federal lands, will continue to be jointly managed by the Bureau of Land Management and the Department of Agriculture's Forest Service, and allows for continued historic uses of the area, including hunting, fishing, and livestock grazing. The designation does not alter or affect the valid water rights of any party and does not affect agreements governing management of the Arkansas River flows. It supports the ongoing cooperative management of the Arkansas Headwater Recreation Area by the BLM and the State of Colorado and preserves existing agreements for recreation uses and access. The BLM and Forest Service will jointly prepare a management plan for the monument in formal cooperation with the State of Colorado, along with other local governments and Tribes, which will be developed in an open process with maximum public involvement from interested stakeholders, area ranchers and other permit holders.

Calvert Q16: What is the estimated cost in fiscal year 2016 to operate these three new national monuments?

Answer: The 2016 budget for BLM includes an increase of $11.2 million to strengthen management of national monuments and national conservation areas. While operational costs associated with the new Browns Canyon NM were not factored into the 2016 budget request, BLM will be able to adequately meet its management responsibilities at this particular unit within the overall 2016 request level. As noted in the response to question 15, BLM and FS will jointly prepare a management plan for the monument in formal cooperation with the State of Colorado, along with other local governments and tribes. It will be developed in an open process with maximum public involvement from interested stakeholders, area ranchers and other permit holders. This planning process will help identify future operating needs for the monument.

The Pullman NM and the Honouliuli NM will be managed by the NPS, which will conduct a management planning process with full public involvement; staffing and interpretive requirements will be determined by the outcome of that planning process. Additionally, the NPS will continue to work in partnership with the many groups that have helped to preserve these sites.

Calvert Q17: Is there consideration of any cost analysis or estimate of how much it will cost to annually administer or maintain each new national monument prior to the White House making this type of announcement?

Answer: As noted above, all three of these sites were the subject of significant public involvement and analysis in advance of the national monument designation. For the NPS sites, when the NPS conducts a special resource study, it includes analysis of potential costs if added to the national park system. New park units are operated with minimal funding in the early years as management plans are completed and funds are requested and appropriated by Congress.

Reauthorization of the Land and Water Conservation Fund (LWCF)

As you know, the Land and Water Conservation Fund (LWCF) authority expires at the end of this fiscal year. The President's budget request for fiscal year 2016 includes $400 million in discretionary funding for projects through the LWCF and $500 million in mandatory funding, for a total level of $900 million for the Department of the Interior and the Department of Agriculture.

Calvert Q18: Are you optimistic that LWCF authorization will be extended by the end of this fiscal year?

Answer: We are hopeful that the LWCF Act will be reauthorized so this landmark program can continue to deliver successes in communities across the country without interruption. Congress created the Land and Water Conservation Fund to embody its bipartisan commitment to safeguard natural areas, water resources and our cultural heritage, and to provide recreation opportunities to all Americans. Americans care deeply about our outdoor heritage, want to enjoy and protect it, and are willing to take collective responsibility to protect it for their children and grandchildren. Over its 50 year history, the Fund has protected conservation and recreation land in every state and supported tens of thousands of state and locally-driven projects through grants to states.

The Land and Water Conservation Fund plays an important economic role for local communities. Recreation activities in national parks, wildlife refuges, forests, marine sanctuaries, and other federally managed lands and waters contributed approximately $51 billion and 880,000 jobs to the U.S. economy in 2012. Nationally, outdoor recreation activities contribute $646 billion to the economy annually and support 6.1 million jobs. Moreover, the Land and Water Conservation Fund is a sound investment: for every $1.00 invested in Federal land acquisition through LWCF, there is a return of $4.00 in economic value from natural resource goods and services

The Administration is hopeful Congress will take timely action to reauthorize the Fund to continue the myriad of benefits that LWCF delivers to local communities, uninterrupted.

Calvert Q19: To what extent have you been working with Chairman Bishop and the Resources Committee to see this authority extended?

Answer: The Department is committed to reauthorizing the Land and Water Conservation Fund Program with full and mandatory funding for this longstanding and successful program. The

Administration is working to achieve reauthorization which includes outreach and discussion to the authorizing committees.

Payments in Lieu of Taxes (PILT)

The budget request once again proposes a one-year extension of the mandatory funding for the Payments in Lieu of Taxes (PILT) program. The authorization for PILT was extended last year with this bill providing $372 million in discretionary funding for PILT and the National Defense Authorization Act (NDAA) providing the remaining $72 million for fiscal year 2015. The cost for this proposal in FY16 is $452 million.

Calvert Q20: Is the Department planning to submit a legislative proposal to the authorizers (the Resources Committee) for a one-year extension of the mandatory authorization providing full PILT funding? If so, when?

Answer: The Department is currently developing a legislative proposal for a one-year extension of the mandatory authorization providing full funding for PILT.

Calvert Q21: Has a suitable offset been identified to pay for this extension?

Answer: The 2016 President's Budget includes legislative proposals which include offsetting savings or additional revenue to fund national priorities such as the PILT program. For example, the President's Budget includes a proposal to redirect expanded revenue sharing from Gulf of Mexico oil and gas leases that under current law benefits just four States, toward broader national priorities, starting in FY 2018. The Administration proposes to work with Congress to redirect this revenue, estimated to be $3.1 billion over ten years, to support national priorities which could include Payments in Lieu of Taxes.

This proposal ensures taxpayers throughout the country benefit from development of offshore resources owned by all Americans. The Administration looks forward to working with Congress to develop a longer-term strategy for providing sustainable levels of funding for PILT payments.

Native American Education

I appreciate that you, Ms. McCollum, Mr. Simpson, Mr. Cole, and I recently had the opportunity to visit the Moencopi Day School on the Hopi Reservation. Together we saw why schools like Moencopi need significant repair and eventual replacement with safe, modern schools.
Not long after our visit, the Inspector General issued its critical review of violence prevention at the Moencopi Day School, reporting safety deficiencies that appear to be more a function of management and accountability than the condition of the facility. I bring this up not to pick on Moencopi or to downplay maintenance and construction, but to make the point that the increased funding proposed in fiscal year 2016 for maintenance and construction will not by itself fix the problems. As the GAO has reported, and as you well know, there remain underlying management and accountability challenges that can and must also be addressed.

Calvert Q22: Please update us on any management and accountability improvements you've made within the past 12 months.

Answer: The safety and security of the BIE-funded school student and employee populations are paramount in our efforts to provide a high quality education to Indian students. Office of Inspector General (OIG) reports highlighting safety and security issues in BIE-funded schools were issued in 2008 and 2010. As part of an initiative to address safety and security issues in BIE-funded schools, BIE conducted detailed surveys and corrected deficiencies. BIE School Safety Specialists continue to conduct on-site school visits to address critical needs. Additionally, safety projects such as school safety audits, school resource officers, and school security services continue.

Many schools have updated their plans and are currently implementing them to provide a safe learning environment for both students and staff. Unfortunately, at some schools emergency planning has stalled because of a lack of available support at the Education Line Offices. The DOI issued Secretarial Order 3334 that restructures BIE to respond to concerns raised in GAO report 13-774. Once restructuring is complete later this year, all school operations will be co-located to improve accountability in the areas of safety as well as finance, curriculum, and instruction. Changes would also improve direct services to schools and Tribes.

The Department is also seeking to improve accountability by building capacity of tribal nations to become full partners in the educational process. The 2016 budget includes funding focused on building tribal capacity to manage their school systems so Tribes can partner with BIE to hold local school boards accountable.

Calvert Q23: Should the Bureau of Indian Education become a true stand-alone bureau, with control over BIE personnel and facilities, if doing so improves accountability but increases costs?

Answer: In order to achieve the Administration's goal of high-achieving schools, the Blueprint for Transformation recommends that the Federal government transition from focusing on directly operating schools on a day-to-day basis and instead transform the BIE into a school improvement organization that builds capacity of tribes to operate great schools. We have determined that to achieve this goal the BIE should have increased control over some personnel, facilities, maintenance and other school operations necessary to ensure this transformation occurs but it is not necessary to become a stand-alone bureau.

The DOI Secretarial Order 3334 restructures BIE in a way that responds to concerns raised in GAO report 13-774. We are taking steps to implement the restructuring by the end of the year. Restructuring will:

- Reduce delays that schools experience regarding acquisition of instructional materials by consolidating operations within BIE;
- Incorporate new procedures into Indian Affairs monitoring activities; and
- Ensure that appropriate grant monitoring protocols will be assigned for high-risk funding recipients.

It is our intent to continue to share some standard business processes, such as processing personnel actions and facilities construction, with the Bureau of Indian Affairs as we encourage tribal control. Notwithstanding this, the restructuring will allow the Director of BIE to align and synchronize BIE business operations with educational priorities.

Calvert Q24: Since Moencopi is a grant school operated by the Tribe, is the BIE absolved of responsibility to address the items in the Inspector General report?

Answer: No. The safety and security of the BIE-funded school student and employee populations are paramount in our efforts to provide a high quality education to Indian students and it is a shared responsibility between the BIE and Tribes. Even as BIE transitions to a school improvement organization and Tribes increase oversight and management of their schools, BIE will continue to share this responsibility.

ANWR wilderness/oil & gas development

The Obama administration recently finalized a new management plan for the Arctic National Wildlife Refuge (ANWR) in Alaska that proposes designating millions of acres as wilderness and off-limits to most oil and gas development. Under the proposal, 12.2 million acres—in addition to the 7 million acres presently managed as wilderness—would be designated as wilderness. As a result of this designation, 98 percent of ANWR would be managed as wilderness effectively prohibiting oil and gas development, new road construction, and other activities. The U.S. Geological Survey—one of the bureaus you oversee at the Department of the Interior—estimates that ANWR could contain more than 10 billion barrels of oil.

Calvert Q25: Can you explain the thinking behind prohibiting additional energy exploration and development in an area with such promising oil and gas potential? Isn't this proposal short-sighted in light of our long-term goal of U.S. energy independence?

Answer: Neither the Fish and Wildlife Service (FWS) nor the Department of the Interior (DOI) has authority under current law to allow oil and gas exploration, leasing, development, or production in the Arctic National Wildlife Refuge. Section 1003 of the Alaska National Interest Lands Conservation Act (ANILCA) specifically prohibits oil and gas leasing, development, and production anywhere in the Arctic Refuge, and this remains the case regardless of the selection of an alternative in this Comprehensive Conservation Plan (CCP)/Environmental Impact Statement (EIS) planning process which was designed to guide management of the Arctic Refuge for the next 15-20 years. Without congressional action, the FWS cannot legally permit oil and gas leasing in the Arctic Refuge under any of the alternatives in the CCP.

The revised CCP/EIS for the Arctic Refuge addresses a variety of issues, including the protection of wildlife populations and their habitats, opportunities for fish- and wildlife-dependent recreation, subsistence needs of local inhabitants, and other public uses. The CCP also strengthens wildlife and habitat monitoring, as well as the monitoring of public use of the Arctic Refuge so as to better respond to changing conditions on the landscape, particularly those associated with climate change.

Based on the best available science and extensive public comment, the FWS recommends 12.28 million acres, including the coastal plain, for designation as wilderness. The FWS also recommends four rivers—the Atigun, Hulahula, Kongakut, and Marsh Fork Canning—for inclusion into the National Wild and Scenic Rivers System.

In 1988, Alaska's North Slope was producing 2.145 million barrels per day -- or 25 percent of the U.S. domestic production. Current North Slope production has declined to approximately 540,000 barrels per day. Together, the oil and natural gas resource potential represented by the Chukchi and Beaufort Seas are among the greatest available to the United States and exceed the combined resource estimates for the Atlantic and Pacific OCS.

Drilling of new offshore prospects and development of the discoveries that may be found on them could extend the long-term viability of the Trans-Alaska Pipeline and may add significantly to production from Alaska. Government estimates of economically recoverable oil and natural gas in the Alaska OCS and in unexplored portions of Alaska, including reserves growth in known fields, range from 35 to 38.6 billion barrels of oil and as much as 280 trillion cubic feet of gas, and, according to a 2011 study by the Anchorage firm Northern Economics, development of these two Arctic OCS Basins could generate as many as 50,000 jobs.

Despite this potential, this Administration has seemingly discouraged rather than encouraged development. The permit process for Shell's Chukchi project has been subject to numerous delays. Policy studies undertaken on this Administration's watch have overwhelmingly focused on the question of climate change, and have not given equivalent consideration to the resource and economic potential of the Arctic region.

The president has recently announced the intention to declare the coastal plain of the Arctic National Wildlife Refuge wilderness, despite the fact that it contains the largest single onshore oil resource that has been identified, despite the fact that operating experience on the North Slope demonstrates this resource can be developed without significant impact to the surrounding environment. The Administration has even refused to consider the State of Alaska's proposal to use modern seismic technology to verify the extent of the resource potential to assist in making an informed decision about how to proceed. The recent Draft Proposed Plan for the Chukchi and Beaufort Seas issued by BOEM places 9.8 million acres of these planning areas off limits to future exploration. The energy abundance the lower 48 is experiencing today isn't guaranteed to last.

Calvert Q26: Can you describe how an approach that adds permit and regulatory burdens to energy resource exploration, takes promising areas off the table, and fails to balance climate concerns with an equivalent study of the energy and resource potential is "balanced", and addresses the interest of Americans in developing a sustainable supply of energy in the future.

Answer: The National Strategy for the Arctic Region sets forth the United States Government's strategic priorities for the Arctic Region. One of the key aspects of the strategy is the safe and

responsible exploration and development of our Arctic resources, which have the potential to be a key component of our nation's energy portfolio.

Offshore, the Department continues to move forward with making areas available for exploration, development and leasing, and has worked diligently to overcome challenges and address critical issues in the process. The original Environmental Impact Statement (EIS) for Chukchi Sea Lease Sale 193 was published in 2007, but subsequent legal challenges and Federal court decisions remanded the lease sale back to BOEM for further analysis. Upon remand of the lease sale, the Bureau of Safety and Environmental Enforcement (BSEE) suspended all leases issued via Lease Sale 193.

In response to the court remand, BOEM conducted additional analysis using the best available data to estimate the highest amount of production that could reasonably result from Lease Sale 193 and incorporated that information into a Supplemental EIS (SEIS) that was published in February 2015. With the SEIS completed, on March 31, the Department issued a Record of Decision affirming Lease Sale 193 and the remaining oil and gas leases issued in 2008 as a result of the sale. While this work had been ongoing, the court had allowed BOEM to informally review Shell's pending exploration plan for the Chukchi Sea. Now that the lease sale has been affirmed, BSEE has lifted the Chukchi lease suspensions. BOEM and BSEE will now move forward with the remaining steps, including public engagement and additional environmental analyses, needed to complete the review and approval of specific operator activities before any exploration activity takes place.

BOEM is also progressing on Alaska lease sales in the current Program and proposed three additional sales in Alaska in the 2017-2022 Five Year Program – the Beaufort Sea (2020), Cook Inlet (2021) and the Chukchi Sea (2022).

On February 20, BOEM and BSEE released proposed regulations to ensure that future exploratory drilling activities on the OCS are done safely and responsibly. The proposed regulations codify requirements that all Arctic offshore operators are appropriately prepared for Arctic conditions and provide greater certainty for industry as it prepares for potential exploration.

We have and will continue to consider input from a wide variety of stakeholders as we work to enable the environmentally responsible and safe production of our offshore energy resources, including oil and natural gas as well as renewable energy.

National Park Service Centennial

The National Park Service marks its 100th anniversary, or centennial, in 2016. The Park Service is one of our country's most iconic and popular institutions, and benefits from a great deal of national good will. I understand that the Park Service budget request proposes a $326 million increase in funding for the Centennial Initiative, of which $243 million is directed to address deferred maintenance needs across the service.

Calvert Q27: Can you provide us with a brief description of the Centennial Initiative—how the proposed funds would be used, and more specifically, the Department's plans to leverage Federal funding with non-Federal partners?

Answer: The NPS Centennial Initiative request in FY 2016 includes $326.3 million in discretionary increases, as well a mandatory funding proposal. Of this, $242.8 million in discretionary funding, along with a mandatory legislative proposal to provide $300.0 million for deferred maintenance annually for three years, would address the deferred maintenance backlog by restoring and maintaining all the NPS' highest priority non-transportation assets in good condition over ten years. To support park operations, the request includes $8.0 million to provide additional seasonal rangers to national parks, and $13.5 million to support new parks and critical responsibilities. The request also includes $20.0 million for youth engagement programs, and $2.0 million to manage growing volunteer programs.

Finally, the Centennial Initiative includes a discretionary increase of $40.0 million for the Centennial Challenge, as well as a mandatory legislative proposal to provide $100.0 million annually over three years. The Centennial Challenge leverages appropriated funding with non-federal donations to accomplish high priority projects in parks. Each project is required to have a minimum 1:1 non-Federal partner match. Parks work with partners (both national and local) to identify available funding. The FY 2015 project selection process was opened in early calendar year 2015 and in less than four weeks, parks submitted more than 200 projects in excess of the $10 million in federal funding. Project selection is underway and a full list will be announced in the coming weeks. FY 2016 projects are currently being developed and will be submitted for review in April 2015. Parks were given criteria when applying for projects which specified that priority would be given to projects that leverage higher rates of partner contributions, address critical high priority deferred maintenance needs, and benefit multiple parks or contribute to Centennial goals, particularly youth engagement. The projects submitted for FY 2015 largely reflect this criteria and many projects leverage well over a 1:1 partner match.

Calvert Q28: Is the $326 million increase intended to be a one-year surge in funding or is it intended to be a permanent increase to base funding?

Answer: One-year surge funding of $326 million would not have a long-term impact. For example, funding of $242.8 million would not appreciably reduce the deferred maintenance backlog on the NPS' highest priority non-transportation assets. Similarly, one year funding of $13.5 million for new parks and critical responsibilities would leave those same parks without support for their base operations in FY 2017. However, the Administration has not yet formulated its 2017 budget request and outyear discretionary funding commitments cannot be made at this time. With regard to the mandatory proposal, if enacted this would continue the $300.0 million increase proposed for 2016 into 2017 and 2018.

Calvert Q29: Has the Department given consideration to creating an endowment to address the estimated $11.5 billion maintenance backlog and other long-term needs of the National Park Service?

Answer: The creation of an endowment is an interesting idea that warrants further discussion and analysis. The National Park Service supports efforts to find sustainable supplementary funding, such as the Centennial Challenge that uses matching funds and partnerships to leverage donations to support needed investments across the Service. NPS is also exploring new options that would require legislation and funding sources, such as creating an endowment.

Wild Horses and Burros

As you know, BLM is in the process of implementing the recommendations of the National Academy of Sciences (NAS) for the Wild Horse and Burro Program, and the budget proposes an increase of almost $3 million to continue that process. A NAS committee recently reviewed BLM's request for applications and the actual proposals for research on sterilization and contraception. It recommends issuing another request for applications in two to three years, in part because contraception and sterilization of large animals is not a major field of research.

Calvert Q30: Do you agree with this recommendation?

Answer: There is little scientific literature that addresses population growth suppression (PGS) methods for wild horses and burros with the exception of porcine zona pellucida (PZP) vaccine. Whether or not another request for applications is needed in several years will depend on the results of PGS studies that are being initiated in 2015.

Calvert Q31: Are you pleased with the quality of the proposals BLM received?

Answer: The BLM is pleased with the response and the range of approaches to PGS in the proposals. The proposals range from developing less invasive surgical sterilization methods to more effective contraceptive vaccines. Some methods may be developed and tested in two to three years while others are longer term projects.

Calvert Q32: Are there any new technologies or techniques that look promising?

Answer: Several proposals involve new and different approaches to both sterilization and contraception that will hopefully prove out; however, the outcome of research and development cannot be predicted at the beginning of the project. Even if there are positive advances in the development of more effective PGS methods, the challenges of application to thousands of animals is daunting.

Secretary's "Coastal Resilience Fund"

The budget request for the Office of the Secretary account proposes a $63 million (24 percent) increase from current spending. Of this large increase, the request includes $50 million to establish what is described as a "competitive Interior Coastal Resilience Fund" to support research and coastal resilience projects across the country.

Calvert Q33: What exactly is the Coastal Resilience Fund? Why is it necessary? How and where would this funding be distributed?

Answer: Understanding and preparing for the impacts of a changing climate is an Administration priority, and one in which Interior plays a critical role as both a land manager and as a partner to States, Tribes, and local governments. As a manager of natural resources, Interior knows that healthy, natural landscapes play a critical role in reducing risks that communities face, including those from a changing climate. However, degradation of natural systems—due to a variety of stressors—has impaired their ability to provide these benefits to communities.

The proposed program would build resilience in communities and ecosystems through the restoration and conservation of key natural ecological systems, such as beaches, dunes, and wetlands that reduce risks to communities and infrastructure from the impacts of coastal storms and sea level rise. Modeled after the Hurricane Sandy Competitive Grant program, this program will leverage the natural capacity of healthy landscapes to mitigate the impacts of flooding, extreme storms, and sea level rise and will focus on projects with a physical or ecological nexus to Federal lands, maximizing the impact of investments by resulting in larger healthy landscapes. In addition to yielding risk reduction and ecological benefits, this program will enhance our understanding of the impacts of extreme weather events; the benefits of nature-based infrastructure and ecosystem services; and identify cost-effective, resilience tools that help mitigate for future events. This program will incorporate monitoring and performance requirements and will help add to the growing knowledge base on the performance of natural approaches to reducing coastal risks.

The approach for implementing this initiative would be modeled on the Hurricane Sandy Competitive Grant Program in which the Department:

- worked with internal and external experts to identify the consequences of extreme events that the projects should address, the natural infrastructure strategies most likely to address those impacts, and the high risk focal geographies where those strategies would be most likely to succeed;

- distributed funds competitively to Federal and non-Federal recipients;

- leveraged Federal funds with support from the private philanthropic community and project recipients; and

- included a robust evaluation component to ensure we develop a body of knowledge on which natural infrastructure strategies work and where they work to effectively build community resilience.

For an example of the type of project that could be funded under the Coastal Resilience Fund, one can look at the Sandy grant program. The Fish and Wildlife Service repaired and restored refuges, hatcheries, and other facilities and restored wildlife habitat on public and private lands. Hurricane Sandy left behind a 22-mile debris field in the marshes and wetlands along the coastal boundary of Edwin B. Forsythe National Wildlife Refuge in New Jersey. In partnership with State agencies, these fragile areas are being cleared of trash, hazardous materials, and contaminants to restore clean water and healthy wildlife habitats.

Key benefits from the Coastal Resilience funding would be that it would help to restore coastal environments, support planning to improve community resilience, leverage outside dollars, benefit coastal communities, and build on investments already made to protect public lands.

USGS Earthquake Hazards Program – Earthquake Early Warning system

The FY 2015 Omnibus bill included $5 million to transition the earthquake early warning demonstration project into an operational capability on the West Coast. A critical component of the earthquake early warning system is maintaining the existing real-time broadband and strong motion seismic networks along with other related monitoring networks. USGS was directed to collaborate with universities, companies and other Federal agencies with expertise to continue to observe critical fault locations.

Calvert Q34: Could you provide the Committee with an update regarding how USGS is implementing this program, and where we are currently with the process?

Answer: The USGS and its partners have been operating a non-public test earthquake early warning system since January, 2012. With funding provided by Congress in 2015, the USGS will: 1) move from a test system to a production prototype (i.e., the final hardware and software configuration); 2) expand seismic network coverage along the most hazardous faults; 3) harden seismic network communications; and 4) expand private-sector engagement and public education efforts. This work will be done in cooperation with university partners.

Calvert Q35: The FY16 budget indicates that there are not enough sensors to provide fast and reliable alerts uniformly across the West coast while also proposing a $1.5 million reduction for the Earthquake Early Warning system. We both seem to agree that there is a need here to stand-up a reliable warning system. Therefore, can you please explain this reduction? [Particularly in the context of an 11 percent increase overall in the DOI budget, and 14 percent increase for USGS]

Answer: The 2015 Omnibus appropriation to the USGS Earthquake Hazards Program included a one-time increase of $5.0 million for Earthquake Early Warning development; this is being used to complete the *ShakeAlert* prototype warning system and expand its geographic coverage. The President's FY 2016 budget requests $3.5 million be added to base funding of $1.5 million for the project, which would bring total funding to approximately $5 million per year. The request for 2016 will support operational costs, providing a Federal cost share for the program. The USGS is continuing to work with State partners in 2015 to identify opportunities for cost sharing agreements to support the system in their states.

National Ocean Policy

Likened by the Interior Department to a "national zoning plan," the "coastal and marine spatial planning" (otherwise known as "marine planning") component of the National Ocean Policy is being implemented pursuant to the July 2010 Executive Order 13547. Under the initiative, new "regional planning bodies" are tasked with creating marine plans for review and approval by the new National Ocean Council.

Calvert Q36: Please describe in detail any DOI resources and personnel that has been or will be directed toward activities in support of the National Ocean Policy, including the marine planning initiative. In doing so, please provide a citation(s) to the FY 2016 budget request line item(s) that would be used to support DOI's continued participation in National Ocean Policy activities.

Answer: The Department of the Interior is working to harness emerging technologies and work with partners to elevate the Nation's understanding of our resources on a landscape-level, including those of our coasts and oceans. The mission of Interior requires diligent and thoughtful management of these resources that are vital to local, tribal, State and regional stakeholders.

The Department uses the forum provided through the National Ocean Council to work together with other Federal agencies involved in coastal and ocean issues to reduce duplication and red tape, and ensure taxpayer dollars are used most efficiently. It also provides a useful means for agencies to coordinate with States, industry, and others on a wide range of ocean and coastal responsibilities.

All oceans and coastal work support bureau missions and statutory authorities and because actions taken often support or are consistent with the NOP Implementation Plan, it is not possible to separate work done to further the NOP Implementation Plan milestones from work done to carry out those missions.

Calvert Q37: Please describe in detail DOI's planned and completed activities with regard to National Ocean Policy implementation.

Answer: The Department of the Interior is working to harness emerging technologies and work with partners to elevate the Nation's understanding of our resources on a landscape-level, including those of our coasts and oceans. The mission of Interior requires diligent and thoughtful management of these resources that are vital to local, tribal, State and regional stakeholders.

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Calvert Q38: The explanatory statement accompanying the FY15 Omnibus (P.L. 113-235) noted that Bureau of Ocean Energy Management's request "did not include any funds for coastal marine spatial planning and accordingly the bill provides no funds for such activities." At the

same time, BOEM's FY 2016 budget justification references the agency's "growing role in marine planning" and notes that BOEM is "building decision support tools to support coastal and marine planning."

In addition, BOEM serves as co-lead of the Mid-Atlantic Regional Planning Body and participates in coastal and marine spatial planning activities in other regions.

What is the source of funding for BOEM's continued participation in implementation of the National Ocean Policy's coastal and marine planning initiative?
How is BOEM's continued participation in these activities consistent with the Explanatory Statement to P.L. 113-235?

Answer: BOEM's mission requires diligent and thoughtful management of ocean and coastal resources that are vital to local, tribal, State and regional stakeholders. Marine planning is a fundamental part of the Bureau's statutory mandate. Both the OCS Lands Act and the Energy Policy Act of 2005 require broad stakeholder engagement and inter-agency coordination in the planning and use of offshore natural resources. Additionally, the Energy Policy Act requires DOI to "establish an interagency comprehensive digital mapping initiative for the Outer Continental Shelf to assist in decisionmaking relating to the siting of activities." Prior to the issuance of Executive Order 13547 establishing the National Ocean Policy, BOEM's predecessor agency carried out these statutory responsibilities. Since then, the National Ocean Policy has served to provide additional guidance and structure to the process of stakeholder engagement, and has not superseded existing law. All ocean and coastal work done through BOEM's marine planning efforts are critical to support its core mission and statutory authorities.

With respect to the source of funding, prior and current year budget requests for BOEM have included funding for marine planning within its base, as indicated in the General Statement and Conventional Energy chapters of its annual budget justification (see pages 7, 13, 59, and 75 of the FY 2015 budget justification). No additional funding was requested for these activities in FY 2015, and no such funds were provided. Again in FY 2016, no additional funds are requested for marine planning activities.

Offshore: Five Year Leasing Program

The Department recently proposed the Draft Proposed Program (DPP) for the 2017-2022 OCS Five Year Leasing Program.

Calvert Q39: Given that the 5-year OCS Leasing Program development process involves multiple iterations and is designed to winnow down the areas under consideration for leasing at each stage of the process, can you explain the decision to remove areas from consideration in certain planning areas without having the benefit of a full environmental analysis or compatibility study?

Answer: The Draft Proposed Program analyzed all 26 planning areas and reflects a balanced proposal that would make nearly 80 percent of the undiscovered technically recoverable resources available while protecting special areas and reducing potential multiple-use conflicts.

The options in the DPP involve sales in offshore areas that have the highest oil and gas resource potential, highest industry interest, or are off the coasts of states that expressed a strong interest in potential energy exploration, while still considering potential environmental impacts, stakeholder concerns, and competing uses of ocean and coastal areas. The DPP and scoping for the associated environmental analysis are open for public comment. Public involvement is an important step in the development of the Program and will help the Department determine whether and how it should be further refined.

Using authority granted in section 12(a) of the OCS Lands Act, 43 U.S.C 1341(a), President Obama withdrew certain areas within the Beaufort and Chukchi Seas to protect areas of critical importance to subsistence use by Alaska Natives, as well as for their unique and sensitive environmental resources. The majority of the withdrawn areas have a long history of being deferred in Five Year Programs and lease sales.

The DPP proposes a sale in the Program at least 50 miles offshore the coasts of Virginia, North Carolina, South Carolina, and Georgia within BOEM's Mid-Atlantic and South Atlantic Planning Areas. This option allows for consideration of a targeted area with resource potential, while limiting potential impacts to the environment and other ocean uses. The 50-mile coastal buffer was included for the Atlantic sale to minimize many multiple use conflicts, such as those from Department of Defense activities, renewable energy activities, and commercial and recreational fishing, while making available the vast majority of potential resources in this area. Further environmental analysis regarding minimizing potential impacts will be performed as part of the five-year Programmatic Environmental Impact Statement.

Calvert Q40: In March 2010, it was announced that the 2010-2017 5-year Program would include lease sales in the Atlantic and some additional portions of the Eastern Gulf of Mexico. After the Macondo incident, those plans were scrapped.

Why have you now proposed opening the Atlantic, but now refuse to consider the EGOM, even though the same congressional moratorium that was in place in 2010 remains in effect now?

Answer: The vast majority of the Eastern GOM (EGOM) is under Congressional moratorium and is unavailable for leasing consideration through June 30, 2022, pursuant to the Gulf of Mexico Energy Security Act of 2006. The small area of the EGOM that is available is included in the 2017-2022 Draft Proposed Program. The Atlantic OCS has not been under Congressional moratoria since October 1, 2008.

Atlantic Seismic and DPP

The Department issued a Record of Decision for Atlantic seismic last year which allows seismic surveys to determine potential oil and natural gas resources and included only a 20 mile seasonal buffer zone.

Calvert Q41: How do you reconcile the 50 mile buffer zone in the Draft Proposed Program? Why does the Department allow seismic data to be collected in an area but then decide to remove

it from consideration for leasing well before any analysis on potential impacts has been undertaken? Especially since there are several more stages in the five year planning process?

Answer: The Atlantic Geological & Geophysical (G&G) Programmatic EIS (PEIS) and subsequent Record of Decision sets a path forward for appropriate G&G survey activities off the Mid- and South Atlantic coast to update 40-year old data. This decision does not authorize any specific activities, but lays out a framework for future review of permit requests and is separate from any leasing decision.

In response to public comments and in order to make the best available resources available while balancing other conflicts and environmental concerns, the Draft Proposed Program (DPP) proposes a Program Area in the Atlantic at least 50 miles offshore the coasts of Virginia, North Carolina, South Carolina, and Georgia in a portion of the Mid-Atlantic and South Atlantic Planning Areas. This option allows for consideration of a targeted area with oil and gas resource potential, while decreasing multiple-use and other potential conflicts. The 50-mile coastal buffer was included to minimize many multiple use conflicts such as those from Department of Defense activities, renewable energy activities, and commercial and recreational fishing while making available the vast majority of potential resources in this area.

Federal Lands vs Private Lands

Calvert Q42: America's energy boom has occurred mainly on private and state lands that are outside direct federal control. Energy producers are proving that they can balance responsible energy exploration and development with protecting our environment at the same time. However, agencies in your department continue to impose new regulations on exploration and production on public lands and to persist in administering a review process that causes federal drilling permits to take several times as long to issue as permits issued by state agencies.

Can you describe the actions your bureaus are taking to make review of permit applications more consistent, more efficient and less time-consuming.

Answer: The BLM manages public lands under the principles of multiple use and sustained yield. The BLM works to balance responsible resource development with other uses and public purposes and has a responsibility to ensure development occurs safely and responsibly. The BLM is working to update regulations that are in most cases a generation old in order to keep up with industry leading technologies and best practices. Updating the regulations will streamline permitting and reduce workload for the BLM and industry by reducing the need for the BLM to process and grant variances for standard industry practices that are not reflected in the existing regulations.

The BLM is also undertaking efforts on multiple fronts to make the review of drilling permits more consistent and efficient. On the technological front, the BLM is continually improving and modernizing the tools available to its oil and gas program. The BLM is in the process of testing its new electronic Application for Permit to Drill (APD) processing module, which is part of the Automated Fluid Mineral Support System (AFMSS) II. This new system will allow operators to electronically file their APDs and includes validation checks to ensure the application package is

complete when it is received by the BLM. The BLM is also incorporating industry suggestions into the APD module. The new system uses a standardized workflow for the APD review and approval process and provides full transparency of the status of the APD to both the operator and the BLM. By implementing this system, the BLM and industry will be able to more efficiently process and review APDs. The BLM will also be able to better balance its workload and resources to assist in the expedited approval of APDs. The APD module is expected to be fully operational in all BLM offices by the end of 2015.

Calvert Q43: The President's new economic report claims that "the Administration has supported oil production on Federal and Indian lands." And yet a report from CRS indicates that, from 2009 to 2013, U.S. crude oil production on non-federal lands increased 61 percent while crude oil production on federal lands fell 6 percent. Natural gas production surged 33 percent on non-federal lands but decreased 28 percent on federal lands.

How do you reconcile that trend with an all-of-the-above approach to federal land management?

Answer: The Department of the Interior provides opportunities for industry to lease, drill, and produce from Federal lands and waters in excess of industry demand. Industry demand is driven by market conditions and the location of the resource.

Onshore Federal and Indian oil production increased 81% from FY 2008 to FY 2014. By comparison nationwide oil production over the same period increased 73%. Offshore production has also grown 8% during that time, a remarkable fact given the challenges faced by offshore development following the Deepwater Horizon incident in 2010. As development of tight gas plays in the Eastern United States has driven down the prices of gas over the past six years, the remote onshore and offshore gas fields overseen by the Department have become unattractive to developers.

Calvert Q44: Given these trends outlined by the CRS, one can reasonably conclude that it's economically challenging to produce energy on Federal lands as compared to state and private lands. Shouldn't the Department be seeking ways to encourage ways more energy production on Federal lands?

Answer: Oil and gas development is driven by market conditions and the location of the resource. As the data in the response to question 43 demonstrates, the BLM continues to support a robust oil and gas production program on the lands it manages. The BLM supports this development in the context of its multiple use and sustained yield mandate, which requires the BLM to balance an array of uses and to ensure development is conducted in a safe and responsible way. Moreover, the President's budget continues to propose significant investments for improving how the BLM leases, permits, and inspects oil and gas wells. As explained in the response to question 42, this includes updating regulations to reflect current industry practices and putting needed technology in the hands of BLM employees. The budget also includes funding increases to increase BLM's capacity for processing permits and to advance leasing reform through the development of master leasing plans.

BLM Venting and Flaring Rule

As part of the president's Climate Action Plan, the BLM is undertaking a venting and flaring rule.

Calvert Q45: Under what authority is BLM operating for the venting and flaring rule? What activities do you anticipate will be regulated under the rule? What action is BLM taking to coordinate with EPA, which also is proposing regulations focused on methane, and the States?

Answer: BLM rulemaking authority is granted in the various leasing statutes applicable to onshore Federal and Indian Tribal and allotted lands, such as 30 U.S.C. 189; 30 U.S.C. 359; 25 U.S.C. 396d; 25 U.S.C. 396; and 25 U.S.C. 2107. In particular, the Mineral Leasing Act directs the BLM to prevent the waste of Federal gas and oil resources which are owned by the American public.

The BLM is proposing regulations that would apply to onshore Federal and Indian oil and gas leases, and replace the 1979 Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases (NTL-4A). The proposed rule would address prevention of waste of natural gas and royalty-free use of produced oil or gas for operations and production purposes, with a focus on reducing wasteful venting and flaring of gas resources.

The BLM is coordinating closely with the EPA on these rulemaking efforts to ensure the requirements do not conflict or impose burdensome or duplicative requirements, as well as to apply consistent approaches where appropriate, given the different statutory authorities of the two agencies. The BLM is also looking to State regulatory approaches to identify the most practical and cost-effective methods that could apply to a wide range of on-the-ground circumstances. The BLM will continue its engagement with State regulators on specific proposals to obtain the States' views on what will work best, as well as to better understand how specific proposals might interact with existing State regulations.

BLM Hydraulic Fracturing Rule

Calvert Q46: What is the status of the BLM's hydraulic fracturing rule?

Answer: The final rule was published on March 20th.

Calvert Q47: Currently, the States regulate hydraulic fracturing operations within their borders, even when the activity is taking place on federal lands. In the re-proposed rule, BLM seems to recognize the robustness of current state regulation by including a possible variance that would apply to all wells in a State, tribal area, field, or basin, where state or Indian regulations "meet or exceed" the objectives of the BLM rule.

How will BLM grant this variance? Is this a variance that each operator must have granted or will the State or Tribe work with BLM on the variance, which could then be applied state-wide? How many States do you think fall into this category of meeting or exceeding the objectives of BLM rule?

Answer: The hydraulic fracturing (HF) rule is the product of four years of work with State regulators, Tribes, industry and the public by BLM's experienced field team. It is greatly informed by the technical expertise and interests and concerns of all parties, and builds on the work of the States and Tribes to ensure best practices are required on Federal and Indian lands nationwide. There are basically two types of variances available under the rule: (1) those for individual operators/operations, and (2) those crafted with State or Tribal oil and gas agencies that would apply to all or designated portions of Tribal lands or the public land within a State. Variance provisions are regularly found in other BLM oil and gas rules, and have a history of working well. The overarching principle governing a decision on any variance request is whether or not activities proposed as part of the request meet the performance standards established by the BLM.

Individual variances could be granted where the operator's proposal meets or exceeds the performance standards of the HF rule, and State or Tribal variances may be granted if the provisions of State or Tribal rules meet or exceed the performance standards of the proposed rule. The BLM intends to work with States to ensure this rule and BLM's overall oil and gas program are being implemented in the most efficient way possible to avoid duplication or unnecessary activities by industry, other regulators, or BLM staff. As part of this effort, the BLM has reached out to several western States where the Bureau and the State may each have jurisdictional authority, to update existing Memorandum of Understanding (MOU) in an effort to strengthen coordination and reduce overlap in areas such as inspection and enforcement, variances, permitting, and idle well monitoring. Implementation of the HF rule will be part of these efforts.

Indian Water Settlements

Calvert Q48: Can you please confirm that your Department remains committed to the water settlement process and that you are being proactive in helping bring Indian water rights settlements to final resolution for Congress to consider, particularly in my drought-stricken State where such settlements are of such vital importance?

Answer: The Department is strongly committed to effectively carrying out the settlement process for Indian water rights. Securing water rights and ensuring permanent access to a clean and reliable water supply is an important component to tribal nationhood, quality of life, economic security, and to sustain fundamental cultural values. Water settlements secure tribal water rights, often ending decades of controversy and contention among tribes and neighboring communities over water. Time has shown, again and again, that Indian water rights settlements create conditions that improve water resources management by providing certainty, which in turn provides opportunities for economic development, improves relationships, and encourages collaboration among neighboring communities.

Indian land and Water Settlements (dollars in millions)

Settlement Funding Elements	2015 Enacted	2016 Request	Change
Negotiation and Legal Support			
Bureau of Indian Affairs	16.5	30.3	+14.0
Bureau of Reclamation	3.8	5.9	+2.0
Other Bureaus and Offices	3.7	4.6	+.9
Subtotal, Negotiation and Legal Support	**23.9**	**40.8**	**+16.9**
Settlement Implementation			
Bureau of Reclamation			
Ak Chin Indian Water Rights Settlement Act	14.3	15.5	+1.2
Aamodt	3.0	6.0	+3.0
Crow	2.0	12.8	+10.8
Navajo-Gallup Water Supply	81.0	89.7	+8.7
Taos Pueblos	4.0	4.0	+.0
Other Ongoing Settlement Ops. and Maint.	7.9	8.2	+.3
Subtotal, Reclamation	**112.0**	**136.0**	**+24.0**
Bureau of Indian Affairs			
Duck Valley Reservation	0.0	0.0	-
Aamodt	6.2	15.6	+9.4
Navajo-Gallup Water Supply	9.0	17.8	+8.8
Taos Pueblos	15.4	29.2	+13.8
Navajo Nation Water Resources Trust Fund	4.0	4.0	-
Other Ongoing Settlement Operation and Maintenance	1.0	1.0	-
Subtotal, Indian Affairs	**35.7**	**67.7**	**+32.0**
Subtotal, Settlement Implementation	**147.6**	**203.7**	**+56.0**
Total Settlement Funding	**171.5**	**244.5**	**+73.0**

The FY 2016 budget makes significant new investments to improve Interior's capacity to work with and support Tribes in the resolution of their water rights claims and develop sustainable water sharing agreements and management activities. These investments are critical to enabling Interior to bring about a more holistic and responsive approach to supporting Tribes and working with other non-Federal water stakeholders. The 2016 budget for technical and legal support and for authorized settlements involving tribal water rights totals $244.5 million, an increase of $73.0 million over 2015. This funding will support and strengthen the engagement, management, and analytical capabilities of the Indian Water Rights Office, increase coordination and expertise among bureaus and offices that work on these issues, and provide increased support to Tribes.

The kind of collaboration created by settlements and settlement negotiation is especially important when communities confront serious drought conditions as is the case in California. The implementation of the Soboba Band of Luiseño Indians Water Rights Settlement is an example where, as a result of settling the conflicts relating to tribal water rights, both the tribe and its neighbors in Southern California are in a better position to address the long-term drought currently plaguing the state. Today, the Department is closely working with the Pechanga Band of Luiseño Indians, the Tule River Tribe, and the San Luis Rey Water Authority in California as well as with other tribes around the country to finalize settlements that will benefit both Indian tribes and the neighboring communities.

Indian Reservation Lands

Calvert Q49: Can you tell me what your view is on tribes seeking to establish new reservations in the aboriginal lands of other tribes?

Answer: The Bureau is not aware of this situation taking place at any locations currently nor in the past. As such, no official policy has been established to address this particular issue. Indian Affairs would initially look at each situation individually and make a case by case decision as to the merits of each action, and take into account the benefits and costs of the action being undertaken. Consideration of the viewpoints of all affected Tribes would have to be considered as well.

Questions from Mr. Simpson

Wildfire Funding

Madame Secretary, your budget proposes to change the way that we budget for wildfires by funding catastrophic fires the same way we fund similar natural disasters, like hurricanes and floods. I strongly support the intent of this language, which would end the disastrous practice of fire borrowing in order to pay for fire suppression.

Simpson Q1: Can you explain why this is important?

Answer: Fire is a normal occurrence that is beneficial to landscapes when managed properly, however, population growth near forests and rangelands, past management practices, and changing climate have dramatically increased fire risk and fire costs.

For the past couple of decades we have budgeted for fire suppression costs using the rolling average of suppression costs of the prior ten years. When those funds are insufficient, as is often the case, funding for real-time firefighting costs is provided by transfers and borrowing of funds from other fire management activities (e.g. fuels management) and other Forest Service and Department of the Interior programs and activities.

This practice of transfers and borrowing has undermined Department of the Interior and Forest Service programs, including critically important forest and rangeland management and fire risk reduction activities. The cap adjustment proposal provides a mechanism for funding the extraordinary costs of approximately 1% of our wildland fires by providing an alternative to the transfer and borrowing approach. This proposal treats extraordinary fires in the same way the Nation treats other natural, unpredictable disasters.

The President's budget includes a wildfire suppression cap adjustment of $200.0 million in the Department of the Interior and $854.6 million in the Department of Agriculture-Forest Service for this purpose.

Simpson Q2: By making this change in the budget process to fighting wildfires, is it possible the Forest Service and Department of Interior will be able to mitigate the costs of future wildfires because they won't have to continually rob from the prevention costs?

Answer: The budget cap adjustment proposal is designed to improve the agencies' ability to adequately invest in preparedness, forest and rangeland health, and other fire risk-reduction work. The new funding approach will eliminate transfers and borrowing from other fire and non-fire programs to cover the wildfire suppression costs each year, stabilizing other programs' annual work plans.

Stabilizing annual work plans will improve the fuels and prevention programs' ability to plan and execute treatments mitigating the costs of future wildfires. Under this approach diverting funds from these important programs to pay for wildfire costs would be eliminated.

Simpson Q3: Can you explain why the budget cap adjustment is necessary to actually solve the problem?

Answer: The budget cap adjustment is necessary to solve the problem because it will ensure sufficient funding is available upfront to fight fires, while still allowing for needed investments in preparedness, forest and rangeland health, and other fire risk-reduction work that over the long-term will help reduce suppression costs. The proposed new budget framework treats wildfires the way other natural disasters are treated by providing funding for extraordinary conditions through a budget cap adjustment. Specifically, the President's Budget funds fire suppression at 70 percent of the 10-year inflation-adjusted average suppression cost within the discretionary budget caps. This is estimated to cover the costs of 99 percent of wildfires. Funding for costs beyond that will come from a budget cap adjustment. The cap adjustment will be used for both our very large, very costly fires and during those years in which we have an exceptional level of fire activity and costs.

The cap adjustment is an authority ceiling and not a funding target. Only extreme fires that require emergency response or are near urban areas, or activities during abnormally active fire seasons, which rightly should be considered disasters, would be permitted to be funded through the adjustment to the discretionary spending limits.

The base level of suppression funding requested within the discretionary budget caps, which equates to 70 percent of the 10-year average, ensures that the cap adjustment would only be used for the most severe fire activity since about 1 percent of the fires that cause about 30 percent of the costs.

The Department of the Interior and the U.S. Forest Service would continue to be accountable for fire costs and track costs per fire, ensure elevation of spending approvals based on set protocols and report on the results.

The cap adjustment does not increase overall discretionary spending, as it would reduce the authority ceiling for the existing disaster relief cap adjustment by the amount required for fire suppression requirements.

Sage Grouse

Simpson Q4: It is my understanding, from your comments, that the sage-grouse determination will still be made - regardless of the FY15 language included in the so called "cromnibus" - and the rule cannot be written with the language in place. Will the listing determination have any impact without the existence of a written rule and if so, what are the impacts of a determination without a rule that lists the species?

Answer: If the FWS determines that listing is not warranted, that will be a final agency action and obligations under the ESA and the stipulated settlement agreement will be fully satisfied.

If the FWS determines that the species warrants listing, the rider will preclude publication of a proposed listing rule and the species will remain a candidate species. There is no legal status or protection for candidate species under the ESA. An updated "warranted but precluded" determination would likely indicate where additional conservation work may need to be done to change the status of the species which would be a benefit to future conservation efforts.

Simpson Q5: It is my understanding that Idaho has a good plan that has been commended by both BLM and USFWS. Does the state and private lands portion still need work and if so, what can be done to help them on those lands to prevent a listing?

Answer: The Idaho Department of Lands (IDL) has prepared a draft sage-grouse conservation plan for its 2.5 million acres of State endowment lands, half of which contain sage-grouse habitat. The FWS and BLM are actively engaged with the State to further revise its draft plan to achieve sage-grouse conservation. With regard to private lands, leadership from the Governor, via financial and other support for Rural Fire Protection Associations and other State resources, has been and will continue to be very important. Additionally, the FWS and the Natural Resource Conservation Service continue to engage private landowners in Idaho to raise awareness of and facilitate participation in Federal partnerships to conserve sage-grouse and sustain working landscapes. The State of Idaho has not provided the FWS a final plan to conserve sage-grouse on private land. A clear and timely indication of what measures and mechanisms the State of Idaho plans to utilize to promote sage-grouse conservation on private lands would be very beneficial.

Simpson Q6: In the overall picture, what exactly has to happen at this point for you to decide that sage-grouse does NOT warrant a listing later this year? There are lots of players and lots of plans in the process. What needs to be done to prevent a listing?

Answer: The FWS completed, with our State partners, the Conservation Objectives Team report in 2013 (http://www.fws.gov/mountain-prairie/species/birds/sagegrouse/COT/COT-Report-with-Dear-Interested-Reader-Letter.pdf). This report outlines the objectives that need to be met in order to continue to have healthy sage-grouse populations. The FWS will be considering whether changes to Federal land management plans, other Federal initiatives, State regulations and strategies, and private land conservation efforts meet the conservation objectives identified in the report. The FWS continues to provide technical assistance to stakeholders regarding efforts and to support implementing measures to control impacts to the species and its habitat.

Simpson Q7: Your predecessor once told this committee that he was the defendant in 3,000 lawsuits. Clearly either way the sage-grouse decision is decided, there will be lawsuits. Can you explain the steps DOI is taking to prepare for this?

Answer: Endangered Species Act decisions are often controversial, and any final decision regarding listing of the greater sage-grouse will be no exception. The FWS has worked hard to put in place a transparent and scientifically defensible process to evaluate the status of the species. The FWS will be maintaining a comprehensive record of the information received and how it was used. Such a record will serve as the basis for defending any listing decision.

Simpson Q8: I was encouraged to read in the Washington Post on Monday, that the Western governors were somewhat optimistic about your meeting with them in regards to preventing a sage-grouse listing. I also understand that there is still work to do. However, if you are able to, can you explain the cause for optimism among western states, and some of the successful characteristics of state plans?

Answer: There is significant momentum occurring on the ground to conserve the sagebrush-steppe from the collaborative work to develop the foundational science guiding the planning and listing determination processes, to the many innovative conservation agreements coming into place with ranchers and mining and energy companies, to the steps States like Idaho are taking to combat rangeland fire and Utah took to strengthen its conservation measures on State and private lands. Federal agencies, the Western Association of Fish and Wildlife Agencies, and the States are collaborating in an unprecedented manner on rangeland fire assessments and planning that will make our efforts to prevent and suppress fires and restore habitat afterwards significantly more effective. We are putting a more effective rangeland fire strategy, built largely on these efforts, into place. Once the strong Bureau of Land Management and U.S. Forest Service plans are in place and if States like Colorado, Idaho, Montana and Oregon finalize their plans to limit disturbance in sagebrush habitat, the landscape will have changed dramatically since the FWS made its determination in 2010 thereby giving Western governors reason to express optimism. On the other hand, if momentum slows, and the sense of urgency dissipates, if plans are weakened or left incomplete, I fear we will have missed our window to act, and the landscape will only become more fragmented and the invasive/fire cycle more severe with devastating impacts not only to wildlife but to the way of life in the West.

Our relationship with affected States is collaborative, and it acknowledges the States' management authority for sage-grouse (and expertise in managing the species). We have engaged the States in every aspect of our sage-grouse work, including development of the BLM land management plans, key technical products such as the Conservation Objectives Team Report and the Conservation Efforts Database.

We have also worked with the Western Association of Fish and Wildlife Agencies to fund important scientific research on invasive species and wildfire in the Great Basin and are members of various technical and policy-level teams led by the States, such as the Governors' Sage-Grouse Task Force. Lastly, we maintain a high degree of transparency in conducting our Endangered Species Act status review and provide regular updates to State wildlife agency leadership on this process.

PILT/LWCF

We have talked before about several important programs in your portfolio — the Land and Water Conservation Fund and Payments in Lieu of Taxes— that you and I and many of my colleagues would like to address with a coordinated, long-term solution. Until that happens, this subcommittee continues to be saddled with unpalatable choices regarding whether, how, and how much we can meet these public land-related commitments to communities across the country. Regarding LWCF, I was glad to see that your budget contains discretionary funding we can consider today, as well as mandatory funding that depends on that long-term solution. I note, however, that the budget request would make PILT wholly dependent on enactment of a mandatory fix for these programs.

Simpson Q9: Without that fix, both of these programs will again be left at the subcommittee's doorstep with inadequate resources to take care of them. How can we work together to avoid that?

Answer: The Department is committed to working with the Authorizing and Appropriations committees to achieve enactment of legislation to fund both programs through mandatory funding.

Simpson Q10: Is there a way we can tie PILT/LWCF together so we can provide stakeholders on both sides with certainty?

Answer: The Department is open to working with the Authorizing and Appropriations Committees to develop funding strategies for these important programs and supports legislation to accomplish both.

Columbia River Treaty

My understanding is that the Interior Department is participating in Administration discussions related to the Columbia River Treaty after 2024.

Simpson Q11: What are the Interior Department's interests in the Columbia River Treaty?

Answer: The Department is interested in developing a modernized framework for the Treaty that ensures a more resilient and healthy ecosystem throughout the Columbia River Basin while maintaining an acceptable level of flood risk and assuring reliable and economic hydropower benefits.

Simpson Q12: What do you believe are causing the major delays in proceeding with discussions with Canada?

Answer: The Department of State has the jurisdiction to make a determination of whether or not to proceed with discussions with Canada regarding the Columbia River Treaty.

Simpson Q13: Does the Interior Department continue to support the Regional Recommendation as it was presented to the NSC and State?

Answer: Yes, the Department continues to support the Regional Recommendation as it was presented to NSC and to State.

Questions from Mr. Joyce

National Park Service

Throughout the National Park Service's existence, the agency has played a vital role in interpreting and enhancing the public's access to educational, cultural, and historic resources, by partnering with private owners and operators of significant historic sites across the country.

Joyce Q1: Given the current constraints on the National Park Service's budget, what resources does NPS plan to offer private historic site owners and operators to support these sites' mission and ensure that these historic places remain accessible to the public and are structurally protected?

Answer: The NPS recognizes that no one area of society or level of government can successfully accomplish effective historic and heritage preservation alone, and as such provides a variety of technical and financial resources to support the important contributions of state, tribal, and local governments, non-profit organizations, and private owners in historic preservation. The Federal Historic Preservation Tax Incentives Program, administered by the NPS and the IRS, promotes the rehabilitation of vacant and deteriorated historic buildings as well as the economic revitalization of our older communities; over 40,300 projects across the nation have been certified by the NPS since the program's inception, representing an estimated private expenditure of more than $73 billion in the preservation and rehabilitation of historic buildings. In FY 2014, 1,156 proposed projects were approved for an estimated $6 billion worth of rehabilitation work.

The NPS also supports the missions of historic sites and helps owners to maintain the integrity of their sites through robust educational and technical assistance programs. Programs such as Teaching with Historic Places, Travel Itineraries, the National Heritage Areas program, the National Register of Historic Places, the National Historic Landmarks program, the American Battlefield Protection Program, and the national historic trails program provide the means to find, learn about, and experience historic sites, while those such as the Technical Preservation Services program and the National Center for Preservation Technology and Training provide information that owners of historic sites need for the proper treatment of their properties. Additionally, NPS' official historic preservation partners in state, tribal, and local governments, national heritage areas, historic trails, nonprofit organizations, and friends groups provide similar educational, technical, and financial assistance to owners of historic sites. The FY2016 budget proposes $89.9 million for State and Tribal Historic Preservation Grants, an increase of $33.5 million.

Civil Rights Initiative

The Administration's Fiscal Year 2016 Department of Interior budget requests a total of $50 million for its proposed Civil Rights Initiative to commemorate the 50th Anniversary of the Voting Rights Act. As part of the Initiative, the National Park Service (NPS) plans to invest in preserving specific sites associated with the Civil Rights Movement and the African-American experience.

Joyce Q2: Given that the Administration recognizes the significance of people, places, and events leading up to the Civil Rights Movement, will the NPS consider significant historic landmarks which are not units of the Park Service, but nonetheless associated with individuals and events prior to the Civil Right Movement, eligible for the $30 million in competitive grants under the Historic Preservation Fund?

Answer: The FY 2016 request includes $50.0 million to document, interpret and preserve the sites and stories of the Civil Rights Movement and the African American Experience. Of this, $30.0 million is requested in the Historic Preservation Fund to support competitive grants to non-Federal entities such as States, tribes, local governments and non-profit organizations; benefitting properties would not be limited to those owned by the entities or organizations receiving the grants. While NPS-managed sites would benefit from other components of the initiative, the $30.0 million for competitive grants would specifically benefit non-federal entities.

Work enabled by these grants would include surveys and documentation, the development of place-based interpretive and educational materials associated with the survey and documentation of these sites, and the planning and implementation of bricks and mortar projects for the rehabilitation and preservation of historical properties. These funds would restore, preserve, and catalog cultural resources associated with these sites, including oral histories, ethnographic studies, and museum collections, as well as providing online accessibility for associated collections.

Question from Mr. Stewart

Alton Coal Follow Up

Thank you for your response on the Alton Coal issue and the holdup that is going on at the Bureau of Land Management with regards to the coal mine expansion. I have had conversation with both Dan Ash and Neil Kornze on this subject and they invoked the same greater sage grouse reason for the delays. Juan Palma is developing the sage grouse plan and is approving the Alton Coal SDEIS; the approval of the SDEIS will only lead to another 90 day comment period not an approval to start digging up coal.

Stewart Q1: Given this, even if there were a discrepancy between the SDEIS and the sage grouse plan, how does publishing the Alton SDEIS warrant a year's delay?

Answer: With respect to the Alton Supplemental Draft Environmental Impact Statement (SDEIS), it was determined after an internal review that additional work was required to ensure the analysis reflected the information developed as part of the larger sage-grouse planning effort and related Resource Management Plan amendment. Additional work was also required to ensure that the SDEIS was consistent with the applicable regulations regarding coal unsuitability – 43 CFR 3461.5(o). The BLM Utah State Office is in the process of completing this work. Please be assured that the BLM is placing a high priority on the completion of this effort and the larger planning effort in order to ensure both provide a basis for a durable decision.

Questions from Mr. Amodei

Greater Sage-Grouse

Last year, the Secretary of Interior announced Secretarial Order 3336 to protect the sagebrush-steppe ecosystem in the Great Basin area from wildland fire and invasive species. The Department also plans to soon announce a National Seed Strategy and Implementation Plan to address invasive species, altered wildfire regimes, habitat fragmentation and ecological restoration in the West. Additionally, the Department of Agriculture recently announced a commitment to provide an additional $207 million to greater sage-grouse conservation bringing their total commitment under the Natural Resources Conservation Service's Sage-Grouse Initiative to $763 million.

Amodei Q1: Does the Department consider these combined efforts as an unprecedented commitment towards protecting and conserving the Greater Sage-Grouse and its ecosystem?

Answer: Yes, these investments are unprecedented and come at a critical time for a landscape that is under threat and they play a significant role in two of the three central tenants of our approach to conserving the sagebrush-steppe and the wildlife and economic activity that depends on it.

The collaborative Federal-State approach can be described as three-pronged:

1) Federal lands. Because about 60 percent of the greater sage-grouse's 165 million acres of occupied range is on federally managed lands, Interior's BLM and the U.S. Forest Service are currently analyzing amendments to existing land use plans to incorporate appropriate conservation measures to conserve, enhance and restore habitat by reducing, eliminating, or minimizing threats to the habitat.

2) State and Private lands. Complementing Federal efforts, 11 Western States are implementing plans to conserve and restore sagebrush-steppe landscapes on State and private lands, addressing threats from development, invasive species, and fire. About 40 percent of sage-grouse habitat occurs on privately owned lands. The Department of Agriculture's Natural Resources Conservation Service (NRCS) and its partners in the Sage-Grouse Initiative (SGI) have worked with private landowners to restore 4.4 million acres of habitat for sage-grouse while maintaining working landscapes across the West.

3) Fire. Building on the work of many States, the Department is taking actions to immediately address the threat of rangeland fire to Western sagebrush-steppe landscapes in the Great Basin for the 2015 wildfire season and beyond. The actions are designed to reduce the size, severity and cost of rangeland fires; address the spread of cheatgrass and other invasive species; and position wildland fire management resources for more effective response.

Included in Secretarial Order 3336, under Section 7(b) of the Implementation Plan, Deliverables and Report, the Task Force is required to "provide the Secretary two reports that outline actions that can be accomplished prior to the onset of the 2015 Western fire season, actions that can be accomplished prior to the onset of the 2016 Western fire season, and actions that will require a longer period for implementation." Such actions include "establishing protocols for monitoring the effectiveness of fuels management, post-fire, and long-term restoration treatments and a strategy for adaptive management to modify management practices or improve land treatments when necessary."

Amodei Q2: Is the Department concerned with the Fish and Wildlife Service issuing a listing determination for the Great Sage-Grouse before monitoring of the effectiveness of the fuels management and habitat restoration policies outlined in the Secretarial Order is conducted?

Answer: The FWS has an obligation to review and evaluate the status of greater sage-grouse based on the best available scientific and commercial data available. The FWS expects the information gleaned through monitoring and adaptive management will help guide our understanding and refinement of approaches and techniques for fuels management and habitat restoration in the sage-steppe ecosystem. The Secretarial Order and resultant reports are an important step forward that will enable the FWS to consider immediately any policy changes that direct the prioritization and implementation of improved science-based methods for rangeland fire.

Amodei Q3: Would the Department prefer more time to monitor the results and effectiveness of its unprecedented rangeland management efforts and policies before issuing a listing determination?

Answer: The Endangered Species Act requires the use of the best available information in determining the status of a species. The FWS is considering the best information available, including input from partners and stakeholders. The FWS expects the best information available will support completion of a final listing determination within the time allowed under the court-ordered settlement.

Amodei Q4: To what extent will implementation of S.O. 3336 factor into the Fish and Wildlife Service's Greater Sage-Grouse listing determination?

Answer: The FWS 2010 status review and the 2013 Conservation Objectives Team report both identified wildfire and the spread of invasive species as important impacts that if not addressed, would continue to significantly negatively affect the species' habitat and ability to survive into the future. The FWS will evaluate S.O. 3336 and all other efforts in its decision regarding the current and future status of the species.

Amodei Q5: Is the Department concerned that if the Greater Sage-Grouse is listed, voluntary conservation efforts and financial commitments—from state and private landowners—to protect the species will decline?

Answer: The Department, through its respective agencies working in the sage-steppe landscape, is committed to using its authorities and working collaboratively with others to maintain working lands and the sage-steppe landscape. Our dedication to this landscape will continue regardless of the result of the status review, and we will continue to work with our partners to promote Federal, State and private conservation efforts.

Amodei Q6: If the Greater Sage-Grouse listing determination will occur September 30, 2015, why is the Fish and Wildlife Service requesting $5 million for 20 new full-time employees for conservation in the sagebrush-steppe ecosystem for FY2016?

Answer: The FWS is committed to working with States and our partners on conservation efforts in this largely intact landscape after September 30, 2015. The best strategy we can pursue is to keep making investments in sagebrush steppe conservation. There are also many species that rely on this ecosystem including small mammals such as pygmy rabbits and sagebrush voles, reptiles like the sagebrush lizard, bird species such as sage sparrow, Brewer's sparrow, sage thrasher, and golden eagles, and game species such as pronghorn, mule deer, and elk, regardless of the outcome of the sage-grouse status review. Partners ranging from Federal land management agencies to States to private landowners are increasingly coming together to identify and pursue strategies to arrest the decline of sagebrush and dependent species across the range. The FWS is an active partner in these efforts and while much of the attention is currently focused on the greater sage-grouse, the larger issues underlying the status of the sage-grouse, namely the invasive species-wildfire nexus and the need to responsibly develop energy and other natural resources, affect a broad suite of wildlife and must be successfully managed if the sage-steppe ecosystem is to remain a vibrant and functional landscape that supports diverse wildlife and economic activity. The FWS requested an increase of $4.0 million to continue investing in partnership efforts such as working with States like Wyoming and Nevada to implement and monitor the results of their conservation efforts, continuing to provide support and technical expertise to BLM and the U.S. Forest Service in the implementation of their plans, continuing to leverage our partnership with NRCS and SGI, and continuing to provide assurances to landowners through the Partners for Fish and Wildlife Program and Candidate Conservation Agreements with Assurances.

Wild Horses and Burros

Amodei Q7: How many wild horses and burros does the Department plan to remove from rangeland in the sagebrush-steppe ecosystem this calendar year?

Answer: Approximately 2,000.

Amodei Q8: How many acres in the sagebrush-steppe ecosystem do wild horses and burros occupy?

Answer: According to a 2013 USGS report entitled "Summary of Science, Activities, Programs, and Policies That Influence the Rangewide Conservation of Greater Sage-Grouse," the BLM manages wild horses and burros on approximately 14.6 million acres of sage-grouse habitat predominantly in Nevada, southwest Wyoming and southeast Oregon.

Amodei Q9: What percentage of Greater Sage-Grouse habitat fragmentation in the sagebrush-steppe ecosystem are wild horses and burros responsible for?

Answer: Overpopulation of wild horses and burros can contribute to degradation and fragmentation of sagebrush-steppe habitat. Degradation and fragmentation can occur at different scales and scopes. The BLM monitors the effects of wild horse and burros on a herd management area basis but does not currently have data that address fragmentation.

Grazing

Included in the Department's FY2016 budget request is $8 million for a proposed Grazing Administration Management fee program. Of the estimated $16.5 million the BLM would collect in 2016, about half, or $8 million, would support a new permit processing and monitoring of livestock use in sage-grouse habitat. The increase in monitoring effort is expected to occur in the allotments currently monitored, which means there will be an increased number of compliance visits to each allotment.

Amodei Q10: What percentage of Greater Sage-Grouse habitat fragmentation in the sagebrush-steppe ecosystem is cattle grazing responsible for?

Answer: Improper livestock grazing can contribute to habitat degradation and fragmentation of sagebrush-steppe habitat. Because habitat degradation and fragmentation can occur at different scales and scopes, the BLM cannot provide an exact percentage of Greater Sage-Grouse habitat fragmentation caused by improper livestock grazing. The BLM monitors and addresses improper livestock grazing on an allotment by allotment basis.

The administration fee proposal referenced in the introduction to Amodei Q10 is a critical component of BLM's budget proposal. This fee is completely different from the existing grazing fee, which is generally well below the rates charged by States and which does not support BLM management of grazing on the public lands. The estimated $16.5 million in fee collections from the proposed new grazing administration fee will assist BLM in achieving more timely processing of expiring grazing permits and reducing the backlog of pending applications for grazing permit renewals. As noted in the introduction, roughly half of the assessment and monitoring work conducted with the fee collections will be conducted on grazing allotments in sage grouse habitat areas to better ensure grazing activities are consistent with the sage grouse conservation plans.

Rangeland Management

Under the Department of Agriculture's Natural Resources Conservation Service's (NRCS) Sage Grouse Initiative (SGI), more than 3.8 million acres of sage-grouse habitat across the 11-state range have been conserved. Additionally, with NRCS's continued funding commitment of $207 million through 2018, the Department of Agriculture is projecting another 4 million acres will be conserved for the benefit of the sage-grouse bringing the NRCS' total commitment since 2010 to $763 million.

Amodei Q11: Since 2010, what amount has the Department of Interior allocated towards conserving and restoring the sagebrush-steppe ecosystem?

Answer: The Department did not begin tracking funding in support of sagebrush steppe ecosystem conservation and restoration until 2014, although in the case of BLM this funding is tracked back to 2013 when BLM included a $15.0 increase in its Operating Plan to support implementation of its sage grouse conservation strategy. The table below shows estimated 2014 funding for BLM, FWS and USGS, and planned funding levels in 2015 and the requested funding levels in 2016. It should be emphasized that the amounts in this "Sage Steppe Crosscut" table represent only that funding which was budgeted or requested specifically and primarily for sage steppe ecosystem conservation and restoration. There may also be other base funds that indirectly contribute to sage steppe conservation and restoration, but they are not necessarily or readily trackable in all bureaus' financial systems. For example, BLM conducts vegetative treatments and weed treatments with base funding in other programs that benefits sage steppe conservation and restoration, but that is not necessarily the primary purpose of the treatment. For similar reasons, the Sage Steppe Crosscut table does not capture funding from the Department's Wildland Fire Management account. A portion of the funds in the Fuels Management, Emergency Stabilization, Burned Area Rehabilitation, Resilient Landscapes, Preparedness, and Suppression programs contribute to sage steppe conservation and restoration, but it is not possible to accurately differentiate and track the amounts solely for sage steppe conservation.

Sage Steppe Crosscut
(dollars in thousands)

This crosscut includes funding for activities related to restoring and conserving the sage steppe habitat of the Interior West that is essential to the Sage Grouse and 350 other species dependent on sagebrush habitat and preserving the local economies and communities that depend on ranching, outdoor recreation and tourism, and other activities.

Bureau	Account - Activity	Description	FY 2014 Enacted	FY 2015 Enacted	FY 2016 Request	Change from 2015 Enacted
BLM	Management of Lands and Resources	Implementation of Sage Grouse Conservation Strategy; assessment, inventory and monitoring; 2016 increase includes portion of grazing admin. fee	15,000	15,000	68,250	53,250
FWS	Resource Management	Provide basic scientific expertise, technical assistance for ground support, and internal and external coordination and partnership building; Conserve sage steppe habitat; Inventory and Monitoring.	400	1,000	5,000	4,000
USGS	SIR - Ecosystems	Broad research program focused on analyses of sage-grouse population trends, assessing the implications of habitat fragmentation, developing restoration/rehabilitation techniques, predictive modeling of climate change and fire regimes, analyses of fire threats, assessments of cheatgrass invasion threats and control, developing habitat management strategies, effectiveness monitoring of post-fire rehabilitation, and other priority science needs of DOI.	3,834	3,834	4,834	1,000
Total FWS, USGS and BLM			**19,234**	**19,834**	**78,084**	**58,250**

Questions from Mr. Jenkins

Stream Buffer Zone Rule – Rulemaking

The Inspector General released a report in late 2013 that looked at this administration's rulemaking regarding the stream buffer zone. The Office of Surface Mining, Reclamation and Enforcement (OSM) has spent millions of dollars in the past few years to develop a replacement for the 2008 stream buffer zone rule. Secretary Jewell, you previously committed to taking a fresh look at the rule and doing your own evaluation to decide whether this regulation is necessary. On December 22 of last year, OSM officially reinstated the 1983 after the 2008 rule was vacated by court order.

Jenkins Q1: Why do you believe OSM should continue to spend taxpayer dollars on the stream buffer zone rule?

Answer: The reinstated rule, known as the 1983 stream buffer zone rule, was in effect in the primacy States throughout the appeal of the 2008 stream buffer zone rule. However, the 1983 rule, like other OSMRE promulgated stream buffer zone rules, only addressed specific issues within or adjacent to the stream itself. In the three decades since the adoption of the existing regulations, and based on our experience and engagement with state regulatory authorities, industry, non-governmental organizations, academia, citizens, and other stakeholders over this time period, significant advances in scientific knowledge and mining and reclamation techniques have occurred. We are proposing a rule that seeks to acknowledge the advancements in science, technology, policy and the law that directly impact coal miners, coal communities and our natural resources.

Questions about the scope of the 1983 rule on stream protection and the intent of the Surface Mining Control and Reclamation Act to balance the needs of coal production for American energy and appropriate environmental protection have been clarified in federal court.

Jenkins Q2: What would new rulemaking further clarify?

Answer: The primary purpose of the proposed stream protection rule is to modernize our regulations by applying updated science and reinforcing the need to minimize adverse impacts of surface coal mining operations on surface water, groundwater, fish, wildlife, and other environmental resources, with particular emphasis on protecting or restoring streams and aquatic ecosystems. Revision of the rule will also have the secondary benefit of addressing the ambiguities and inconsistencies in the interpretation of the 1983 stream buffer zone rule.

In April of 2013 OSM Director Joe Pizarchik responded to a letter stating that since 2009 OSM had spent approximately $8.6 million developing a new stream protection rule. Despite significant opposition to the new rule, OSM continues to pursue this effort.

Jenkins Q3: To date, how much has been spent on developing this new rule?

Answer: OSMRE has spent approximately $9.5 million to develop the rule, including the evaluation of multiple options, review of current science and technology, and consultation with stakeholders.

There have been significant advances in science and technology since the promulgation of the 1983 rule that were not addressed in the 2008 Stream Buffer Zone Rule. Incorporating the most up-to-date science, technology, and knowledge concerning the effects of surface coal mining is essential to developing maximally beneficial modern regulations. In addition, the 2008 Stream Buffer Zone Rule did not provide objective standards for certain important regulatory decisions, such as a requirement to collect baseline information about pre-mining conditions so that the regulatory authority can accurately assess the impacts of mining and assure proper reclamation. Therefore, OSMRE began work to modernize its regulations, incorporating new science, technology, and knowledge in areas that can improve, update, and more completely implement SMCRA.

Many scientific advances have occurred in the past 30 years. Under SMCRA, OSMRE can and should consider those advances when modernizing its rules. That is one reason why, combining OSMRE's on-the-ground experience with peer-reviewed academic study, we are modernizing our rules and using the best available technology and science to improve mining practices in order to minimize and mitigate environmental damage from surface coal mining. A revised rule that incorporates modern science, technology, and knowledge will enable the coal industry to do a better job of reclaiming land and restoring natural resources, and in many cases, will lead to that work being done in a more economical and efficient manner.

Jenkins Q4: How many alternatives are being considered for the rewrite of the Stream Protection Rule?

Answer: OSMRE is evaluating a total of nine (9) alternatives in the draft EIS for the proposed stream protection rule. This includes a no action alternative. In addition OSMRE considered two additional alternatives but ultimately dismissed these from further analysis due to their projected impacts on coal production.

Jenkins Q5: Is OSM considering the "no action" alternative?

Answer: Yes – the no action alternative would essentially continue application of the 1983 stream buffer zone rule as reinstated by the court. This alternative serves as the baseline against which all action alternatives are analyzed. While we have the option of maintaining the status quo, choosing this alternative would fail to address the modernization of our regulations in accordance with updated science and use of the best technology currently available.

Stream Buffer Zone Rule – Stream Miles and Jobs

During the hearing, Secretary Jewell indicated she did not know how many stream miles would be protected under the proposed rule. Additionally, Secretary Jewell stated that she had seen job impact data by region and would share that information with the subcommittee in advance of the rule being publicly released.

Jenkins Q6: Will you provide the subcommittee with any additional information regarding the amount of streams that would be protected?

Answer: The current draft of the regulatory impact analysis provides specific data on the miles of stream that are anticipated to be improved, preserved, or restored annually. This data will be available to the public when the proposed stream protection rule and associated draft EIS are published.

Jenkins Q7: Will you send the jobs impact information that Secretary Jewell had indicated she had seen in briefings on the rule?

Answer: The current draft of the regulatory impact analysis provides an assessment of employment impacts. This data will be available to the public when the proposed rule and associated draft EIS are published.

Stream Buffer Zone Rule – Cooperating with States

Jenkins Q8: The earlier stream buffer zone rule development included several cooperating primacy states as part of the NEPA process. Has this arrangement continued and when was the last time OSM communicated with those cooperating state agencies on the status of any further rule development?

Answer: When OSMRE prepared the earlier (2008) stream buffer zone rule, it did not include State coal mine regulators as cooperating agencies. However, when OSMRE began the development of the stream protection rulemaking to replace the now vacated 2008 rule, OSMRE, for what is believed to be the first time in its history, invited State regulators to be cooperating agencies. The cooperating State regulators have provided meaningful input and comments. Their help is appreciated and has been used by OSMRE. OSMRE provided a report to the States on the status of the rulemaking in October 2014.

Jenkins Q9: Has OSM ever raised any objection with primacy states in implementing the 1983 rule?

Answer: The 1983 Stream Buffer Zone Rule has a long history of litigation and varying interpretations. While some States have applied the rule to all mining impacts, others have exempted certain activities, such as burial of streams with excess spoil and coal mine waste. In addition, interpretations of the 1983 rule advanced by some in the environmental community would effectively ban all mining in intermittent or perennial streams. OSMRE intends to address these ambiguities and inconsistencies in interpretation through a proposed stream protection rule.

Jenkins Q10: Are you aware of any states that support OSM's current effort to rewrite the Stream Buffer Zone rule?

Answer: Until the proposed rule is actually published and comments are received, the extent to which any State or other party may support some or all of the proposed rule cannot be determined.

Jenkins Q11: Has OSM shared any new science with the States that would justify replacing the 1983 rule?

Answer: All of the new science that OSMRE has used to develop the proposed rule is published and available to the States and the public at large. In one case, an Appalachian State regulatory authority actually contributed to a joint Environmental Protection Agency and OSMRE study on the long-term impacts of mining on downstream water quality. In addition, when published, the draft EIS will clearly identify all such studies and provide an opportunity for input on the appropriate use of such science in the development of our proposed rule.

Jenkins Q12: Has OSM shared with any of the states what the alternatives for the new rule will be, and if not, how are the states expected to fulfill their role as cooperating agencies under NEPA?

Answer: OSMRE shared chapters of the draft Environmental Impact Statement early in the development stages of the stream protection rule, which includes some of the alternatives considered. At that time there were concerns raised by the cooperating agencies regarding the initial development of the draft EIS, and we appreciate the efforts and contributions the cooperators made.

Since that time, OSMRE and a new contractor have assumed the primary responsibilities for completing the draft EIS. During the intervening time, new alternatives have been developed and analyzed. During the on-going development of the draft EIS, the Director of OSMRE requested that his staff utilize the expertise of the cooperating agencies on a case-by-case basis whenever it was determined their special expertise was needed.

OSMRE's engagement with cooperating agencies was meaningful and provided ample opportunity for the States to offer their feedback and inform the development of the proposed rule early in the NEPA process. OSMRE looks forward to continuing to engage cooperating agencies as the rulemaking process moves forward.

Jenkins Q13: In your opinion, is OSM meeting its statutory obligations to the state under NEPA and the MOUs to which it is a party?

Answer: Yes, as previously explained, OSMRE has used and will continue to rely on the expertise of the cooperating agencies whenever it is determined their special expertise is needed.

Jenkins Q14: What plans does OSM have to uphold its legal obligations to the states as cooperating agencies under NEPA and the signed MOUs should the agency choose to move forward with this misguided rule?

Answer: OSMRE will continue to seek out and rely upon the expertise of the cooperating agencies whenever it is determined their special expertise is needed for technical issues as provided for in the MOUs.

Jenkins Q15: OSM Director Pizarchik has implied that OSM was doing states a favor by not sharing revised drafts of the EIS or regulatory impact analysis due to limited State budgets. If a cooperating state agency expressed an interest in receiving drafts of such documents as they are being developed, will you share those drafts with them so they can make a decision on whether to provide OSM with earlier input on the accuracy, quality and efficacy of those drafts?

Answer: At this point, OSMRE does not contemplate distributing additional drafts of the draft EIS prior to publication of the proposed rulemaking for public review and comment. However, once the proposed rule and draft EIS are published, OSMRE anticipates receiving comments from cooperating agencies.

Abandoned Mine Land (AML) Fund Surplus

According to OSM's budget justification, more than $8 billion in industry AML fees have been appropriated, but the cost of reclaiming the priority 1, 2 & 3 AML sites has been only about $2.5 billion.

Jenkins Q16: Can you explain where the remaining $5.5 billion was spent?

Answer: Since 1978, approximately $8 billion has been appropriated as discretionary and mandatory funding from the AML Reclamation Fund. Revenue deposited into the Fund is derived from AML fees and interest earned on the Fund. Appropriations have provided $5.1 billion for AML grants to States and Tribes to reclaim abandoned sites. The States and Tribes have obligated these funds according to the purposes set forth in SMCRA, which include:

- 50%, or $2.5 billion, was spent on construction costs for coal AML Priority 1, 2, and 3 projects completed as of September 30, 2014.
- 14%, or $700 million, is the estimated construction costs of coal AML projects funded and not yet completed.
- 7%, or $355 million, is estimated to have been spent by AML States and Tribes for administrative costs from 1998 - 2014.
- 5%, or $223 million, is estimated to have been placed in acid mine drainage set-aside funds by States; these set-aside funds are authorized to be placed in interest bearing accounts for operation and maintenance of water treatment systems.
- The remaining 24% is estimated for expenditures such as:

- Technical support that is not specifically tracked and not included as part of the completed project's cost. These costs include: 1) Planning processes for the use of AML grants (e.g. interagency review and coordination, consultations and documentation for compliance, such as the National Environmental Policy Act compliance); 2) Project design (e.g. preparing engineering designs, engineering estimates, feasibility review of potential reclamation methods); and 3) State/Tribal oversight costs (e.g. inspections, site visits).
- Expenditures associated with the initial start-up cost of States and Tribes establishing their own AML programs and building capacity to implement the programs (e.g. staff, training, field equipment, vehicles, etc.).
- Administrative costs prior to 1998. This may include coordination for bids, contracts, and grant activities.
- Non-coal construction costs.

Of the remaining $2.9 billion appropriated as discretionary and mandatory funding from the AML Fund, $1.3 billion was from interest earned and has been transferred to certain health care plans administered by the United Mine Workers of America (UMWA) Health and Retirement Funds since 1996. The remaining $1.6 billion was available to carryout activities related to environmental restoration and other requirements, including: annual appropriations supporting OSMRE's AML operating expenses since FY 1978; Federal reclamation project administration; and, construction costs for emergency and high priority projects in States and Tribes without an AML reclamation or emergency program. In addition, OSMRE provided funding to States for the Small Operator Assistance Program and to the Department of Agriculture for the Rural Abandoned Mine Program in the past, though these programs are no longer funded. Finally, funds were appropriated and provided to States for specific purposes, such as AML emergencies.

Jenkins Q17: Can OSM provide an accounting of all the expenditures to date under the AML program in terms of amounts that were spent on each priority? Please include the amounts for both federal and state overhead costs.

Answer: OSMRE does not track expenditures at a level of detail to provide total expenditures and overhead costs by priority. Since 1977, over 368,000 equivalent acres of priority 1 and 2 public health, safety, and associated environmental related coal problems have been reclaimed. OSMRE has developed a national inventory that contains information for more than 21,000 problem areas associated with abandoned mine lands, mostly coal. A problem area is a uniquely defined geographical area that contains one or more abandoned mine land problems. Therefore, construction costs for more than one problem area related to one or more priority may be addressed under each approved, funded project.

As described in the response to Question 16, overhead and technical support is not included as part of the completed costs, by priority, in the inventory. The AML Accomplishments table that appears in OSMRE's budget request presents AML problem types, construction costs for completed reclamation, and estimated remaining reclamation construction costs for each of the problem types. OSMRE's FY 2016 budget requests funding to evaluate AML program

implementation, including identifying more effective and efficient tools for AML site identification, contract management and program oversight.

Abandoned Mine Land (AML) Fund Fees

Jenkins Q18: Given the $2.5 billion surplus balance in the AML and with less than one out of every three dollars going to priority AML work, how can the Administration be proposing to increase the AML fees on the coal industry?

Answer: The statement regarding the "one out of every three dollars" spent on priority AML work, is incorrect. Of $8 billion in appropriated funds, $5.1 billion, or 64 percent of the funds, have been provided to States and Tribes since FY 1978 with the primary objective of reclaiming abandoned coal mine sites and for other authorized uses. Additionally, OSMRE has transferred $1.3 billion to the United Mine Workers Association as required by SMCRA and $1.6 billion was available to carryout activities related to environmental restoration and other projects.

Regarding the rationale for the proposal to increase AML fees, several factors have contributed to the OSMRE proposal to return the AML fee to its original level prior to the 2006 SMCRA amendment including:

1) The current inventory of unreclaimed AML problems, by some estimates is over $9 billion. Over $4 billion worth of these unreclaimed high priority sites feature problems classified as Priority 1 (extreme danger to public health and safety) and Priority 2 (adverse effects to public health, safety,). In addition, there are more than $2 billion worth of unfunded Priority 3 sites (adverse effects to land, water resources, or environmental problems adjacent to another Priority), and another $3 billion worth of unfunded problems designated as general welfare sites that are under review.

2) The estimated cost to reclaim the AML problems listed above is likely below the actual costs to reclaim those sites because the inventory of AML problems is not adjusted for inflation.

3) The AML inventory system is dynamic. Given the increased accessibility in remote areas using enhanced mapping technologies, equipment and demographic expansion into areas once considered remote, new AML problems are being added to the inventory and data on existing AML problems are being updated on an ongoing basis.

To expedite and ensure reclamation of AML problems, it is prudent to restore the AML fees to the 1977 levels, which were in effect until the 2006 amendment to SMCRA reduced the fees.

Storm Water Runoff Analysis

OSM has been conducting oversight on the topic of storm water runoff analysis (SWROA) for about 15 years. The West Virginia Department of Environmental Protection (WVDEP) has taken several actions over those years to improve the implementation of SWROA provisions. These include staff and industry training and development of web-based systems for identifying rainfall events that need further monitoring. West Virginia has the most in-depth analysis of

surface water runoff of any state including Tennessee, where OSM is the mining regulator. While West Virginia's program contains this provision, it doesn't have a federal counterpart.

Jenkins Q19: Why does OSM review sections of the West Virginia program that is already more stringent than the federal program?

Answer: OSMRE is obligated to perform oversight of every State's approved mining regulatory program. While West Virginia has improved its program by incorporating and providing training to those responsible for administering and complying with the SWROA requirements, having a regulation with more specificity on the method of documentation of operator compliance does not relieve OSMRE of its oversight responsibilities to ensure the State is properly administering that part of its program. OSMRE is executing oversight responsibility by examining the compliance and effectiveness of the SWROA requirements.

Underground mine pools and Post Underground Mining Assessment (PUMA)

OSM has published reports on the Fairmont mine pool and the North Branch of the Potomac mine pools and is threatening an action plan on mine pool monitoring issues and releases on underground mines. From discussions with other states, there seems to be less of an emphasis on this issue by OSM.

Jenkins Q20: Why does OSM spend time and effort and funds on this in West Virginia? If a discharge were to occur, it would be regulated under Section 402 of the CWA.

Answer: The State of West Virginia requested technical assistance from OSMRE to help characterize the hydrology associated with the complex of mines associated with the Fairmont mine pool. Similarly, Maryland requested help in characterizing the North Branch of the Potomac mine pool, which straddles both Maryland and West Virginia. We continue to provide this type of assistance to other States as well. For example, we are helping Pennsylvania map and characterize the mines in the Little Conemaugh River outside of Johnstown so that Pennsylvania and others can consider various alternatives to effectively treat the mine water discharges that have been degrading that river for decades.

OSMRE has the experience and the unique hydrology, engineering, and geographic information system expertise to help the States address mine pools. OSMRE has provided the States valuable information regarding the hydrology of flooded mine complexes including projections of future conditions should existing conditions change. An example would be the location, quantity, and quality of surface discharges, should an active coal mine operation discontinue pumping and treating. OSMRE and the States in the Appalachian Region are beginning to use lessons learned from these studies to address or avoid similar situations with flooded underground mines.

OSMRE also has a duty to ensure all primacy states properly administer their respective SMCRA programs regarding underground mine hydrology, as failure to control the discharge from some of these large mine pools could have major environmental, economic, and social impacts to downstream communities. SMCRA requires the protection of the hydrologic balance [SMCRA sections 515(b)(10) and 516(b)(9)]. The operator has to predict the probable hydrologic consequences of its actions [SMCRA section 507(b)(11)] and the regulatory authority must

consider the cumulative impact of all anticipated mining in the area on the hydrologic balance to ensure the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area [SMCRA section 510(b)(3)], and finally, the operator must then monitor [30 CFR 816/817.41] those potential impacts. While SMCRA does not set the water quality standards, compliance with the CWA is required as part of the SMCRA permit [30 CFR 816/817.42]. In underground mines, after coal extraction is completed, it may take years for the mine to fill with water. The long-term effects of flooded underground mines must be considered and adverse effects avoided.

SMCRA provides a financial safety net by requiring reclamation bonds, or other alternative financial guarantees, to ensure public safety or avoid pollution should a mine operator default on the conditions of the mining permit. There is no similar bonding system in the CWA.

With respect to a formal Action Plan specifically for West Virginia, it should be noted that OSMRE oversight in that State previously discovered long term pollution drainage conditions that were not properly analyzed in the permitting process. OSMRE and the West Virginia Department of Environmental Protection agreed to develop additional permitting and site monitoring procedures with associated training to address these problems. This effort has not been completed in a timely fashion so the OSMRE Charleston Field Office is considering the more formalized process of an Action Plan.

Use of the Ten Day Notice Procedure for perceived permit requirements

It appears that OSM has now more frequently interjected itself into the permit review and approval process. Historically, such permit processing has been left to the state agency and their discretion.

Jenkins Q21: Why does OSM use the TDN process to involve itself in the permit review process?

Answer: The provisions of SMCRA that set out OSMRE's TDN authority do not distinguish between types of violations; they apply to *any* violation of SMCRA. Thus, permit issues are handled like any other violation under SMCRA. This means that OSMRE generally must issue a TDN whenever: (a) the authorized representative has reason to believe a permit defect exists (whether based on an oversight inspection, an administrative permit review, a citizen's complaint, or any other information available to the authorized representative); or (b) on the basis of a Federal inspection, the authorized representative determines that a permit defect exists and OSMRE has not issued a previous TDN for the same violation. Thus, if a State issues a permit that is in violation of SMCRA, then the permit can be subjected to the TDN process.

OSM Budget

Chairman Rogers asked Secretary Jewell about the additional $5.5 million that OSM requested for its regulatory budget. This is while OSM simultaneously proposes to cut state grants by over $3 million, despite the fact that the states do most of the regulatory work.

Jenkins Q22: What is OSM planning to use the additional $5.5 million for?

Answer: For the Regulation and Technology Account, OSMRE is requesting a net increase of $5.7 million, including funding for fixed costs for pay and other items, and funding for program monitoring and support services.

The 2016 request includes $65.5 million for regulatory grant amounts to States. This request will fully fund State regulatory programs. In recent years, the States have not used all of the appropriated funding and returned regulatory program funds end the end of the fiscal year. For this reason, the budget reflects a reduction of $3.1 million from the enacted level. The OSMRE will utilize recovered funds to support State regulatory programs in the unlikely event that the requested funding is insufficient.

The programmatic increases included in the 2016 request support improvements and investments in technology to better implement SMCRA. These include: additional technical staff to support improvements in the implementation of existing laws and technical assistance to States/Tribes; data applications for electronic permitting and Federal cost recovery; expansion of the GeoMine Project (a coal mining geographic information system) to share data among States, Federal agencies, industry and the public to provide for more efficient, quality decisions; funding to provide to States and universities for technical studies specific to coal mining activities; and dedicated staff, including youth employment opportunities to expand reforestation of reclaimed coal mine sites.

Jenkins Q23: With fewer coal mines in operation today than two years ago, it would seem that OSM should be cutting its own budget rather than increasing it. Has OSM done any analysis of the trends in operating coal mines over the past few years and adjusted its budget to match the trend?

Answer: OSMRE has studied its requirements to review, inspect, and maintain permits as part of its proposed Federal Cost Recovery Rule and has recommended reductions in its budget based on the estimated costs to carry out those functions where OSMRE is the regulatory authority. Where OSMRE conducts State program evaluations, its regions conduct an annual analysis of staffing needs for oversight and inspections based on the number of inspectable units. Personnel work with State regulatory authorities and tribal leaders to develop annual plans. Reductions in compliance reviews due to fewer operations are considered during these discussions. The majority of the increases requested in OSMRE's FY 2016 Budget will invest in technology and technical expertise to support regulatory and reclamation operations.

Jenkins Q24: OSM's own performance projections forecast a reduced workload throughout the agency including a reduction in the percent of active coal mine sites that have off site impacts. The proposed budget also anticipates a reduction in permits submitted to OSM for the coming fiscal year.

With the reduced workload, on what does OSM plan to use the requested $15.8 million budget increase?

Answer: OSMRE does not forecast a reduced workload. While the number of permit applications and active sites may be estimated to decrease, oversight inspections are still required until bond is released on each site. Also, a decline in the number of permitting actions does not portend a decline in OSMRE's workload because the complexity among permits varies. Furthermore, a mine that is not producing coal must still be inspected until final bond release which can take ten years or more. When the coal market is depressed, as it is now, some mine operators do not adhere to regulatory requirements, which causes violations and require additional administrative and on-the-ground work to monitor and track resolution.

OSMRE's budget request includes increases for the following items. Additional information on each item is contained in the FY 2016 Budget Justification.

Increases include:

- + $3,846,000 to Improve Implementation and Support the States and Tribes (+12 FTE);
- + $1,899,000 for Applied Science Projects to advance technologies;
- +$2,500,000 for Expansion of OSMRE's GeoMine Project (+2 FTE);
- +$2,000,000 to Support AML Project Planning (+3 FTE);
- +$1,400,000 for AML Program Evaluation (+3 FTE);
- +$1,000,000 for Expansion of the Reforestation Initiative (+3 FTE);
- +$971,000 for Fixed Costs
- +$750,000 to Support Electronic Permitting;
- +$500,000 for Cost Recovery Data Application;
- +$440,000 for Solicitor Support;
- +$293,000 to Support Project Monitoring of Federal Reclamation Projects;
- +$200,000 for Financial Management Monitoring; and
- +$2,000 for Indirect Cost Negotiations (DOI Working Capital Fund, direct bill).

Jenkins Q25: According to OSM's proposed budget, "States and Tribes regulate about 97 percent of the Nation's coal production and complete over 90 percent of the abandoned mine lands abatement work. Of the 2,300 government employees directly involved on a daily basis in implementing the regulatory and reclamation programs of SMCRA, less than 25 percent work for OSM." States and tribes are doing an increasingly effective job of implementing existing performance standards in recent years, and yet OSM continues to target state grant funding.

What is OSM doing to restore state grant funding?

Answer: OSMRE's budget request of $65.5 million is expected to fund the Federal share of State and Tribal regulatory programs at the maximum level allowable under SMCRA based on the annual return at the end of grant cycles of at least $3 million in appropriated funds. Appropriated prior year funds are also available to support regulatory programs.

Questions from Ranking Member McCollum

Onshore Oil and Gas Inspections

The budget request again includes a proposal for an expanded inspection program for onshore oil and gas operations to be paid for by inspection fees charged to industry. As you know, in the FY 2012 Interior and Environment Appropriations Act, Congress authorized these same inspection fees for offshore oil and gas operations.

McCollum Q1: What steps is the Interior Department taking to improve the onshore oil and gas inspection program?

Answer: The Interior Department is taking numerous steps to improve its onshore oil and gas inspection program. In FY 2011, the BLM initiated a risk-based strategy for prioritizing production inspections. This risk-based strategy allows BLM to maximize its limited inspection resources to meet its inspection goals and requirements. In FY 2014, the BLM performed production inspections on 100 percent of all cases rated as high priority by the BLM. During FY 2015, the BLM has set a goal of accomplishing not only 100 percent of the high priority production inspections, but also 100 percent of all other high priority inspections including drilling, abandonment, work over, idle well, and environmental inspections.

To ensure it retains and attracts qualified employees, the BLM has used pay differential authority for petroleum engineering technicians, as provided in the 2014 Omnibus Appropriations Act, and is working with the OPM on a longer-term administrative solution to ensure it can offer competitive benefits for priority positions that are also in demand in the private sector.

Efforts are also underway to implement various GAO recommendations aimed at correcting and improving the inspection and enforcement program, including efforts to continue to improve oversight and coordination across BLM offices.

Finally, the BLM is working on revising Onshore Oil and Gas Orders 3, 4, and 5 which address how oil and gas is measured and stored in a secure facility to prevent theft and mishandling of production, waste, and beneficial use. These updates will help ensure consistency of practices across offices which will help BLM make its inspection program even more efficient within existing resource constraints.

McCollum Q2: What role would the inspection fees play in implementing these improvements?

Answer: The estimated $48 million in collections generated from the inspection fee will provide a $6.9 million budget increase for these activities. Similar to offshore, the onshore inspection fee proposal would also provide for more stable inspection resources to reduce risk. These funds will allow the BLM to recruit, hire, and train new inspectors. These inspectors are needed to ensure the agency's high priority inspection workload is achieved, to conduct additional production inspections to ensure the proper measurement and reporting of production, and to conduct additional environmental inspections to ensure environmental compliance in all phases of development. This increase will enable the BLM to be more responsive to industry demand and an ever evolving inspections workload.

McCollum Q3: How do the proposed inspection fees compare to the income the oil and gas industry generates from production on Federal onshore lands?

Answer: The BLM does not have proprietary data on the amount of income individual operators generate from production on Federal onshore lands, and how this compares to the amount these individual operators would pay in proposed inspection fees. However, in the aggregate, the oil and gas industry generated approximately $33.3 billion from sales of oil and gas products from onshore lands in FY 2014. The total of $48 million in inspection fees would represent approximately 0.14 percent of the revenues the oil and gas industry generates from onshore lands.

Land and Water Conservation Fund

Last year was the 50th anniversary of the Land and Water Conservation Fund (LWCF), a landmark program that has preserved millions of acres of unique and special lands for the benefit of present and future generations. For the past several years appropriations from the LWCF have totaled a little more than $300 million annually, even as the Administration has requested the full funding of $900 million annually for the program.

McCollum Q4: With the Administration requesting many more projects than have been actually funded, can you tell us how the lack of full funding has impacted Interior's ability to preserve important lands and eliminate inholdings?

Answer: The LWCF enjoys widespread popularity, and there are consistently more willing sellers than available LWCF funding. Yet the program is constrained by uncertainty about annual appropriations and insufficient appropriations. Unpredictable funding has made it increasingly challenging for local, State and Federal managers to engage in multi-year planning to address the development threats facing the nation's most important open spaces, pristine habitats, and cultural sites-the lands and waters that support vibrant outdoor economies, provide community recreation opportunities, and preserve our history. Dozens of valuable conservation opportunities are passed over each year when appropriations do not meet the level of the budget request. Limited funding also forces the agencies to complete larger acquisitions piecemeal, which is inefficient and ends up costing more money in transaction and administrative costs in the long run.

At St. Marks National Wildlife Refuge in Florida, the Fish and Wildlife Service had the opportunity to acquire 14,679 acres valued at $32.8 million in FY 2013 which contains unfragmented habitat for a variety of federally-listed endangered and threatened species. If sufficient LWCF funding had been available in FY 2013, FWS could have acquired the acreage at a greatly reduced cost; and the Service would not incur additional overhead expenses for separate land appraisals, title searches, and closings for partial acquisitions. The FY 2016 budget requests $12.0 million to purchase 33 percent of the acreage, leaving 67 percent of this habitat vulnerable.

In FY 2015, the National Park Service requested $776,000 for acquisition of inholdings at Acadia National Park which were not appropriated. As a result, the Maine Coast Heritage Trust (MCHT), a partner in land protection within Acadia NP, continues to hold the 5 acres it purchased to protect land for Acadia NP, limiting their flexibility to address other opportunities at the park. If the appropriation had occurred, NPS would have purchased the 5 acres from MCHT, they would have had funds available to acquire a tract of land, within the park and completely surrounded by NPS land, which recently went into foreclosure. Unfortunately, without available capital, MCHT was not able to acquire this property and it was recently acquired by an investor for development. This piece of land is visible from a major island highway on Mount Desert and commands scenic views on either side with undisturbed wildlife habitat. Development will fragment the habitat.

The Bureau of Land Management FY 2016 request includes $3.3 million to acquire 621 acres for the Agua Fria National Monument in Arizona. The property is a significant Monument inholding, and is highly threatened by rural residential development. The acquisition includes more than a mile of Agua Fria River riparian habitat, and a substantial number of water rights. This stretch of the Agua Fria River is habitat for several endangered and State and Bureau sensitive species including but not limited to: Gila Chub, Gila Topminnow, Longfin Dace, Speckled Dace, Lowland Leopard Frog, Gila Monster, Yellow-billed Cuckoo, and Zone-tailed Hawk. The upland portions of the property encompass numerous pueblo ruins, rock art sites, and artifact scatters. The property is highly scenic and includes dense stands of saguaro cacti, and other rare plant species. This acquisition is a high BLM priority due to its natural resource values, new public access opportunities, water rights, and the proximity to the Phoenix metropolitan area. If sufficient funding is not available the BLM risks losing management efficiency and the preservation of Monument values and objects, including open space, a flowing stream, riparian habitat, recreation opportunities, and cultural resources.

McCollum Q5: Are we losing important lands when willing sellers end up selling to others because they can't wait for federal funding?

Answer: Inholding properties for sale within Federal lands are in high demand because of their scenic and recreation value, and agencies miss opportunities to purchase important inholdings when funding is not available when a property owner is ready to sell. Sometimes third parties can act quickly to act as a bridge until funding becomes available, but too frequently, the opportunity to protect inholdings in our national public lands is lost when funding does not come through. The following examples illustrate these challenges.

At Umbagog National Wildlife Refuge in New Hampshire, the FWS signed an option to acquire land and requested $3.2 million in LWCF funding in 2010 and 2011 for the Androscoggin Headwaters Phase 1 acquisition at the refuge. The Service received $1.0 million in FY 2010, but the option expired in December 2010. The seller declined to extend it because Congress had not yet enacted the FY 2011 appropriation for the remaining portion. The Trust for Public Land stepped in, acquired the land from the seller, and held it for six months until the Service received a FY 2011 appropriation. TPL conveyed the property to the Service in June 2011. This is a typical example of a conservation partner assisting the FWS to protect land so the opportunity is not lost for lack of timely funding.

However, a recent example in Georgia's Kennesaw Mountain National Battlefield Park is illustrative of instances when, despite the active assistance of other parties, important land acquisition opportunities are lost. In this instance, the property identified for acquisition consisted of 16.2 acres and was the last private undeveloped in-holding within the authorized boundary of the Kennesaw Mountain National Battlefield. The Trust for Public Land (TPL) and the National Park Service worked jointly to try to acquire this property in 2010, when it became available. The TPL obtained an option on this property in 2012, but without Federal funding, they were unable to exercise the option and it expired. Frustrated, owners put the property on the open market. Despite efforts to secure private donors, the owners received an offer from a developer above their asking price. The property was sold and has been developed into "The Farm at the Retreat" subdivision which consists of six high-end single family homes.

Water Availability

Water availability has become a major issue for much of the nation. To help address this issue, the budget request includes $89 million for WaterSMART.

McCollum Q6: How would these funds be used to help the country manage its water resources?

Answer: Interior's collaborative WaterSMART initiative works to secure and enhance water supplies to benefit people, the economy, and the environment, and identifies adaptive measures that help to address climate change and future demands. The Department's 2016 budget includes $58.1 million for water sustainability efforts through the Bureau of Reclamation, an increase of $7.5 million from the 2015 enacted level. The budget also includes $31.0 million for the U.S. Geological Survey WaterSMART Availability and Use Assessment initiative, a $14.6 million increase from the 2015 enacted level.

Interior will continue efforts to promote sustainable water strategies and improve water management through science, collaboration, and cooperation. These approaches are demonstrated through further implementation and development of the Water Census, Reclamation Basin Studies, WaterSMART Grants, Water Reclamation and Reuse projects, Cooperative Watershed Management programs, and a new Drought Response program. Comprehensive basin-wide approaches such as these are critical to assess water demands, evaluate the availability of and risks to water supplies, and plan for the impacts of reduced availability and increased demands in collaboration with Interior's partners.

In 2016, Reclamation anticipates funding one or two new basin studies in the western U.S. and one new West-wide climate risk impact assessment, seven Water Reclamation and Reuse projects, over 40 new WaterSMART Grant projects, and establish or expand four to six watershed groups. Reclamation proposes to increase the Drought Response program begun in 2015 with drought planning and implementation actions such as water marketing solutions to address municipal water shortages, installing water measurement devices to improve efficiency and measure drought impacts, and other small-scale improvements to increase water supply reliability. Additionally, Reclamation will continue implementing the Resilient Infrastructure program, through which Reclamation proactively maintains and improves existing infrastructure

for system reliability, safety, and efficiency for water conservation to prepare for new weather extremes and support healthy and resilient watersheds.

The USGS produces critical data, studies, and information to help inform water management and balance competing needs for water. One of the primary WaterSMART activities conducted by the USGS is the National Water Census. An important component of Interior's water sustainability strategy is to inform the public and decision-makers about the status and changes over time of the Nation's freshwater resources. The USGS National Water Census works to provide a more accurate picture of the quantity and quality of the Nation's water resources for beneficial uses and provide a basis for improved forecasting of water availability for future economic, energy production, and environmental uses. Through this effort, USGS works directly with stakeholders to identify and address critical information gaps needed to inform management decisions and uncertainties.

The USGS research conducted under WaterSMART includes characterizing long-term trends in streamflow, assessing groundwater availability, quantifying water losses to the atmosphere, estimating water use requirements, and developing tools to understand the ecological impacts of changes in water availability. Three USGS Geographic Focus Area Studies in the Apalachicola-Chattahoochee-Flint Basin, the Colorado River Basin, and the Delaware River Basin, are an important part of this effort. They contribute to ongoing assessments of water availability in large watersheds with potential water use conflicts, provide opportunities to test and improve approaches to water availability assessment, and inform and ground truth the Water Census with local information. These studies enabled researchers to adopt a place-based approach to integrate diverse lines of scientific investigation while integrating feedback from stakeholders on their science needs and most critical uncertainties.

Interior is also continuing its partnership with the Environmental Protection Agency in the Urban Waters Federal Partnership to restore urban waterways and reconnect city populations with flowing rivers and streams in their immediate neighborhood. Cleaning up and restoring local water resources is essential to human health, the economic vibrancy of communities, and an overall improved quality of life.

Question from Mr. Kilmer

Lahar Detection and Warning System

According to the USGS, Mount Rainier in my home state is the most dangerous active volcano in North America. A lahar event at Mount Rainier could result in significant loss of life and billions of dollars in economic impacts. The current lahar detection and warning system at Mount Rainier only covers only two of the six river valleys off Mount Rainier and the technology has reached its "End of Life." There is a collaborative effort in my home state among regional, state, and local entities to find a comprehensive solution that will cover all six river valleys with new technology and modern capabilities.

Kilmer Q1: Can you discuss whether the Department supports investing in the modernization of a lahar detection and warning system at Mount Rainer? What plans does the Department have for upgrading this system?

Answer: In 2005, the USGS embarked on creating a National Volcano Early Warning System (NVEWS). The purpose of the initiative is to improve the monitoring and alerting infrastructure at U.S. volcanoes that present the highest threats to nearby communities and the aviation sector. Not surprisingly, snow and ice covered Cascade volcanoes like Mount Rainier were found to be among the highest threats owing to their explosive nature, nearby population and infrastructure, and history of producing far-traveled destructive lahars. The current lahar detection system in place on the Carbon and Puyallup Rivers was designed by the USGS more than 15 years ago and was installed by the USGS and Pierce County. Since installation, the system has been operated and maintained by Pierce County with technical assistance from the USGS. As components have aged and become obsolete, the current system is at the end of its usable service life. Pierce County has dedicated funds to upgrade the lahar detection system on the Carbon and Puyallup Rivers this year. The USGS is working closely with Pierce County in an advisory capacity on this upgrade.

In 2007 and 2008, the USGS improved the overall Mount Rainier monitoring network to a basic level. For the foreseeable future we will be addressing serious shortfalls in monitoring capability at Mount Hood, Glacier Peak, Mount Baker, and Mount Adams, before returning to undertake an overhaul of the Rainier network including the lahar system. USGS will continue to advise and work with Pierce County to modernize the system.

Questions from Mr. Israel

Wildlife Trafficking

We'll have a chance to talk to Fish and Wildlife Service Director Dan Ashe in a few weeks, but I wanted to ask quickly about wildlife trafficking issues. I think all of us here agree that this is a major issue that we need to be doing more to confront, even if we don't always necessarily agree on how to do it.

Israel Q1: Do you feel as though the Fish and Wildlife Service has the necessary tools in their toolbox to address wildlife trafficking?

Answer: Wildlife trafficking is a difficult problem and as such, requires cross-government coordination to address the issue. Over the last several years, the Federal government—with FWS as a key participant—has engaged in interagency discussions to develop a government-wide strategy for combating illegal wildlife trafficking. The culminating strategy—the National Strategy for Combating Wildlife Trafficking spells out three strategic priorities for the U.S. government: Strengthening enforcement; Reducing demand for illegally traded wildlife; and Expanding international cooperation and commitment.

FWS is committed to advancing these strategic priorities. For example, the FWS has already taken several steps to strengthen regulatory controls over import, export, and sale of African elephant ivory, rhino horn, and specimens of other protected species, and we are exploring additional ways to strengthen wildlife laws and regulations to better position the Service to address wildlife trafficking.

The FWS Office of Law Enforcement (OLE), in cooperation with the Department of State, is building its international presence and influence by placing several international special agent attachés overseas. The first is already in place in Thailand. Three pending selectees will be placed in Botswana, Tanzania, and Peru, FWS is working to obtain approval for an attaché position in China—a key player in much of the demand for illegal wildlife and wildlife products. Additionally, OLE is training African and Asian wildlife officers; increasing the intelligence shared among law enforcement agencies with common missions; enhancing the targeting of illegal wildlife shipments; and implementing wildlife detector dogs that support frontline wildlife inspectors and special agents.

The FWS International Affairs Program is also actively engaged in combating wildlife trafficking, increasingly targeting FWS's species programs and regional grants programs to support on-the-ground efforts to protect wildlife in range states and reduce demand for illegal wildlife products in consumer countries. By providing direct support for conservation projects, and harnessing matching funds, FWS is scaling up wildlife law enforcement, demand reduction, and international cooperation efforts around the world. The FWS is also currently developing a multi-year program of work to build the capacity of key countries in West and Central Africa to effectively implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the only international agreement focused on regulating wildlife trade.

The FWS is also working to decrease domestic demand for illegal wildlife products. The FWS is working to build a diverse coalition of partners from across sectors and specialties to address the U.S. role as a significant consumer market. Over the next year, FWS will evaluate and assess the domestic market for illegal wildlife products, identify key consumer groups and target audiences, and develop and launch messaging that will resonate with those audiences.

As mentioned, FWS initiatives to combat wildlife trafficking are coordinated with a government-wide program of action including other Federal agencies and offices. One way the United States. is strengthening international commitment in this area by pressing for pioneering commitments to combat wildlife trafficking and illegal logging in the Trans-Pacific Partnership (TPP) agreement currently being negotiated between the U.S. and eleven other countries in the Asia-Pacific region, including many of the world's fastest growing economies. This effort is led by the Office of the U.S. Trade Representative with advice from an interagency group including the Department of the Interior and FWS. The President is working with Congress to pass Trade Promotion Authority so we can finalize the TPP.

Current violations for most wildlife trafficking laws carry only a maximum one-year sentence and minimum fines. Additional tools are needed as a means of deterrence to combat global wildlife trafficking such as increasing the penalties for conducting illegal trade. Granting the Federal government the authority to prosecute a criminal violation of the Endangered Species Act, the African Elephant Conservation Act, or the Rhinoceros and Tiger Conservation Act with more stringent fines and sentencing will further deter would-be poachers.

Israel Q2: Are we in a place where more funding for the Office of Law Enforcement would be effective or do we need to go to work on the authorization side as well?

Answer: The President's budget for 2016 includes sufficient funding to accomplish the Department's strategic goals. As proposed, the 2016 budget would provide an extra $8.0 million and 45 FTEs for the Office of Law Enforcement (OLE), as compared to 2015 Enacted. These new personnel will provide the capacity needed to better combat and pursue traffickers of natural resources and enhance our working relationships with domestic and international partners.

Half of that increase, $4.0 million and 25 FTEs, is requested to improve OLE's capacity to fight wildlife trafficking. These additional funds and Special Agents are proposed to support:

- Ten Intelligence Analysts to increase OLE's information analysis capability, create liaisons with Federal intelligence and law enforcement agencies, and address and pursue electronic illegal activities;
- Ten Special Agents, assigned domestically and internationally, to focus on illegal electronic commerce and enhance relationships with other Federal, State, local, and foreign government agencies;
- Five Special Agents, assigned to the Digital Evidence and Recovery Computer Forensics lab in Jacksonville, FL, to identify suspects and protect the integrity of cyber investigations.

The remainder of the requested increase in the 2016 request for FWS OLE, $4.0 million and 20 FTEs, is to address the drastic shortfall of Special Agents needed to enforce the Nation's wildlife

laws, such as the Lacey Act; perform ongoing investigations; and address concerns of officer safety. The additional FTEs will address concerns for the personal safety of FWS agents and improve the capacity to investigate illegal activities. These additional 20 agents would greatly assist the ever-growing need for field deployments for direct interdiction of illegal commercial exploitation by organized crime elements.

Renewable Energy

The Department has made great strides in advancing responsible renewable energy development on public lands. These large-scale renewable energy projects are beneficial to our economy, climate and energy security, but can still have leave an impact on nearby communities and our public lands even when sited in the right place.

Israel Q3: How can we ensure that renewable energy development on public lands move forward in a way that benefits local conservation efforts, the people who use and rely on public land for recreation, and local communities living near development?

Answer: Public involvement is a vital component of the BLM Renewable Energy Program. The BLM has employed a "Smart from the Start" approach to responsible renewable energy development that has made it possible to site projects in areas with high potential for renewable energy generation and where they are compatible with protection of public landscapes, important resource values, and public uses. Landscape level planning efforts like the Western Solar Plan, the Arizona Restoration Design Project, and the ongoing California Desert Renewable Energy Conservation Plan are essential to ensure that all sectors of the user public are engaged in the "Smart from the Start" process. To further institutionalize the "Smart from the Start" approach to renewable energy development, the BLM is also in the process of developing a competitive leasing rule for wind and solar leasing to promote renewable energy development in designated leasing areas that have strong renewable resources, access to existing or planned transmission infrastructure, and few resource and use conflicts as identified through landscape level planning processes. The lessons learned through these partnerships with industry, State and local governments, and various user groups help to ensure wise renewable energy development that benefits the public and protects sensitive landscapes.

Land and Water Conservation Fund

I am concerned that the Land and Water Conservation Fund's authorization will expire in September without Congressional action. Many important conservation projects have been funded through LWCF over the years, and I know it has been an essential tool for your agency to conserve exceptional places not fit for development.

Israel Q4: From your perspective, what do we need to do to ensure that LWCF is reauthorized and that sufficient LWCF funding remains available?

Answer: The Administration has proposed reauthorizing the LWCF Act with full, mandatory funding. Private property owners and partner organizations across the country are working together with Interior agencies on plans to conserve lands for the public under LWCF. It is

important that Congress reauthorize the law before it expires on September 30, 2015, to ensure continuity of the program.

The Administration has proposed making LWCF funding permanent to increase the financial certainty needed to build and enhance local and community conservation partnerships and optimize valuable investments by leveraging other federal and non-federal funds. Permanent appropriations will support the efficiencies demonstrated by the LWCF programs and facilitate a more predictable, transparent and inclusive process. Permanent funding will also finally achieve the original intent of the LWCF Act: to dedicate a meaningful portion, $900 million, of the royalties private companies pay to access the nation's offshore oil and gas reserves, to preserving the nation's lands and waters for the benefit of all Americans, now and in the future.

National Park Service

I was very glad to see a significant increase in funding for deferred maintenance in the National Park system. These historic sites and natural wonders show off the best of our country, and we should treat them as such.

Israel Q5: Can you talk briefly about the importance of increasing NPS funding, both for deferred maintenance and the upcoming centennial?

Answer: The deferred maintenance backlog remains a top priority of the NPS, however, current funding levels are insufficient to maintain the backlog in a steady state, let alone reduce it. At the end of FY 2014, the deferred maintenance backlog stood at $11.5 billion; of this $2.2 billion is due to deferred maintenance on the NPS' highest priority non-transportation assets. The deferred maintenance request is the largest component of the Centennial Initiative in the FY 2016 President's Budget Request. The NPS proposes a discretionary increase of $242.8 million and mandatory funding of $300.0 million annually over three years. If fully funded over ten years, these funding levels would restore all of the highest priority non-transportation assets to good condition. Equally important, they would also provide the funding needed to maintain them in good condition through ongoing cyclic maintenance.

The remaining increases proposed as part of the FY 2016 Centennial Initiative are targeted, strategic requests to ensure parks are prepared for a second century of welcoming visitors and managing our nation's premier natural and cultural resources. This includes $8.0 million to provide additional seasonal rangers to the parks. Seasonals are often the face of the national parks for visitors, and are a cost-effective way to maintain a ranger presence in peak visitor seasons. However, the flexible nature of their employment often means these positions are reduced when fixed costs are absorbed. The request also proposes $13.5 million to support new parks and critical responsibilities, including funding for the newest units authorized in the National Defense Authorization Act of 2015.

The request also supports important youth and volunteer engagement programs, with $20.0 million to support the Every Kid in a Park Initiative and $2.0 million to expand our volunteer management capacity. These funds would help bring more than one million students from urban Title 1 elementary schools to nearby national parks, and update and expand our existing

programming to ensure youth and their families were welcomed to national parks, whether through digital outreach, or in-park experiences like guided hikes and tours and Junior Ranger programs.

Finally, the Centennial Initiative includes a request to expand the Centennial Challenge, an innovative program that requires a minimum 1:1 non-federal match to accomplish signature projects and programs in national parks. Funded at $10.0 million in FY 2015, the FY 2016 request includes a discretionary increase of $40.0 million and a mandatory proposal for $100.0 million annually for three years. As the NPS enters its Centennial year, garnering partner support will be instrumental in preparing park sites across the country for increased visitation and for investments in priority park assets; this project funding will strengthen existing partnerships and draw new ones.

The NPS' top priority every year is full funding for fixed costs. The FY 2016 request includes $26.7 million for fixed costs, as well as a programmatic increase to cover the cost of extending federal healthcare benefits to seasonal and temporary employees. When fixed costs such as these are not supported in the enacted appropriation, parks have to absorb the costs within their base budgets, reducing their operational capacity and flexibility to address priorities and emerging issues.

Sandy/Resiliency

Hurricane Sandy caused devastation along the East Coast, including in my district, and we learned first-hand about the importance of climate resiliency. Real on-the-ground progress is needed to restore and strengthen beaches and tidal marshes and other ecosystems which provide storm damage reduction benefits, as well as ecological restoration, and economic opportunities.

Israel Q6: How is the Administration investing in climate resiliency in the DOI budget?

Answer: Understanding and preparing for the impacts of a changing climate is an Administration priority, and one in which Interior plays a critical role as both a land manager and as a partner to States, Tribes, and local governments. The budget for DOI invests in increasing the resilience of communities and ecosystems through six targeted programs described below.

1) Coastal Resilience Fund: The budget proposes a new $50.0 million competitive grant program to support the restoration and conservation of key natural ecological systems, such as beaches, dunes, and wetlands that protect communities and infrastructure from the impacts of coastal storms and sea level rise. Modeled after the Hurricane Sandy Competitive Grant program, this program will fund projects that restore natural systems to support both ecosystem and community resilience, focusing on projects with a physical or ecological nexus to Federal lands. In addition to yielding risk reduction and ecological benefits, this program will also enhance our understanding of the impacts of extreme weather events; the benefits of nature-based infrastructure and ecosystem services, and identify cost-effective, resilience tools to help mitigate future events. This program will incorporate monitoring and performance requirements and will help add to the growing knowledge base on the performance of natural approaches to reducing coastal risks.

For an example of the type of project that could be funded under this new program, one can look to the Hurricane Sandy Competitive Grant Program. One funded project was the Fish and Wildlife Service's living shoreline project, which will increase coastal resilience by restoring 337 acres of salt marsh and adjacent uplands on Delaware Bay. The bay was flooded during Hurricane Sandy, eroding salt marsh habitat that is important to wildlife and helps to reduce the impact of coastal storms.

2) Challenge Cost Share: The Challenge Cost-Share program is a 50/50 partner matching program that funds projects mutually beneficial to public lands and the cost-sharing partner. The Department proposes $30.0 million—split evenly between the Bureau of Land Management, National Park Service and Fish and Wildlife Service—to leverage non-Federal investments in projects that increase the resilience of landscapes to extreme weather events with a focus on inland challenges, including wildfire, flooding, and drought.

3) Tribal Lands Resilience: Interior will provide government- wide leadership and funding to Tribes in support of climate preparedness and resilience. Criteria for tribal funding will be developed and prioritized in consultation with Tribes, Alaska Native Villages. Funds will be used to develop science tools and training, conduct climate resilience planning, and implement actions to build resilience into infrastructure, land management, and community development activities.

4) Insular Areas Resilience: Interior will work with other Federal agencies serving the insular areas to support island communities in planning, preparing, and responding to the impacts of climate, including sea level rise. Climate change is an immediate and serious threat to the U.S.-affiliated insular areas. By their geography and mid-ocean locations, these island communities are on the frontline of climate change, yet among the least able to adapt and to respond to the expected far-reaching effects on island infrastructure, economic development, food security, natural and cultural resources, and local culture. An additional $7.0 million is requested to address needs in the insular areas related to sea level rise by supporting development of infrastructure and community resilience initiatives.

5) Water Resources Resilience: The Bureau of Reclamation supports resilience in water management through a number of initiatives, including expanded drought planning to effectively respond to severe drought conditions by incorporating a competitive process with prioritization criteria. Another initiative emphasizes Reclamation's efforts to prepare for the impacts of climate change on its own infrastructure. It is essential that Reclamation proactively maintain and improve existing infrastructure for system reliability, safety, efficiency, and water conservation, particularly given the likely scenarios for disruption to normal operations due to drought, flooding, and perturbations in the weather patterns.

6) USGS Coastal Change Hazard Portal: The USGS launched a new Coastal Change Hazard Portal in 2014 to allow online access to information to help understand vulnerability to extreme storms, sea level rise, and shoreline change at local, regional, and national scales. The portal will help as communities seek to take action to increase the resilience of the Nation's coasts. In 2016, USGS will build on datasets, regional geologic studies, and models of coastal change and vulnerability developed and enhanced with supplemental funding in the aftermath of Hurricane Sandy.

Questions from Mr. Quigley

Great Lakes Fishery Research

The current U.S. Geological Survey budget includes a $250,000 increase to the budget for fishery research within the Great Lakes through the Great Lakes Science Center. The U.S. Geological Survey is responsible for the fishery research, science and monitoring that sustains the $7 billion Great Lakes fishery.

Quigley Q1: Given the decline in the USGS Great Lakes Science Center budget since FY2009, how will this small budget increase provide sufficient support for furthering the science in the Great Lakes?

Answer: The USGS Great Lakes Science Center (GLSC) is responsible for providing the best available science for Great Lakes fisheries management by States, Tribes, and Canadian Provinces. For more than a decade, the USGS has prioritized and balanced the science portfolio of the Center to address Great Lakes science needs. Within the GLSC, the USGS has advanced the deep water science program through targeted increases, building three new research vessels at a cost of $14.6 million, three new laboratories to support the deep water research program at a cost of $15.4 million, and approximately $4.8 million targeted for docking facility upgrades and construction. Through these targeted increases in the GLSC, the USGS has successfully upgraded or replaced all large research vessels and support facilities at a cost of nearly $35.0 million.

The USGS will work to optimize these investments to reduce operational costs, overcome winter ice/seasonal restrictions for sampling, and improve safety for the crew, vessels, and the environment. The GLSC is currently initiating a program to adapt or develop new technology for those vessels to provide better, faster, cheaper, safer, and greener data. This process began in 2014 with a $125,000 investment to hire a research scientist whose primary job is to build new partnerships with other Federal agencies, academia, private industry, and non-governmental organizations. These partnerships will take full advantage of rapidly advancing tools and technologies already coming online, tools and technologies that will allow the ability to see and understand biological systems and processes at scales that even a few years ago could never have been imagined.

Such tools and technologies are emerging every day, tools that will greatly enhance the scope and scale of GLSC sampling capabilities and optimize USGS investments. The proposed increase of $250,000 is an investment in the implementation of an advanced technology program capable of providing 21st Century scientific information to support management of the incredibly valuable Great Lakes fisheries. The technology program builds on successes and discoveries from other fishery research agencies and other scientific disciplines to gather needed management information, and demonstrates the Administration's commitment to innovative research, monitoring, and technology within the Great Lakes region.

Quigley Q2: How will the DOI and the USGS further support adoption of innovative technologies, already in use in marine systems, to more efficiently and effectively monitor and manage the Great Lakes fisheries?

Answer: The USGS is leading the way, building new partnerships with colleagues on the Atlantic and Pacific coasts, to investigate innovative and advanced technologies being used in ocean environments and to identify novel and exciting possibilities for applying those technologies to more efficiently and effectively monitor and assess Great Lakes fisheries.

The USGS has begun to shape new partnerships, leverage resources, and develop strategies with cooperators to bring greater attention to this topic in the Great Lakes region. Partnerships have formed with Michigan Technical University, the Monterey Bay Aquarium Research Institute, the Woods Hole Oceanographic Institute and Coastal and Marine Science Center, the NOAA Advanced Sampling Technology Working Group, the NASA Ames Research Center, and the USGS Innovation Center for Earth Sciences. Plans are developing for methods to deploy new technology from the USGS Great Lakes research vessel fleet, such as unmanned remote sensing platforms, including long-range autonomous underwater vehicles and mini-underwater labs called environmental sample processors. The USGS has already deployed test sensors offshore from the beaches of Indiana and Illinois with local partners. Lake Erie, offshore from Ohio, represents 50% of the $7.0 billion per year Great Lakes fishery. This region would likely benefit significantly from continued development and deployment of the advanced technology initiative targeting key management questions for those waters. The importance of developing a better understanding of remote waters offshore from Minnesota and Wisconsin in Lake Superior, at scales previously unimaginable, will also be critically important for the characterization of historical reference conditions and comparisons across all the Great Lakes.

The USGS is on the cutting edge of a scientific and technological revolution that will support management of Great Lakes fisheries more effectively and more efficiently than ever before. The Administration's FY 2016 budget represents an important investment in science and technological advancements needed to assess and monitor the precious biological resources so important to economies throughout the Great Lakes region.

State Invasive Species Plans and Regional Panels

The current FY2016 budget noted an increase of $42,000 for the implementation of State Invasive Species Plans and Regional Panels.

Quigley Q3: How will that funding be divided among implementation of the state plans and regional panels?

Answer: The Nonindigenous Aquatic Nuisance Species Prevention and Control Act (NANPCA) of 1990 as amended by the National Invasive Species Act of 1996 authorized $300,000 for the Aquatic Nuisance Species Task Force (ANSTF) Regional Panels. Regional Panel funding was reduced by $60,000 due to sequestration cuts in FY2013, and the ANSTF has identified the restoration of these cuts as essential for both its work and its Regional Panels. Accordingly, the entire increase will be directed towards Regional Panels to partially restore these cuts.

Quigley Q4: What additional efforts within the FY2016 budget request will support the states and their on-the-ground efforts, coordinating efforts, and their approved state/inter-state AIS management plans?

Answer: The 2016 President's budget request supports a number of State initiatives beyond the State/Interstate Aquatic Nuisance Species Management Plans authorized under NANPCA. The 2016 President's budget request includes:

- $7.9 million for Asian carp in the FWS budget, an increase of $2.4 million. This funding will be used to develop and implement high priority management efforts to address the threats posed by Asian carp to the Great Lakes, the Mississippi River and its tributaries, including activities that are part of State AIS management plans.
- $2.0 million for Aquatic Invasive species prevention, an increase of $669,000. This funding will support additional risk assessments for use by Federal, State, and tribal governments, as well as other stakeholders and partners, to identify and prevent the establishment and spread of invasive species in the United States. This funding will also enhance FWS's ability to list injurious wildlife and, when combined with additional prevention actions, will reduce the need for States to conduct costly AIS management actions.
- $1.0 million to sustain ongoing efforts by States and others to implement the Quagga-Zebra Mussel Action Plan in the West. In addition, $1.0 million is requested for grants to States for implementation of State/Interstate ANS Management Plans for Quagga-Zebra Mussel.

Quigley Q5: Are there challenges to the Department of Interior, and specifically the USFWS, ability to state/interstate aquatic invasive species management plans?

Answer: Historically, the States have requested more funds than are available to fund an increasing number of approved Plans. The requested increases will be used to help support critical prevention activities and address management actions for some of the invasive species in the Plans. For example, we will develop and implement high priority management efforts to address the threats posed by Asian carp to the Great Lakes, the Mississippi River and its tributaries, including activities that are part of State AIS management plans. The requested increase will also support Regional Panel coordination which will improve strategic efforts on the ground for invasive species, and prevention and outreach activities to help mitigate the need for future invasive species control and management efforts.

The FWS continues to seek and implement other opportunities to support State efforts to reduce the risks of the establishment and spread of invasive species. The FWS provides national coordination, leadership, and technical skills necessary to enable the States to make more effective decisions and take action on-the-ground. For example, FWS processes environmental DNA samples received from States and other partners through its Whitney Genetics Lab in La Crosse, Wisconsin. The FWS is also working collaboratively with industry and others to encourage voluntary actions that will raise public awareness and help reduce the threat posed by invasive species.

THURSDAY, FEBRUARY 26, 2015.

ENVIRONMENTAL PROTECTION AGENCY

WITNESSES

GINA McCARTHY, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

DAVID BLOOM, ACTING CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY

OPENING REMARKS OF CHAIRMAN CALVERT

Mr. CALVERT. Good afternoon and welcome to the fiscal 2016 budget hearing for the Environmental Protection Agency. Before we begin I just wanted to let everyone know that we are expecting votes at some time. I do not know when. So I hope we can get through the opening statements before then and I hope that there are only two votes, so we will just have a short recess and come right back. I would like to thank every one in advance for their patience.

Good afternoon and welcome to the fiscal year 2016 budget hearing for the Environmental Protection Agency. Today we are joined by Administrator Gina McCarthy and Acting Chief Financial Officer David Bloom to discuss the President's proposal for EPA's FY 2016 budget. Welcome to the both of you.

Last year, the President proposed a budget that operated within the boundaries of the bipartisan Ryan-Murray Budget Agreement that established how much the Federal government could spend. That budget proposal offered some choices which we agreed with and many others which we did not agree with.

This year, the President sent a budget to Congress that substantially increases both the national debt and the deficit, and fails to balance. Also with this year's budget the administration has shown a willful ignorance for existing spending caps by proposing to spend $74 billion more than what current law allows. It is out of bounds and it offers unrealistic expectations for discretionary spending. Therefore, I suspect that a policy discussion will dominate today's hearing given that there is little merit in discussing the agency's proposed budget in depth.

EPA's budget request is $700 million more higher than it was last year. I am skeptical that the agency needs $700 million more than last year's request, but there is an additional $74 billion in the President's budget, so it had to be spent somewhere. If enacted, this would be EPA's third highest budget ever, falling behind fiscal years 2010 and 2011, and we have no interest in returning to those spending levels.

The agency is proposing to hire more lawyers to work on more rules in what would be the largest regulatory budget ever. Mean-

while, the budget again proposes cuts for water infrastructure and Great Lakes funding.

Further, the budget again proposes to cut diesel emission reduction grants despite the fact that only 30 percent of trucks and other heavy-duty vehicles have transitioned to cleaner technologies. We need to follow the science and increase funding for the DERA Program to accelerate the replacement of older engines with newer, cleaner engines.

So for a multitude of reasons, the President's budget is not a serious proposal. It cuts bipartisan programs in order to fund a partisan agenda. Thankfully, Congress will have the final say.

Turning to policy, you may recall that we had a lengthy debate last year about the proposed Waters of the U.S. Rule, which I believed helped alert the general public to several critically flawed assumptions and proposals within the rule. That debate has intensified, to say the least, throughout the past year, prompting more than one million public comments on the proposed rule and congressional direction to EPA and the Corps of Engineers in the fiscal year 2015 Omnibus to withdraw the interpretive rule.

Also, debate has continued on the greenhouse gas power plant rules, prompting some serious questions about whether EPA has the legal authority to embark on what had been proposed, and those legal questions remain unresolved. When the President directed your agency in June 2013 to propose a rule to regulate greenhouse gases from existing power plants by June 1, 2014, then it is clear that the White House has little interest in how the rule is structured, what the rule says, or the impacts the rule has on American jobs. The White House is more interested in circulating a regulation on a timeframe that is convenient for a term-limited administration.

Similarly, when the White House directs you to finalize a regulation by June 1, 2015, then I question whether the administration has any interest in giving you the time you need to incorporate what the States and public have to say. The White House has locked your agency into an arbitrary deadline in order to lock the rest of the country into yet another bad decision on its watch.

Just last month, the agency indicated that more time was needed to review more than one million comments on the greenhouse gas rule. And shortly thereafter, some groups criticized EPA for stalling. The June 1st deadline is a manufactured deadline. The agency is trying to do too much too fast and the consequences will be too costly.

So we disagree in the strongest possible terms with the agenda this administration has adopted for your regulatory programs. This anti-jobs, pro-regulatory scheme has forced the agency to set aside day-to-day permitting operations consistent with your statutory responsibilities in order to pursue a grossly unpopular agenda that, if implemented, would be devastating to our national economy.

You have a tough job, Administrator McCarthy, and I know you are going to have to defend the indefensible here today. We all want clean air and clean water and a strong, robust economy. It is not a Republican or Democratic issue, and I know that is something you have often said. We both want a healthy environment and job creation, and we just disagree on the best way to achieve

those outcomes, but it starts by living within our means. The people I represent in California have to live on a budget that reflects what they can afford and so, too, does the Federal government.

Now, I know all the Members are interested in discussing various issues with you today, so I will save additional remarks for the period following your testimony. I am pleased now to yield to my friend and our distinguished Ranking Member, Ms. McCollum.

OPENING REMARKS OF MS. MCCOLLUM

Ms. MCCOLLUM. Thank you very much, Mr. Chairman. And I join you in welcoming Administrator McCarthy to the subcommittee this afternoon.

The Environmental Protection Agency has a vital and important mission: protecting human health and the health of our environment. And that means clean air and clean water for our families and for our children.

The EPA does not exist to kill jobs. Rather, the EPA plays a critical role in our economy. The EPA does this by leveling the playing field, ensuring that honest, hardworking men and women and their families do not have their lives or livelihoods put at risk by unscrupulous polluters. It also provides clear and consistent regulation to tackle complex issues across State and national borders.

In 1990, Congress amended the Clean Air Act so that the EPA could address acid rain, urban air pollution, and toxic air commissions. Through a coordinated effort with industry, State and local governments, the EPA has made substantial progress in all of these areas. Nationwide air quality has improved significantly and there has been a dramatic reduction in the effects of acid rains in our community.

The EPA succeeded in addressing some of this country's most intractable environmental challenges and now it must turn its attention to the most pressing environmental crisis of our generation: climate change. The effects of climate change are real and they are being felt by Americans every day. According to NASA, climate change is causing drought, increasing forest fire frequency in the west and flooding in the Midwest, and declining water supplies in the Southeast. In fact we are spending more and more money in other parts of the Interior bill to cope with the devastating effects of climate change.

Since 2013, fire costs have risen in the Interior bill by $1.5 billion. In addition to that, in fiscal years 2013 and 2014, we also had to provide over $1 billion to repay fire costs in previous years because the fire outpaced the appropriated amounts. It's raging wildly.

It makes no sense for us to short change the EPA or the funds necessary to address the challenges of climate change when a strong Interior budget depends upon reducing the disastrous impacts of climate change. The President's fiscal year 2016 budget requests $8.59 billion for the EPA. That amount is $451 million above fiscal year 2015.

Administrator McCarthy, it is very encouraging for me that this is the first time that the EPA is requesting an increase in its appropriation. With the way that the EPA has been targeted for cuts over the past decade, this increase in my opinion, is desperately

needed. Adjusting for inflation, even the requested increase would still put the agency almost $1 billion below its funding level in 2005. I want to say that again. Adjusting for inflation, we're now $1 billion below 2005 funding levels in 2015, a lost decade.

The EPA has been significantly constrained by sequestration and has weathered furloughs and significant workforce reductions. Currently the EPA staff is at historic lows, equalling those of the 1980s. The EPA's proposed budget increase in other areas are for important investments, dedicating $85 million to addressing the threat from climate change and providing an additional $105 million for grants to states and tribes, so that they can implement their own environmental programs.

I'm particularly pleased to see an additional $30 million has been proposed for brownfields redevelopment. This funding provides an opportunity for communities to clean up pollution and toxins in their neighborhoods and put brownfield sites back into productive use and create jobs.

Conversely, I am concerned though that the administration is backing off its commitment to the Great Lakes by proposing a $50 million cut from the Great Lakes Restorative Initiative. The Great Lakes Restorative Initiative has made measurable strides in protecting and restoring the Great Lakes' ecosystem. As a result of this funding, approximately 100,000 acres of habitat have been protected or restored. Twenty-one Beneficial Use Impairments have been removed, which is almost triple the number removed in the preceding two decades.

President Obama's pledged $5 billion for the Great Lakes Initiative during his time in office—however I would point out, just under $2 billion has been appropriated. So we're far from achieving the President's target. Much work remains to be done. So I'm very concerned about the proposed cut. This program is one of the few EPA programs that enjoys great bipartisan support. So I look forward to working with the chairman to resolve these cuts. Mr. Chairman, I thank you for the hearing today. I look forward to working with you, to do our part in tackling our nation's most pressing environmental needs. And with that Sir, I yield back.

Mr. CALVERT. I thank the ranking member and we're pleased to announce our chairman of the full Appropriations Committee, Chairman Rogers is here with us today. I thank him for taking time to be here. Chairman, would you like to make any opening remarks?

OPENING REMARKS OF CHAIRMAN ROGERS

Chairman ROGERS. I would Mr. Chairman. Thank you very much and thanks for doing a great job of chairing this important subcommittee.

The Environmental Protection Agency was created for the purpose of protecting human health and the environment by writing and enforcing regulations based on laws passed by the Congress. States like Kentucky have benefited from a number of partnerships with EPA over the years. For example, your agency has provided much needed grants aimed at preventing radon related lung cancer in Eastern Kentucky.

You've also worked collaboratively with the Kentucky Rural Water Association to ensure the cleanliness of our drinking water and upgrade waste water systems. My constituents and I have been supportive of these programs and our partnership in these efforts for years, and we'd like to see them continue.

However, the EPA also has the ability to regulate a broad swathe of economic activity in this country, from mining, to drilling, to farming. Each of these industries is fighting every day to manage the onslaught of federal regulations promulgated by the EPA. These industries are critical to the national economy. This is why I found myself year after year, having to take deliberate steps to protect these industries and their jobs from the draconian actions the EPA has carried out.

The activities that you regulate sustain thousands of families and communities across the country. So it's important that we get things right here in Washington. That starts with setting the right priorities in the budget. Despite the fact that Congress, on a bipartisan basis, has reduced your budget request for five consecutive years, the fiscal year 2016 request we're considering today, if enacted, would be the third largest in EPA history.

And if that wasn't enough, the budget request also includes $4 billion in new mandatory spending, to implement the greenhouse gas regulations that are shuttering power plants all over the country and causing coal mines to close. Any proposal involving mandatory spending programs, as you know, requires legislative action, outside of this committee's jurisdiction.

And you know as do I, that that's not a real proposal until it's authorized. As I've expressed to you many times, I continue to be disappointed with the way this agency approaches its regulatory mission. I simply cannot accept a 6 percent increase in your funding, when by all accounts the EPA is still working hard to eliminate more steady, well paying jobs in the coal industry.

This administration's attack on coal country has left 9000 miners jobless, just since the president took office. And while it's refreshing to see the administration take ownership of these devastating losses in coal country through its so-called Power Plus Plan, the president is missing the point. For centuries this country has run on coal. Businesses large and small rely on cheap, reliable energy to remain competitive in the world and at home.

Drawn out rule making processes and bureaucratic overreach create uncertainty that will inevitably raise energy costs and threaten American jobs. Not to mention the threat of brownouts and blackouts in the power of America's grid. For the life of me, I can't understand why you continue to wage this war, despite the outcry from Congress and the American people, in the name of climate change, global warming. I remind you that just this past week in my district in the middle south of the country, we had two consecutive nights of 17 below zero with a foot and a half of snow on the ground. It has been there for a month or more.

Global warming?

Not only is EPA appending the permitting process for new applicants, the agency is now retroactively denying permits that the Corps of Engineers had already approved years before. How can an American business operate in that kind of an environment? Know-

ing that this agency could shut down their operation despite their adherence to regulatory requirements?

That comes on top of looming proposals to shut down coal fired power plants by creating standards that can only be met by employing technology that's not yet available. It's impossible. Now we have before us your budget request calling for the largest regulatory budget ever for your agency, so it can continue to carry out these wrong headed policies.

I'm even more concerned about your efforts to redefine "waters of the US" and expand your regulatory jurisdiction over thousands of streams and tributaries across the country. Since your agency proposed this new rule around this time last year, you've received almost one million comments on that subject. These comments are from cities, states, businesses, coal miners, utility providers, farmers, countless other industries, all concerned about the potential impact of this rule on their livelihood.

Assistant Secretary of the Army for Public Works, Jo-Ellen Darcy testified here two weeks ago that the overwhelming majority of these comments were made in opposition to your proposal. Roughly 60 percent in fact. A large part of this criticism stems from the level of uncertainty that this proposed rule has generated.

Supposedly this proposal was issued to clarify jurisdictional boundaries for property owners and governing bodies. In reality it's done just the exact opposite. This committee has been consistently asking for more clarity on some of the terms utilized in the proposal, such as "tributary, ephemeral stream," but we haven't got that yet. And that's all important.

We just continue to hear promises from your agency that answers are forthcoming. That you'll get them to us. Well, our employers in the country can't do business with this kind of uncertainty. Employees in the mining industry certainly can't get peace of mind as jobs continue to disappear all around them due to this agency's policies.

These topics are critical to the survival of thousands of families throughout the area that I represent and all of Appalachia and other energy producing regions across the country. I look forward to hearing your testimony and hearing how you plan to work with the states and with employers in the country to get our energy economy moving again. Thank you.

Mr. CALVERT. Thank you Mr. Chairman and thank you again Administrator McCarthy for being here to testify today. Please share with us your thoughts regarding EPA's proposed budget for its fiscal year 2016.

OPENING REMARKS OF ADMINISTRATOR MCCARTHY

Ms. MCCARTHY. Thank you Chairman Calvert, ranking member McCollum and members of the committee. I appreciate the opportunity to appear before you to discuss the Environmental Protection Agency's proposed fiscal year 2016 budget, and I'm joined by the agency's acting Chief Financial Officer David Bloom.

The EPA budget of $8.592 billion in discretionary funding for the 2016 fiscal year provides the resources that are vital to protecting human health and the environment, while building a solid path for a sustainable economic growth. Since 1970 when Environmental

Protection Agency was founded, we have seen over and over again that a safe environment and a strong economy go hand in hand.

This budget supports essential work to address climate change, improve air quality, protect our water, safeguard the public from toxic chemicals, support community's environmental health, maintain core enforcement strength, support needed research and work towards a sustainable future for all Americans. Effective environmental protection is a joint effort of the EPA, states and our tribal partners.

We're setting a high bar for continuing our partnership efforts in looking for opportunities for closer collaboration in targeted joint planning and government processes through efforts like e-enterprise governance approach. That's why the largest part of our budget, $3.6 billion or 42 percent, is provided directly to our state and tribal partners.

The fiscal year 2016 request includes an increase of $108 million for state and tribal categorical grants. This budget request, $1.1 billion to address climate change and to improve air quality. Those resources will help those most vulnerable to climate impacts and the harmful health effects of air pollution through common sense standards, guidelines, as well as partnership programs.

Climate change is not just an environmental challenge. It's a threat to public health, our domestic and global economy and our national and international security. The request supports the president's Climate Action Plan and in particular, the Clean Power Plan, which establishes carbon pollution standards for power plants.

In addition, the president's budget calls for a $4 billion Clean Power State Incentive Fund to support state efforts to accelerate carbon pollution reductions in the power sector. Protection the nation's waters remains a top priority for the EPA. In fiscal year '16, we will finalize and support the implementation of the clean water rule, which will clarity types of waters covered under the Clean Water Act and foster more certain and efficient business decisions to protect the nation's waters.

Recognizing the need for water infrastructure, the SRF's and related efforts are funded at over $2.3 billion, and we will work with our partners to help communities by focusing on issues such as financial planning for future public investment infrastructure investments and expanded efforts with states to identify financing opportunities for resilient drinking water, waste water and storm water infrastructure.

Last month the agency's a Water Infrastructure and Resiliency Finance Center, a key component of our expanded effort. We are proposing a multifaceted effort to help our communities, including low income neighborhoods, rural communities and communities of color. This includes targeting funding in on the ground community assistance through EPA's regional coordinators in a network of circuit riders.

An investment of $16.2 million will help local communities improve safety and security at chemical facilities and to prevent and prepare for oil spills. These efforts represent a shared commitment, among those with a stake in chemical facility safety and security, ranging from facility owners to our first responders.

The fiscal year 2016 budget request will let us continue to make a real and visible difference for communities every day. It will give us a foundation to improve infrastructure across the country, and it will sustain state tribal and federal environmental efforts across all our programs.

With this budget, the president is not only sending a clear signal about the resources EPA needs to work effectively and efficiently with states and tribes to protect public health and the environment, it is also part of an overall federal budget proposal that does not accept the bad public policy embodied in sequestration and does not hold back needed resources in non-defence spending in order to increase needed defence spending or vice-versa.

Instead the president's proposed fiscal year 2016 budget finds a path forward to avoid sequestration and properly support both domestic and national security interests. Mr. Chairman, I thank you for the opportunity to testify, and I look forward to answering your questions.

[The statement of Gina McCarthy follows:]

TESTIMONY OF
GINA MCCARTHY

ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE HOUSE APPROPRIATIONS COMMITTEE

Ken Calvert Chair, Ranking Member Betty McCollum, and members of the Committee, thank you for the opportunity to appear before you to discuss the Environmental Protection Agency's proposed FY 2016 budget. I'm joined by the agency's Acting Chief Financial Officer, David Bloom.

The EPA's budget request of $8.592 billion [in discretionary funding] for the 2016 fiscal year starting October 1, 2015 provides the resources vital to protecting human health and the environment while building a solid path for sustainable economic growth. Since the EPA was founded in 1970, we have seen over and over again that a safe environment and a strong economy go hand in hand. In the last 45 years, we have cut air pollution 70 percent and cleaned up half of our nation's polluted waterways. Meanwhile, the U.S. GDP has tripled, which shows that investments in public health and environmental protection are consistent with strong economic growth. Economic prosperity and quality of life depends on public health protection that ensures clean air; clean water; and safe, healthy land.

This budget will let us continue that trend. It funds essential work to address climate change, improve air quality, protect our water, safeguard the public from toxic chemicals, support communities' environmental health, maintain core enforcement strength and work toward a sustainable future for all Amerieans. Central to this work is supporting our state, local, and tribal partners, working with them to deliver on our environmental and health improvements as a shared responsibility. We are doing this while supporting a strong workforce at the EPA with the tools necessary to ensure effective use of the public funds provided to us.

Making a Visible Difference in Communities Across the Country

We are focused on continuing our work with partners to make a visible difference in communities and across the country—especially in areas overburdened by pollution—including low-income neighborhoods, rural communities, and communities of color.

This budget proposes a multifaceted effort to enable communities of all sizes, rural and urban, to find needed assistance and support for capacity building, planning, and implementation of environmental protection programs. In FY 2016, EPA will support this effort by providing targeted funding and regional coordinators to help communities find the best programs to address local environmental priorities. This budget also provides for a network of "circuit riders" to provide on-the-ground assistance to communities to build and strengthen the adaptive capacity and resilience to climate change. EPA will also a support community revitalization and economic redevelopment by investing $110 million dollars, an increase of $30 million from last year, to plan, assess, clean up and reuse brownfields.

This request also includes an additional investment of $16.2 million over our current resources to help local communities improve safety and security at chemical facilities, and to prevent and prepare for oil spills. This investment will improve compliance outreach to industry, emergency planning assistance to local communities, updates to existing guidance and regulations, and enhancements to software used by emergency responders.

The EPA will also work to limit public exposure to uncontrolled releases of hazardous substances and make previously contaminated properties available for reuse by communities through a request of close to $540 million in the Superfund Remedial program and another $191 million in the Superfund Emergency Response and Removal program, which is an increase of $48 million across the two programs.

Addressing Climate Change and Improving Air Quality

The fiscal year 2016 budget request for the agency's work to address climate change and to improve air quality is $1.1 billion. These resources will help protect those most vulnerable to climate impacts and the harmful health effects of air pollution through commonsense standards, guidelines, and partnership programs.

Climate change is one of the greatest challenges of our time. Climate change is not just an environmental challenge, it is a threat to public health, to our domestic and global economy, and to our national and international security. The U.S. has already and will continue to shift the international discussion on climate change from one that focuses on mitigation costs to one that embraces new investment opportunities. If done right, we can cut the carbon pollution that is fueling climate change and position the business community, its entrepreneurs, and its innovators to lead the world in a global effort while at the same time, expanding the economy. States and businesses across the country are already working to build renewable energy infrastructure, increase energy efficiency, and cut carbon pollution—creating sustainable, middle class jobs and displaying the kind of innovation that has enabled this country to overcome so many challenges.

This request supports the President's Climate Action Plan and makes climate action a priority. In particular, the Clean Power Plan, which establishes carbon pollution standards for power plants, is a top priority for the EPA and will help spur innovation and economic growth while creating a clean energy economy. The Plan gives states the flexibility they need to design and implement plans that reduce their carbon pollution while meeting the needs of their residents and businesses. The budget request includes an increase of $25 million in direct grant support to states to establish the programmatic infrastructure necessary for effective implementation as well as resources for EPA to provide critical support to the states through technical assistance, developing guidance, modeling, and other tools.

In addition, the President's Budget calls for a $4 billion Clean Power State Incentive Fund to be administered through a mandatory spending account to support state efforts to accelerate carbon pollution reductions in the power sector. This funding will enable states to invest in a range of activities that complement and advance the Clean Power Plan, including but not limited to direct investments and financing for renewable energy and energy efficiency programs; funding for low-

income communities to address disproportionate impacts from environmental pollution; and assistance and incentives for businesses to expand infrastructure for innovative projects that reduce carbon pollution.

The President's Climate Action Plan also calls for greenhouse gas reductions from the transportation sector by increasing fuel economy standards. With input from industry and stakeholders, the EPA, working with the National Highway Transportation Safety Administration, expects to finalize Phase II greenhouse gas and fuel efficiency standards for heavy-duty vehicles. These standards will deliver significant savings at the pump, reduce carbon pollution, and reduce fuel costs for businesses while improving the efficiency of moving goods across the United States.

Protecting the Nation's Waters

Protecting the nation's waters remains a top priority for the EPA. We will continue to build upon decades of efforts to ensure our waterways are clean and our drinking water is safe. Water pollution endangers wildlife, compromises the safety and reliability of our drinking water sources and treatment plants, and threatens the waters where we swim and fish. In FY 2016, we will begin implementation of the Clean Water Rule, which will clarify types of waters covered under the Clean Water Act and foster more certain and efficient business decisions to protect the nation's waters.

Aging systems and the increasing impacts of climate change create opportunities for innovation and new approaches for drinking water and wastewater infrastructure. Building on the strong funding level of $2.3 billion provided through the Clean Water and Drinking Water State Revolving Funds, $50 million is included for technical assistance, training, and other efforts to enhance the capacity of communities and states to plan and finance drinking water and wastewater infrastructure improvements. The EPA will work with states and communities to promote innovative practices that advance water system and community resiliency and sustainability. Dedicated funding through the Clean Water SRF will advance green infrastructure design and practices such as incorporating permeable permanent natural structures, green roofs, and wetlands which can help cost-effectively meet Clean Water Act requirements and protect and restore the nation's water resources.

In January 2015, the agency launched a key component of this expanded effort, the Water Infrastructure and Resiliency Finance Center. We will work with our partners to help communities across the country by focusing on issues such as financial planning for future public infrastructure investments and expanded efforts with states to identify financing opportunities for resilient drinking water, wastewater and stormwater infrastructure. We will enhance our partnership and collaboration with the U.S. Department of Agriculture on training, technical assistance, and funding opportunities in rural areas. The Water Infrastructure and Resiliency Finance center is part of the Build America investment initiative, a government-wide effort to increase infrastructure investment and promote economic growth by creating opportunities for state and local governments and the private sector to collaborate on infrastructure development.

Separately, EPA will continue efforts to protect and restore ecosystems through its geographic programs. EPA and its federal partners are making steady progress on reducing unexpended balances of Great Lakes Restoration Initiative funding, and will continue and strengthen efforts to

further reduce these balances and examine potential ways to increase expenditure rates in future years.

Protecting Our Land

The EPA strives to protect and restore land to create a safer environment for all Americans by cleaning up hazardous and non-hazardous wastes that can migrate to air, groundwater and surface water, contaminating drinking water supplies, causing acute illnesses and chronic diseases, and threatening healthy ecosystems. We preserve, restore, and protect our land, for both current and future generations by cleaning up contaminated sites and returning them to communities for reuse. Our funds will assist communities in using existing infrastructure and planning for more efficient and livable communities, and encouraging the minimization of environmental impacts throughout the full life cycle of materials.

In FY 2016, we will increase the Superfund Remedial program by $39 million to accelerate the pace of cleanups, supporting states, local communities, and tribes in their efforts to assess and cleanup sites and return them to productive reuse, and encourage renewable energy development on formerly hazardous sites when appropriate. We will expand the successful Brownfields program, providing grants, and supporting area-wide planning and technical assistance to maximize the benefits to the communities. In FY 2016, the EPA is investing $110 million in funding for Brownfields Project grants to local communities, an additional $30 million over the FY 2015 Enacted Budget, increasing the number of grants for assessment and cleanup of contaminated sites. This investment builds on the program's successful community-driven approach to revitalizing contaminated land and further supports the agency's efforts to make a visible difference in communities.

Taking Steps to Improve Chemical Facility Safety

In support of the White House Executive Order 13650 on Improving Chemical Facility Safety and Security, the EPA is requesting $27.8 million for the State and Local Prevention and Preparedness program, an increase of $12 million above the FY 2015 enacted level. This increase will allow the EPA to continue to improve the safety and security of chemical facilities and reduce the risks of hazardous chemicals to facility workers and operators, communities, and responders.

These efforts represent a shared commitment among those with a stake in chemical facility safety and security: facility owners and operators; federal, state, local, Tribal, and territorial governments; regional entities; nonprofit organizations; facility workers; first responders; environmental justice and local environmental organizations; and communities. In FY 2016, we are implementing actions to strengthen community planning and preparedness, enhance federal operational coordination, improve data management, modernize policies and regulation, and incorporate stakeholder feedback and best practices.

Continuing EPA's Commitment to Innovative Research & Development

In building environmental policy, scientific research continues to be the foundation of EPA's work. Environmental issues in the 21st century are complex because of the interplay between air quality,

climate change, water quality, healthy communities, and chemical safety. Today's complex issues require different thinking and different solutions than those used in the past. In FY 2016, we are requesting $528 million for research and development to evaluate and predict potential environmental and human health impacts including impacts related to air pollution, water quality, climate change and biofuels. This will allow all decision makers at all levels of government to have the science needed to develop and implement environmental policies and strategies. This request will also support expanding the EPA's computational toxicology effort—which is letting us study chemical risks and exposure exponentially faster and more affordably than ever before. We are also providing support tools for community health, investigating the unique properties of emerging materials, such as nanomaterials, and research to support the nation's range of growing water-use and ecological requirements.

Supporting State and Tribal Partners

Effective environmental protection is a joint effort of EPA, states and our tribal partners, and we are setting a high bar for continuing our partnership efforts. That's why the largest part of our budget, $3.6 billion dollars or 42 percent, is provided directly to our state and tribal partners. In FY 2016, we are requesting an increase of $108 million in funding for State and Tribal Assistance categorical grants. The increase for State and Tribal assistance includes an additional $31 million over the FY 2015 enacted level for the Tribal General Assistance Program, supporting Tribes in the development of sustainable and robust environmental regulatory programs for Indian country.

As one example of our efforts, we are also including opportunities for closer collaboration and targeted joint planning and governance processes. One example is the E-Enterprise approach, a transformative 21st century strategy to modernize the way in which government agencies deliver environmental protection. With our co-regulatory partners, we are working collaboratively to streamline, reform, and integrate our shared business processes and related systems. These changes, including a shift to electronic reporting, will improve environmental results, reduce burden, and enhance services to the regulated community and the public by making government more efficient and effective. State-EPA-Tribal joint governance serves to organize the E-Enterprise partnership to elevate its visibility, boost coordination capacity, and ensure the inclusiveness and effectiveness of shared processes, management improvements, and future coordinated projects. Projects following the E-Enterprise approach will yield the benefits of increased transparency, efficiency, and burden reduction for communities, businesses, and government agencies when implemented.

Maintaining a Forward Looking and Adaptive EPA

The EPA has strategically evaluated its workforce and facility needs and will continue the comprehensive effort to modernize its workforce. By implementing creative, flexible, cost-effective, and sustainable strategies to protect public health and safeguard the environment, the EPA will target resources toward development of a workforce and infrastructure that can address current challenges and priorities.

We are requesting funding in this budget to help us fast-track efforts to save taxpayer dollars by optimizing and renovating critical agency space. That includes our laboratory buildings across the

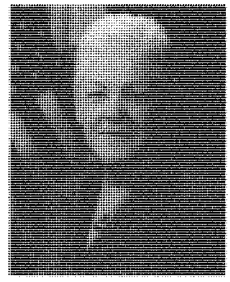
country, where we conduct critical scientific research on behalf of the American public. In the past three years, the EPA realized $8.3 million in rent avoidance by releasing over 225 thousand square feet of space nationwide. We've taken a careful look at our workforce and facility needs so we can continue to optimize and update our physical footprint in FY 2016. We'll also target resources to prepare our outstanding agency workforce for the future, and continue our E-Enterprise effort with states to improve and modernize joint business processes—for instance, replacing outdated paper processes for regulated companies with electronic submissions.

The EPA continues to examine its programs to find those that have served their purpose and accomplished their mission. The FY 2016 President's Budget also eliminates some mature programs where state and local governments can provide greater capacity. Those grant programs are the Beaches Protection categorical grants, the State Indoor Air and Radon grants, the Targeted Airshed grants and the Water Quality Research and Support grants, totaling $44.6 million.

The EPA's fiscal year 2016 budget request will let us continue to make a real and visible difference to communities every day. It will give us a foundation to revitalize the economy and improve infrastructure across the country. And it will sustain state, Tribal, and federal environmental efforts across all our programs.

Mr. Chairman, I thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of the EPA's FY 2016 budget request, I look forward to answering your questions.

Administrator Gina McCarthy



Gina McCarthy is the Administrator of the U.S. Environmental Protection Agency.

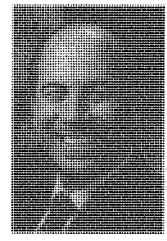
Appointed by President Obama in 2009 as Assistant Administrator for EPA's Office of Air and Radiation, Gina McCarthy has been a leading advocate for common-sense strategies to protect public health and the environment.

Previously, McCarthy served as the Commissioner of the Connecticut Department of Environmental Protection. During her career, which spans over 30 years, she has worked at both the state and local levels on critical environmental issues and helped coordinate policies on economic growth, energy, transportation and the environment.

McCarthy received a Bachelor of Arts in Social Anthropology from the University of Massachusetts at Boston and a joint Master of Science in Environmental Health Engineering and Planning and Policy from Tufts University.

When she is not in D.C., McCarthy lives in the Greater Boston area with her husband and dog, just a short bike ride away from their three children, Daniel, Maggie, and Julie.

David Bloom
Acting Chief Financial Officer



David Bloom is the Acting Chief Financial Officer at the EPA, having oversight of EPA's annual budget and performance plan, strategic planning efforts, and financial operations, policy, and financial information systems for the agency. He also oversees environmental finance activities and the E-Enterprise for the Environment initiative.

David began his federal career at the Office of Management and Budget in 1985. In 1991, David joined the EPA's Office of Budget, where he worked in a number of capacities until his appointment as Budget Director in 2003. As Director of the Office of Budget, he managed and directed staff overseeing the budget execution and budget formulation activities for the agency and was responsible for the preparation of the Agency's Annual Plan and Budget. David was appointed the agency's Deputy Chief Financial Officer in September, 2014, and he also served from April, 2013 to August, 2014 as the Acting Deputy Chief Financial Officer for the agency.

During this period, he was at the forefront of improving the agency's financial efficiencies and accountability, working closely with the Office of Management and Budget, Congressional staff, and the EPA's State, local, and tribal partners.

David received a Bachelor's degree in Business Administration from the University of Florida and a Master's Degree in Business Administration from The George Washington University. He was a recipient of the Presidential Rank Meritorious Executive Award in 2012. David makes his home in Virginia with his wife Kelly and two daughters – Elizabeth and Katherine.

Mr. CALVERT. Thank you for your testimony. First we're going to recognize the chairman of the full committee, Mr. Rogers.

CLEAN AIR AND CLEAN WATER RULES

Chairman ROGERS. Thank you Mr. Chairman. Let me talk to you a bit about the Waters of the US proposed rule. EPA has been driving the ship on this effort with the Corps to redefine Waters of the U.S. under the Clean Water Act. That new rule would constitute the largest increase of federal jurisdiction over our country's public and private water ways in history, even allowing federal regulators to police so-called seasonal or rain dependent streams.

In the omnibus bill that we are operating under now, we included a bipartisan provision requiring the Corps and EPA to withdraw certain portions related to agriculture. And just yesterday our colleagues in another house committee had some very strong words about the onslaught of federal regulations coming from EPA and other agencies that constrain how we mine coal in this country, how we burn coal, even how we will export coal to developing nations in desperate need of affordable, reliable energy options.

Obviously, many have concerns that you're circumventing Congress's clear opposition to these extreme environmental regulations, and considering that your budget request includes millions of additional dollars for lawyers to defend and litigate these rules, I think it's fair to assume from that that you're also concerned about their legality.

Despite these concerns and despite the strong criticism from Congress and the public, your testimony today maintains that the EPA's clean air and clean water rules are actually helping the U.S. economy. Can you explain, ma'am, how these rules are helping the 9000 laid off miners in my district who are now out of work?

Ms. MCCARTHY. Well, sir, the efforts that you identified are part of EPA's efforts to both reduce pollution that is impacting public health and damaging the environment, but to do it in a way that actually is very cost-effective, that is reasonable, that's appropriate and that continues to recognize the great need to continue to grow this economy and jobs.

Over the course of EPA's history, since 1970, we have reduced air pollution by 70 percent while the GDP has tripled. We are looking in each and every major rule to ensure that we do it in a way that is specifically cognizant of reliability and affordability of our energy system, as well as impacts to the local economy and to jobs as well. So we are doing our best to protect public health in a way that is consistent with a growing and sustainable economy.

WATERS OF THE U.S. RULE

Chairman ROGERS. Well, the proposed Waters of the U.S Rule was put forth, allegedly, to alleviate confusion over jurisdictional boundaries. However, this proposal, which I call the largest jurisdictional grab in recent history, seems to have only created more confusion over what will and will not be excluded under federal jurisdiction.

Industries and private landowners are alarmed that nearly every tributary would now be heavily regulated. And if they wanted to try to use some of that land for a shopping center development or

a farm or a covert on a farm or an irrigation canal or the like, they would have to come to D.C. to get a waiver or some sort of license or permission to proceed. No wonder they're confused and scared and frightened. I mean that's an alarming possibility for almost every American.

Are you planning to maintain your definition of terms that have contributed to that confusion, such as a ephemeral streams? Is that the way you say it?

Ms. MCCARTHY. Ephemaral.

Chairman ROGERS. Can we expect any clarifications on these broad terms that seem to include just about every body of water, so far.

Ms. MCCARTHY. Let me try to clear up a few things, Jim. First of all, we believe that this is actually not an expansion of jurisdiction, and I think we can show that. I do know there has been confusion. One of the reasons to do this Rule was to respond to many requests for clarity and for consistency. We have received a lot of comments on the Rule. And if I could just clarify one thing, I know in your opening remarks you mentioned about the breakdown of positive and negatives in terms of our response.

I just wanted to clarify that I know that Assistant Secretary for the Army, Jo-Ellen Darcy, will be responding to this and she is going to be clarifying the record. Actually, 87 percent of the comments we have received and processed have been supportive. So I just want you to know that we've done an extensive outreach on this.

We will look at all the comments that came in. But recognize we are also continuing with the exemptions, like for agricultural return flows and those things that are in the current Rule. So we are not limiting any of those exemptions. We're trying to provide clarity here, not regulate land, but regulate waters that are necessary to protect drinking water and our natural resources.

WATERS OF THE U.S. RULE-CLARITY

Chairman ROGERS. My understanding is that 60 percent almost a million responses have been negative.

Ms. MCCARTHY. I can't explain the numbers that Jo-Ellen provided but she will be clarifying this. My understanding is we have received a total of 1,046,217 comments. 87.1 percent were positive. Some were neutral, very small. Some were opposed in the total of 12.4. So far, we are still categorizing just a little bit over 4100 of those. So that's the breakdown I have up until now. As you can see, the ones that we are still looking at wouldn't tip the scale much.

Sir, it doesn't mean that there aren't a lot of comments and questions that are coming in from this rule and that we won't be properly looking at those in doing our best to clarify as much as possible, because we will. There's a responsibility for EPA to do that and we will take our responsibility very seriously and make sure that when this rule goes out, there's significant clarity beyond what's been proposed brought to this issue.

Chairman ROGERS. It's incredible to me how the EPA and the Corps look at the same data, the same responses and come to two vastly different interpretations. I mean one of you is wrong.

Ms. McCARTHY. I think one of us might've had a subset. I will let Jo-Ellen speak to that issue, if I could, when she comes to you. But I do know that the Corps and EPA have been working hand-in-hand on this rule since day–one because we both recognize that additional clarity is essential, not just for the agencies to appropriately implement the Clean Water Act, but for our outside stakeholders who need to be certain that they can farm and ranch the way they've always done that and in a way that's protective of the natural resources that we both value so highly.

NAVIGABLE WATERS

Chairman ROGERS. How would you go about determining exactly which kinds of tributaries, streams or even ditches, dry ditches, would be classified as either exempt or as part of your jurisdiction? How do you go about that? I mean we are talking hundreds of thousands of streams and bodies of water and dry ditches that get water once every 20 years or less. How do you go about doing that?

Ms. McCARTHY. Well, I think it's done in two ways. It's done by providing clarity about the information that we have available to us, the science that tells us what rivers and streams and tributaries need to be protected in order to make sure that our navigable waters aren't significantly impacted. That means that we need to look at them and determine what type of mitigation, if any, is necessary. Beyond that, it's done, and in the vast majority of cases today, on a case-by-case basis. It's done by calling the Corps and by looking at these issues.

What we are attempting to do is provide a lot more up-front clarity and provide enough direction so that people understand what rivers and streams are important for drinking water protection, for flood control and a variety of other functions that these resources provide so that they themselves can understand where they are, where they need to be more cautious and where we need to work together to make sure that those waters are protected.

WATERS OF THE U.S. RULE-PERMITS

Chairman ROGERS. Well, just in my mountainous Kentucky district, there are thousands of little creeks and streams and rivulets flowing through private property, alongside private property, tens of thousands of them. How would that farmer that lives on Buck Creek in Pulaski County, how is he to know whether or not he needs to come up here and get your permission?

Ms. McCARTHY. Well we are doing our best to define that. I think that, from my standpoint, if a farmer was relied on exemptions in the current rules, they can rely on those very same exemptions today. If they needed a permit yesterday, they can rely on that, as well. What we tried to do is to look at the science, Mr. Chairman, which is what we were directed to do. The science is very clear in some areas We make that clarity known and will in our final rule.

In other areas, we know what to look for. For example, if a small river is only flowing intermittently and at famarol stream, if it doesn't have all of the designations, all of the characteristics like an ordinary high-water mark and it doesn't have the kind of characteristics that indicate that the duration, the frequency in flow is

there sufficiently to have an impact downstream, then it would not be a waters of the U.S. So we are trying to identify those characteristics.

Chairman ROGERS. Why do we need to change the way we are doing business now?

Ms. MCCARTHY. Because we are missing things and because people are confused. I think you saw some of that when the proposed rule went out. People didn't understand what was currently, clearly jurisdictional and what has been jurisdictional for decades. There were areas where people were unsure. There's a lot of effort spent on case-by-case analyses and case-by-case mitigation that people expect to have to pay for when that's just not the case.

So it's an opportunity for us not only to be clearer from our perspective, but to also send a clearer signal for businesses about when they can pass go without having to move through EPA or the Corps. I think, that's an important cost savings to consider here.

Chairman ROGERS. I think you're into a really big-time briar patch that's going to be really difficult, impossible, I think, to do. Not to mention that it's infringing on private property rights, states' rights and the like. Even our military bases are concerned that they can't use the land they have to operate and train.

Ms. MCCARTHY. Well, one of the things that we did after the proposal went out, it was pretty clear that people were confused by some of the language, not understanding what the agency's intent was. We, as a result of that, did over 400 public meetings and also reached approximately 2,500 individuals. We did all that we could before and after the proposal went out to make sure that we were listening to the states, and that we were listening to all of the key interests here. I think we've received considerable comments that will help us provide a path forward.

But as you suggest, this is not an easy rule. If it were easy, it would've been done—we are talking about a law that's over 43 years old. It would've been done before if it was easy. But court rulings continue to confuse this and challenge us, and we need to be better. This is an attempt to make sure that we are protecting what we need to protect and sending a clear signal on all the other waters that don't fall within those categories.

Chairman ROGERS. Mr. Chairman, I have other questions I'll delay until later.

Mr. CALVERT. Thank you, Mr. Chairman. Ms. McCullum?

WATER QUALITY STANDARDS AND WILD RICE

Ms. MCCOLLUM. Thank you. Administrator McCarthy, I have an issue that I feel very strongly about, as do many members on this subcommittee. It's the government-to-government relationship between federal agencies and sovereign tribal nations.

As you know, in Minnesota and across the Great Lakes Superior Basin, mining companies are seeking opportunities to mine cooper and nickel, which has a very high potential to contaminate our waters. For tribal nations in Minnesota, wild rice is a traditional crop with important economic, sacred and cultural significance.

Let me be clear. Without the full consultation and consent of impacted tribal nations, the EPA should not even consider lowering water quality standards for wild rice. Instead, the EPA should be

promulgating a wild rice water quality rule across the Great Lakes Basin with full consultation with tribes. This, for many of us on this committee, is an issue of fully honoring and respecting treaty rights with sovereign tribal nations. And I just wanted to clear up any confusion that there might be about respecting nation-to-nation agreements.

CLEAN POWER PLAN

Last summer, the EPA rolled out the Clean Power Plan, which will help cut carbon pollution from America's largest source power plants. Power plants contribute one-third of the nation's greenhouse gases emissions, and limiting their carbon pollution is vital to reducing the impact on climate change.

As part of the Clean Power Plan, the EPA proposed two rules to regulate carbon emission from power plants. Could you please let us know if the EPA is on track to finalize its power plants rules this summer? These rules require states to submit compliance by 2016 in the summer. So over the next two years, how will the EPA be working with states to help them develop these plans?

And then a concern that I have is, the past few years the subcommittee has included a rider that prohibits the EPA from using funds to regulate greenhouse gasses and power plants. Thankfully, this rider has been dropped each year. But if it were to be enacted, would states still be required to submit plans, regardless of the rider? Would you be prohibited from helping states with their plans? Because the state of Minnesota is very eager to work with you to do what we can to improve our air quality.

Ms. MCCARTHY. Well thank you, ranking member. First of all, we are on track for a midsummer effort to finalize the Clean Power Rule. That will be moving forward.

In terms of assisting states, we have done it in a number of different ways. First of all, we have part of the increase that you see, in our budget is to help set aside $25 million to actually provide to states themselves so they can work on these plans effectively.

We also have additional funds that we are requesting so that we can have, and that's in the order of $25 million that we can have an increase in our staff to be able to respond to the needs of the states. We can have the tools and the technologies and the on-site technical assistance to help states and tribes develop proposals. I should've just said states. I apologize.

Then we also have a proposal that the president put in, that would be a $4 billion plan to actually support the states who want to either move faster or farther. So that is all in the proposal as the proposed Fiscal Year 2016 budget.

We are also looking at an additional part of the legal staff issues as to make sure that there is no bottle-neck in our ability to provide good advice and to look at all of the rules, as well as the permits across the agency that are not moving as quickly as we can because we don't have the resources assigned. So, we are looking at beefing that up so that permits can go more quickly and approvals of these plans can happen more quickly.

The last issue is on the rider. If that rider should be proposed and succeed, the states would still be required to submit those plans. EPA would be precluded from providing resources and help-

ing them the way that this proposal is looking to do because we are in partnership with the states on this effort. We have been in partnership with them before, during and after the close of this comment period, or even the development of this proposal, and I want to keep it that way.

It is a collaborative approach that is enormously respectful of state needs and I want to make sure that we continue to work with them in partnership.

Ms. MCCOLLUM. Thank you. And Mr. Chairman, I'll leave the Great Lakes question to Mr. Joyce, unless we miss it, and I'll catch it on the second round. Thank you.

WATERS OF THE U.S. RULE

Mr. CALVERT. Thank you. Administrator McCarthy, over the past years, I believe, you've fielded every question imaginable regarding agencies Proposed Water of the U.S. Rule, and you've tried hard to clarify what the rule does and what it does not do. Unfortunately, a year later, I believe we are even less confidence in what the Rule purports to do. If anything, it clarifies that more water bodies will be regulated, resulting in more EPA permits.

You just testified that, of the one million comments, you believed 87 percent were positive responses where the Corps said that almost 60 percent were negative responses. So obviously, the two agencies are confused and can't agree on what the comments even say. So it's my hope that the EPA would heed these comments, withdraw the proposed Rule and identify where there is common ground before taking additional actions. So on that score, does the EPA plan to repropose the rule after it's finished reviewing and incorporating the comments received on the Rule?

Ms. MCCARTHY. Well, we have had significant opportunity to review the comments and believe that we can finalize this Rule that is very respectful of the comments we received. That is what we intend to do, sir.

Mr. CALVERT. So what's the opposition to just withdrawing and reproposing the revised Rule?

Ms. MCCARTHY. Because we have waited now with a statute that's 43 plus years old, I think we have been asked to do this. We have been requested by, not just members of Congress, by states to actually do a rule-making to provide this level of certainty. We believe that we should respond to those requests and make sure that we are protecting the drinking water—

Mr. CALVERT. Because I understand the majority of the governors in the United States are opposed to this.

Ms. MCCARTHY. I'm not aware of what figures that you may have available. I feel badly that there's confusion about how we've bucketed these rules into what's positive or negative. I will tell you that Assistant Secretary Darcy will respond to this, but my understanding is that all they had completed was a review of two percent. I don't know what two percent they chose of the comments, but I do know that we have fully looked at them and are happy to share the information and will make sure that the corrections are in the record.

[The information follows:]

WATERS OF THE U.S.

Question: Provide information on percent of negative comments received for WOTUS rule.

Answer: The vast majority of the more than one million public comments received (approximately 86 percent) were supportive of the proposed rule. The base line includes all comments received, including mass mail-in campaigns. Approximately 13 percent of comments raised concerns with the proposal, and approximately 1 percent of commenters were neutral.

Mr. CALVERT. Well, certainly, from my perspective, I'm very sympathetic to small businesses.

Ms. MCCARTHY. Me too.

SMALL BUSINESS ADMINISTRATION RECOMMENDATION

Mr. CALVERT. And a comment submitted to EPA in October, the Small Business Association believes that EPA should have conducted a small business advocacy review panel prior to releasing the waters of the U.S. rule. The Small Business Administration recommends that EPA withdraw the proposal and conduct a panel prior to proposing the rule, re-proposing the rule. How do you intend to respond to those comments from the Small Business Association to conduct the small business review panel prior to taking additional steps on this rule making?

Ms. MCCARTHY. Well, it actually was comments received by the SBA's Office of Advocacy. We had worked both with the SBA as well as with our Office of Management and Budget that actually dictates what rules need to have a panel established and what ones do not, and we followed their direction. But we have done extensive outreach to small businesses and I would be happy to provide that to you, because we believe that it was the correct decision to move forward, but certainly that did not mean our obligation to do outreach to the small business community and make sure that their comments were heard and that we provide whatever clarity we need to assure them of that.

Mr. CALVERT. Well, Administrator, it seems that no matter what the comments are, no matter what the opposition may be, this train is on the track.

Mr. Israel, you are recognized.

LONG ISLAND SOUND

Mr. ISRAEL. Thank you, Mr. Chairman. Administrator McCarthy, I want to talk to you about the Long Island Sound, something that is not just important to me as a representative from Long Island, but important to the entire nation. It is a $9 billion generator of economic activity; it is a critical estuary that is important to our ecosystems and to our national environment. For the past few budget cycles the Long Island Sound has been funded at about $4 million, and this year the President's budget requests a little less than $3 million. Members on both sides of the aisle who represent the Long Island Sound area have long believed that the minimum level of funding to preserve and protect the Sound, not just environmentally but economically, is about $10 million, and that is what we have been pushing for. Can you tell me the kind of effect the reduction in the budget will have on Long Island Sound res-

toration and protection efforts if that lower figure is what is included in whatever funding proposal we settle on this year?

Ms. MCCARTHY. Well, first of all, Congressman, I share your love for Long Island Sound. It is one of my favorite water bodies as well and I understand how precious it is and how challenging it is to have that many people living on your shores. I do not have exact figures on how the Long Island Sound Committees that are looking at this will manage on a tighter budget. I will say that difficult decisions were made in this budget despite the fact that we are requesting more resources and will be working with the adjoining states and with all of the study groups to make sure that we can prioritize effectively under this type of a budget constraint.

Mr. ISRAEL. Well, I would invite you to Long Island to meet with our stakeholders and member of the bipartisan Long Island Sound caucus. Again, both sides of the Sound, but also both sides of the aisle, and hope that we can work together with you on passing the Long Island Restoration Stewardship Act, again a bipartisan bill. Congressman Peter King has been one of the co-sponsors. I hope we can work together in getting that passed and reauthorizing that program. So we will send an invitation to you to come to Long Island. I will even give you some good pizza while you are there. Thank you.

Ms. MCCARTHY. I appreciate the invitation.

Mr. CALVERT. Thank you, gentlemen. You can bring pizza to this Committee sometime and share it.

Mr. ISRAEL. Done deal.

Mr. CALVERT. Mr. Simpson.

REGION 10 EMPLOYEES APPRECIATION

Mr. SIMPSON. Thank you, Mr. Chairman. First let me say I appreciate your employees out in Region 10; Dennis McClaren is doing a great job. I enjoy working with him. We sometimes disagree about what the EPA has to do or what he has to do, but I have always found him to be a gentleman that is willing to sit down and talk to us and try to work out any differences. We have done some good things with Dixie Drain in Boise to help reduce the cost of having to remove phosphate from the river before it goes into the Snake River.

Ms. MCCARTHY. Thank you. I will pass that along to him. He certainly reflects the kind of leadership that we are looking for in the Agency.

Mr. SIMPSON. Now let me ask you a couple of questions.

Ms. MCCARTHY. Does it go downhill from here?

Mr. SIMPSON. It goes downhill from here.

Ms. MCCARTHY. Just checking, just checking.

CLEAN AIR ACT RULE CLARIFICATION

Mr. SIMPSON. I will get into the Clean Water Act in just a minute. But yesterday you testified before Chairman Whitfield's Subcommittee, and I have heard from a couple of sources including the Chairman and a couple of others who listened to it—and I want to give you a chance to clarify this statement for me—that when asked about the power plant rules, clean coal fired power plant

rules, that your response was these rules were not put in place because of pollution, they were about investment opportunities.

Ms. MCCARTHY. No. Let me try to clarify that.

Mr. SIMPSON. I thought you might want to.

Ms. MCCARTHY. This is a Clear Air Act rule that is following the Clean Air Act as Congress authorized EPA to implement it. It is a technology based standard that is looking at reducing carbon pollution. That is the four corners of the effort. The question was asked of me as to why I think this is—if I may paraphrase, why I feel so positive that this rule provides the flexibility that states need, why am I saying it is not about pollution control technology. I indicated that the flexibility in our proposal took it away from needing as our standard programs usually do. It is about putting a scrubber on an end of the pipe, which we can all agree is a cost. Instead if we look at this as an opportunity to invest in energy and our economy in a way that states believe is beneficial to them both environmentally and economically, that can grow jobs, that there are opportunities for this to be a real investment that the states would want to make regardless of the carbon pollution requirements. That is an investment in renewable energy, energy efficiency programs that keep our energy system reliable and affordable. I believe that it is a much more positive way to look at it, and one that is closer to reality of how states are looking at it as well.

Mr. SIMPSON. Okay. Well, thank you for that clarification because I did not think it could be accurately reflected in what I said.

Ms. MCCARTHY. I appreciate the opportunity.

Mr. SIMPSON. When we talk about the Clean Water Act I think it is always important to remember, and nobody ever seems to state it, but we are not talking about waters that were unregulated before.

Ms. MCCARTHY. That is correct.

CLEAN WATER ACT JURISDICTION

Mr. SIMPSON. These were regulated by the state, just not under the Clean Water Act by the federal government. But I find it hard when you say it does not represent an expansion of the EPA's jurisdiction. I think it is a vast expansion of the EPA's jurisdiction. In fact when you talk about the connectivity rule I do not know how you inevitably get to the point where you are going to start regulating groundwater also. And I will tell you what, a real short story, when I first got elected to the legislature in the State of Idaho, I drew up a Constitutional Amendment, and it had to do with hunting and fishing. And it had a line in it that said federal waters. All of my colleagues in the legislature that agreed with what I was trying to do said they could never vote for that because they would not put in our Constitution anything that said federal waters because there were no federal waters, they were state waters. That is how strongly the state feels about that. And so when they look at expansion of the Clean Water Act, they get very, very concerned. And I realize that we had to clarify what navigable was, in terms of navigable to what, or to who. I do not know why the Court said that. But the answer seemed to be let us regulate everything and that clears it up. I do not think that is what the

Court said, and it is up to us to come up with a rule that more accurately reflects the role of the states and the role of the federal government.

As an example, the Supreme Court in the SWANCC decision specifically rejected the Agency's assertion because that when you say this is not an expansion of jurisdiction, it is just those waters that the EPA has historically claimed jurisdiction, the SWANCC decision specifically "Rejected the Agency's assertion that use of an isolated wetland by a migratory bird was a sufficient basis to establish federal jurisdiction. The proposed rule being considered now suggests that the movement of wildlife including birds between one water and another, or the reliance on a particular water within a watershed by a species or for any part of the species' life cycle can be used as evidence of the connectivity of waters for purposes of asserting federal jurisdiction." Can you explain how that is not an expansion of federal jurisdiction?

Ms. McCarthy. I am happy to. Let me take these issues one at a time. This is a rule to identify the jurisdiction under the Clean Water Act using science to the best of our ability. What is regulated depends on what needs a permit. So if you are not doing anything to a water to either pollute it or degrade it, then there is no conversation that needs to be had. So there are differences in the terms that we need to recognize. We are specifically making it very clear that we are not regulating groundwater under the Clean Water Act, that is not part of the——

Mr. Simpson. But how do you not eventually regulate it?

Ms. McCarthy. Because it is not jurisdictional. We do not believe that is part of the jurisdiction of the Clean Water Act. It has been one of those things that has been up in the air. What we tried to do was nail it. We have clearly stated that. If there are other things like that that we need to resolve we want to do that.

Now the relationship between the states and the federal government, I think we recognize that states are really primary in many of the issues related to waters and water quality. We recognize that and this rule does not change that. We recognize that some states had questions as to whether or not this would change their rules. We are going to be resolving those issues in the final. It was clearly not our intent. Maybe we did not say it as clearly as we need to and we will take care of that as well.

Relative to SWANCC and isolated wetlands, SWANCC said that—you correctly raised their issue which was the migratory birds issue is not sufficient to determine jurisdiction. What the next decision, Rapanos, said was much more clearly what you need to do to establish jurisdiction. That means you have to establish that the connectivity not just connected, but they need to be connected in a way that impacts significantly the downstream waters. They do not say it exactly that way, but the connection needs to be there. So what the science tells us is what is connected, but that is on a gradient, and we know that just being connected is not enough. It needs to be more than just connected so that we can actually determine whether or not it would impact if it were polluted or degraded, would it impact the actual biological, chemical, physical characteristics of the receiving water, because if we do not think it would then that connection is not sufficient for jurisdiction.

So now you know why this is a confusing issue to try to resolve through rule making, but you also know why it has been confusing for a long time and people are asking for clarity. So we realize that while we may not have cleared everything up there is an opportunity to get a lot clearer and we will try to do that as effectively as we can in the final rule.

Mr. SIMPSON. Okay. Thank you.

Ms. MCCARTHY. All right.

Mr. CALVERT. Thanks, Mr. Simpson. Next is Mr. Kilmer.

NATIONAL ESTUARY PROGRAM AND PUGET SOUND GEOGRAPHIC FUND

Mr. KILMER. Thank you, Mr. Chairman, and thanks for being here, Madam Administrator. I also want to thank you for coming out to Puget Sound this past summer and for the work you and your Agency are doing to help us recover that important body of water. That is not just an economic engine for the State of Washington, but it is also a complex ecosystem in need of protection.

I was pleased to see that the President's budget included an increase for both the National Estuary Program and for the Puget Sound Geographic Fund. And I have got a couple of water related questions. One, I just want to get a sense from you of how we can better highlight our needs in Puget Sound and continue to work with the EPA to move forward with the recovery efforts there and the funding of recovery efforts there. What do we do to ensure both the Geographic Program and the National Estuary Program remain sustainable and funded? We also see in our neck of the woods not just point source pollution issues, but non point source. And we have got an entity in our neck of the woods called the Washington Stormwater Center that is looking at innovative efforts to address stormwater. To what extent does the EPA fund stormwater related activities, and are you doing work around finding solutions to stormwater financing and innovation? And, I guess, aside from funding constraints how can Congress help advance those efforts?

Ms. MCCARTHY. Well, thank you for asking the question. It was great to go out to Puget Sound to see the resource that is really so need of protection. There are many challenges up there.

I think we all need to keep highlighting these issues, not just highlighting them to EPA, but clearly all of these geographic initiatives are worthy of support. The question is how much can we actually afford to do within the budget constraints that we all face. One of the things we are trying to do is recognize that there is a collaboration between state, tribal, and federal levels that needs to happen so that we are not duplicating efforts. We are spending a significant amount of time becoming a better partner for states and tribes so that we can work more collaboratively and not duplicate and make our funding go further.

The other thing we are trying to do is establish opportunities for financing strategies for all of these efforts that also bring private dollars to the table because the private sector has a large stake in the quality of these large water bodies. They are not just iconic to environmental advocates or you and I, they are necessary for the economic vitality of the regions that surround them in the business community. So we have put together some new financing centers. First of all we have brought together one that I mentioned earlier,

that is our Water Infrastructure and Resilience Center, because it is an opportunity to work more creatively on different financing strategies. We are trying to stand up what Congress asked us to do which was a WIFIA program so that we could also look at opportunities that are more directly related to state programs and interests. So we are working together to try to address these issues as well as we can, recognizing that in all cases our needs are great, but there are wonderful ways for us to continue to work together more efficiently and effectively with the resources that are reasonable for us to ask.

Mr. KILMER. Are any of those efforts being undertaken in Region 10?

Ms. MCCARTHY. Many.

Mr. KILMER. Okay.

Ms. MCCARTHY. Many. And many of them will be related to our work with both the states and Region 10.

INVESTMENTS IN STORMWATER UPGRADES

Mr. KILMER. The other thing I wanted to ask you about is that as I travel around my district I have communities that want to make investments in stormwater upgrades, businesses that are struggling to keep up with environmental compliance costs, and tribes on the coast that are literally working to relocate schools because of persistent flooding. I think these are important challenges for the EPA to take on and I would like to get a sense from you how the EPA plans to engage with communities and what initiatives the EPA is looking to pursue in that regard. I know that one of your goals is making a visible difference in communities across the country, so can you talk about how you are working with communities that are struggling with these challenges?

Ms. MCCARTHY. I can because water ends up being an incredibly important issue, especially with the changing climate, and resilience is going to be important. We have established an opportunity to work, or a focus area to work more effectively with communities. We have identified almost $47 million to be able to go to this effort in addition to other work that we might do, but work that is coordinated with it but not duplicative.

What we are trying to do is work with our regions to actually work in a multimedia capacity with communities so they understand the opportunities they have, not just with us but across the federal government to leverage resources to help integrate both their planning efforts—they need to look at water, wastewater and stormwater so that we can work more effectively together. We are going to be creating a network of what we call circuit riders which are folks that are expert in these community issues so that they can use their expertise in more than one place and be able to share what they learned in the prior one with the next community that they work in. We are looking at opportunities for advancement monitoring and decision making tools. As you know we have put out things like the Stormwater Calculator, so that as communities are looking to take efforts themselves they have tools readily available for them.

And we have also increased our brownfields project funds by $30 million specifically targeted at really good community work that will help advance all these goals.

You know I could go on and on, but we have more money for states and tribes, $108 million more in STAG money that we are looking for. This will amount to a more than 30 percent increase for tribes, in how we are supporting them. We are looking at superfund increases so that we can get at those superfund sites as well. We are looking at opportunities for new technologies moving forward that we can advance with states. We are truly in a partnership not with states but local communities that benefit from the funding that we send to the states.

Mr. KILMER. Thank you. Thank you, Chairman.

Mr. CALVERT. I thiank the gentlemen. Next, Mr. Stewart.

Mr. STEWART. Thank you. Did we skip someone, Chairman?

Mr. CALVERT. Sorry. Okay. Then we will go with Mr. Cole.

Mr. STEWART. I defer to the more senior member, sir.

Mr. CALVERT. Okay.

Mr. STEWART. I do not want to get the Chairman of the——

BUDGET CONTROL ACT

Mr. COLE. What a nice way to put that. Thank you very much, Colonel.

Thank you very much, Administrator McCarthy, for being here. And I want to make a point that actually is not directly on your budget, but I think it bears repeating because I have heard this from a number of administration officials when they come in to present their budgets in front of the various Subcommittees. I do not think you would find any of us that disagree: we would all love to get rid of sequester. I do not know an appropriator that would not like to do that, but it is the law of the land, and it is a law that the Congress passed, that the President signed. And frankly if you go back and read Bob Woodward's book if I recall, The Price of Politics, the sequester is actually an administration or presidential idea and suggestion in that negotiation; it is not going to be wished away. And with all due respect to the President, the various mechanism(s) that he is proposing in his budget, to provide additional money, are not going to pass the Congress, and he knew that when he put them in there. I do not know if we will do this again, but in the past, when we have put the President's budget up on the floor, most democrats have not voted for it. And if most democrats will not vote for it neither will republicans. I think where we are headed is the default position: the Budget Control Act. Any budget that is not based on that, or if there is not a negotiation going on, to me is not likely to reflect reality. I think it is going to put you in a difficult spot as an as administrator. I think it puts the public in a difficult spot; it looks more like a political document than a real budget. I think we are playing with a house of cards here that is going to collapse pretty quickly; we are making requests and the money is not there. Absent a change in the law, I think you are going to be basically where you were in the last budget cycle.

Having said that, and I say that again not directed at you, it is just something I am routinely saying to people, maybe we actually

get that negotiation into a realistic format. We did a Ryan-Murray deal a couple of years ago, which I think was a very good deal, and two sides can work together. But as some point that is got to start. My guess is it will not start until after we go through the appropriations process. So we will actually be living within the law.

I do want to thank you personally for working with us to get a permanent lab director at Kerr Labs in Oklahoma. Your department was extremely helpful in making that happen and we are very pleased with the Director that you chose and sent down there.

Ms. MCCARTHY. Good.

Mr. COLE. Absolutely. The staff there is a terrific staff and it has the most active alumni association of any federal facility I have ever seen because people that retire continue to take a deep, deep interest in the groundwater work, and world class scientific work on water quality takes place. So thank you.

Ms. MCCARTHY. That is great. Thank you.

TITLE 42C

Mr. COLE. To that point, and this might help the rest of the Committee, I made myself familiar with the Title 42 hiring in this process, and what an important tool that was for you in being able to get us the kind of Director that we needed. So is that a tool that you use elsewhere?

Ms. MCCARTHY. It is a tool that we use at our office of Research and Development which oversees labs as well. It just provides us an opportunity to more effectively compete to get the world-class scientists that we need working in the agency in these vital positions.

It has been authorized for an additional five years. We only use it when we need to because we understand that we are all budget constrained but I couldn't be more pleased that we have been able to fill that position and with somebody with credibility that we see. And really, without that opportunity, it would have been extraordinarily difficult.

Public service is wonderful. Lucrative is not part of wonderful.

Mr. COLE. Well, yeah, I am sure you know that from firsthand experience. Tell me a little bit, we had a flap last year that I think, depending on how many rural fire districts you have in your district, became a considerable concern. And there was a temporary suspension of military surplus vehicles and what was going to rural fire departments. And these are, again, self-supporting entities that really do great work. We have had a great relationship with the military providing vehicles.

I know the EPA had some concerns. Can you tell us where we are at today?

Ms. MCCARTHY. Yeah, we have resolved that issue and thank you for raising it. I think it was raised quickly enough that we realized what the concern was and we were able to address it very quickly. It had to do with a Clean Air Act obligation for vehicles or engines and I don't remember exactly how we fixed it. All I remember is when it got raised everybody said we have to fix this. And so, I appreciate it very much.

TRIBES

Mr. COLE. Well, you did, so thank you as well. There was some concern that the vehicles were not environmentally safe and so, thanks for backing off that pretty quickly. You mentioned some of the things you are interested in doing with tribes and a number of us up here, Mr. Simpson I know in particular, when he was Chairman of Interior. We have visited reservations and seen some of the infrastructure problems they have in terms of clean water and water distribution systems. So I would like to know what you are planning to do in your budget, and what you think is necessary.

A lot of these are, as you know, very remote locations with very inadequate infrastructure. There has been very little federal investment and obviously, in many cases these are very poor tribes. They don't have funds of their own.

Ms. MCCARTHY. And thank you for recognizing that. We have been working very hard with the tribes to make sure that they are—the money that they can use for infrastructure purposes is increased. We are looking at a $96 million increase under our tribal gap program, I'm sorry, $96 million this year which is a $31 million increase over what was enacted in 2015.

You know, we are trying to also make sure that we are bolstering the ability for tribes to deal with some of their solid waste issues. We have proposed a $3 million in extramural funds just to make sure they have some core services that the rest of us sort of take for granted. And they need some help there.

We also are working with Puget Sound to dedicate some additional resources to the tribes to allow them to keep participating in that effort and to benefit from the clean-ups that are essential for Puget Sound. And that will also ensure that we meet our trust responsibility to the tribes.

And we also have some set-asides under the Drinking Water Fund where we are making sure that $20 million, or two percent, of the appropriated funds are set aside for Indian tribes and Alaskan native villages. They have unique and critical needs that we need to fund.

Mr. COLE. Well, appreciate that last question in this regard and then, I will yield back. Could you enlighten me, or enlighten us a little bit, regarding how you plan to prioritize these requests? We know the needs are always going to be greater than the dollars you have. When you are looking at a reservoir on an Indian reservation, or water infrastructure, how do you make those choices?

Ms. MCCARTHY. Well, we have to actually set it up as a competitive process where we describe the criteria. We even take comment and publicly put those out. The challenge for dealing with tribes and Alaskan native villages is their ability to be able to compete effectively given their limited, you know, resources to be able to hire consultants and do the work. Which is why both in the funds that I have recognized but also in the Clean Water revolving fund, the SRF, we do set aside——

Mr. COLE. Do you do——

Ms. MCCARTHY [continuing]. So they are competing against each other.

Mr. COLE. Right.

Ms. MCCARTHY. We can help them and provide them technical assistance. But the criteria——

Mr. COLE. That is what I was going to ask.

Ms. MCCARTHY[continuing]. Is publicly available. It is discussed. There is nothing that doesn't make this a totally competitive process. But we do set asides for the tribes. It is appropriate. It is necessary to do that. And it has provided them opportunities to compete effectively against one another for what is the highest priority items that we can take care of.

But it also gives us a sense of what the needs are in the tribes and what we might want to request in the next year which is why I think it is important for these funds to go through so we continue with our commitment to the tribes to get them under the standard of living that the vast majority of people in this country enjoy.

Mr. COLE. Well, thank you for that and thank you for your efforts in that regard. And I yield back, Mr. Chairman.

Mr. CALVERT. Thank you, Mr. Cole. Next Ms. Pingree.

NATIONAL ESTUARY PROGRAM

Ms. PINGREE. Thank you, Mr. Chair. Thank you very much for being here today and for the tough challenges you take on. None of the work that you do is easy and I appreciate all the answers you have had for questions today and many other things we have worked with you on.

I just want to bring up a couple of things and I was glad my colleague from the other coast talked about the National Estuary Program. And I just want to say that has been very beneficial to us on the Maine coast. The Casco Bay program is funded through the NEP and they have at least two initiatives going on right now and it is critically important as we are in this very difficult time for a lot of ocean waters and certainly off the Northeast. We are worried about estuaries in relation to that.

They are doing a study on the green crabs which is an invasive species and has seriously had an impact on our mussel population. And just recently, I heard that many of the natural mussels are not there and not harvestable and I would hate to think that Maine would have to lose yet another species.

I also saw a recent extreme sea level rise. We are already up five inches and I think people, whether we agree with everything about climate change or not or, however we perceive this, five inches of coastline is a very serious business to a coastal state and will continue to have huge impact for us.

The one thing I wanted to ask you to talk a little bit about, and again, just thanking you for your commitment to climate change and the President's budget focusing on this and making sure that we are better prepared or working on these issues. Like I said, we don't always all see this from the same way but I go back to my home district and see a stark change in the people who have to deal with the natural resources.

The farmers who deal with more extreme weather, and certainly, out west with the drought, foresters who have issues with fire and a whole variety of species that weren't there before invasive pest species and then, certainly our fisherman. Representing a fishing

state, I have never seen fisherman so worried about the species they never saw before coming up in their lobster traps, worries about diseases coming to the lobsters that used to be much further south along the coast, losing species like shrimp to northern waters.

So these things are very real to us and are very worrisome. Just recently, I learned a little bit more about the existence of blue carbon and the role that salt marshes, sea glass meadows and wetlands have in absorbing, processing and storing that. I would like to hear you talk a little bit more about what you are doing with coastal communities around blue carbon and what kind of research that you are doing to discover more about it.

We have so many salt marshes and estuaries in our state and they play such a critical role. I am interested in your take on the science and some more information about it.

Ms. MCCARTHY. Well, thank you for raising all of these issues because I do agree that people across the U.S. are worried about the changing climate and the extreme weather events we are seeing because they recognize that global warming is not exactly the term to come out of the gate with. It is really all about extreme weather whether it is the snow that we are seeing or the heat that we are experiencing and the droughts.

On blue carbon, the good news is that this is something that I think many people are now attuned to and are doing research on. As you know, across the U.S. government, in particular, in NOAA, they take really a leadership role in some of the research activities here. But I do also know that there has been a national conference that was sponsored on ocean acidification in the U.S. that drew a number of countries in with experts and researchers and scientists to begin to make a concerted international effort to take a look at this issue.

It is one of the, I believe, one of the least studied areas is to understand what ocean acidification means and how the lack of salt marshes and other opportunities for buffering those issues, what it actually means. It could end up being one of the most difficult issues for us to get our arms around but there hasn't been the kind of research effort that is necessary.

And in terms of working with coastal areas, we have been supporting not just technical assistance and research but also tools that are available to understand what the challenges are how we can more effectively look at these. Everything from mapping that is done across the U.S. government to all of us categorizing the impacts and also looking at what you can to avoid those. And how do we more naturally look at resiliency in our coastlines to protect our property and our lives.

It is a significant challenge because so much of the northeast is our coastlines. But being from the northeast myself, I will do everything I can to work.

Ms. PINGREE. I recognize the accent.

Ms. MCCARTHY. Yeah, did you? I thought I really carefully covered it.

CLIMATE CHANGE

Ms. PINGREE. Well, I will just say again, thank you. I think that is one of the big challenges of dealing with the science around climate change and certainly from an environmental perspective is that we are all familiar with the idea of something, polluting our air coming out of a smokestack or an automobile or polluting our water coming out of a leaking oil tank or something else. But this is such a different, complicated issue and you talk to people about ocean acidification and their eyes glaze over and they think, "that is a vast ocean what should I care about it?

In the oyster fisheries, shellfish not being able to make a shell and all kinds of impacts that we haven't even seen yet are going to be huge for our economy, our jobs, our coastal communities. So there is a lot of work to-do.

Ms. MCCARTHY. As Congressman Kilmer will tell you, Washington and Oregon are losing oyster beds to Hawaii these days, right?

Ms. PINGREE. Yeah. That is just very difficult. Well, thank you. I yield back.

Mr. CALVERT. Thank you. Mr. Stewart.

Mr. STEWART. Thank you, Mr. Chairman, Madam Administrator, it is good to see you again. We appreciate your service. I wish there was more that we agreed on but we recognize that you represent the administration and his goals and objectives and that puts us at loggerheads. I appreciate these hearings. I don't suppose that you like them a whole lot. You come and you read your statements and we read our questions and you answer those questions sometimes. Sometimes you do a masterful job of answering in a somewhat ambiguous way which we respect and appreciate as well. I don't suppose we change your mind and I don't suppose you probably change ours.

But I would like to ask you a question and in doing so, I want you to know I am sincere in this question. I am not trying to paint you into a box. I am not trying to—it is not a gotcha question at all. I really do want to understand if you agree with this but I need to set the question up quickly if I could.

I was an Air Force pilot for 14 years. I flew one of the most sophisticated weapon systems ever built. I know a little bit about national security, I think. I sit on a House-Selected committee on intelligence right now and in that I am reminded every day, as I think most of us are, that we live in a dangerous, a chaotic and an unpredictable world. And we could go down a long, long list, ISIS, the possible nuclearization of Iran, a war in the Ukraine, the rise of terrorist threats around the world, a generational skip in the weaponization of China. And I would also add an unsecured border to that.

Which brings me to my question now and that is in the fact of all this, senior administration officials, including the President himself, have said climate change is the greatest threat that we face. And I just find that stunning. And I could quote them. Secretary Kerry recently said climate change is now considered the worst and most fearsome weapon of mass destruction.

The President, in a State of the Union, said no challenge. And he reiterated it, no challenge poses a greater threat than climate change. And then, Vice President Biden speaking to a group of college students says global warming is the greatest threat of your generation, of anything at all.

And I would like to emphasize, they didn't say it is one of the greatest threats. They didn't say it is one of our primary concerns. They said it is the greatest threat. And again, I just find that stunning. And I wonder if you agree with that assessment.

Ms. MCCARTHY. Well, I don't know if I am close enough to make a comparative statement. I am sure that the folks you recognized are working on all of those issues. What I do know is that the President is very serious when he says that climate change is an issue that is not just an environmental one but one that is fundamental to our economy, fundamental to national security. And I have been in other countries where I have been most recently to Vietnam where I went there to talk about their water quality challenges within Hanoi and to work with them on a variety of issues. They couldn't stop talking about the impacts of sea level rise in the Mekong Delta.

Mr. STEWART. Well, I understand there are those who have concerns as we all do.

Ms. MCCARTHY. Yes.

Mr. STEWART. You started out by saying that you didn't know if you were close enough, indicating you didn't have enough background or expertise in that but honestly you do. Every one of us do. I would think every American has the capability of looking at these threats and in a reasonable fashion saying, this one is greater than this one.

Ms. MCCARTHY. I feel—

Mr. COLE. And I can't imagine any one of saying that this is the greatest threat that we face.

Ms. MCCARTHY. If you look at, sir, and I would ask you to take a look at the national security strategy that was recently laid out. It is all about water and the expanding areas of drought that will impact economies and lives. It is all about the displacement of large populations that will provide a level of insecurity that will be extraordinary as sea levels rise.

There is a very large challenge with climate change and the impacts are here today. You can count them. You can look at them. You can cost them out. Many people have.

Mr. STEWART. So I am assuming——

Ms. MCCARTHY. They think it is a threat to national security as well as the environment and the economy here.

Mr. STEWART. So I am assuming from your response that you would agree with that analysis that it is the greatest threat then?

Ms. MCCARTHY. I would agree that it is certainly the greatest challenge that my agency is facing at this point in terms of what we can contribute to some of the solutions and the actions moving forward.

Mr. STEWART. Okay. Well, and I would appreciate that, that you are representing your agency. Referring to the other members of the administration including the President himself, though, who is not representing your agency, he is representing national security

and our national interest. Again, it stuns me that he would draw that conclusion.

If I could, in 30 seconds, and our timer is not working or not activated, Mr. Chairman.

Mr. CALVERT. I'm the timer.

NATIONAL AMBIENT AIR QUALITY STANDARDS

Mr. STEWART. Okay. I will do this quickly. We have this proposed ozone rule through the National Ambient Air Quality Standards and it is, you know, growing from 70 to 65 parts per billion and we have discussed this, Madam Administrator, actually is—when I was subcommittee chairman on last year and there are, major parts of the west that it is virtually impossible for them to meet these standards. There is more naturally occurring ozone than there would be allowed. And there is not a thing in the world they can do about it.

And I am wondering if you could update us on your proposed—or your intentions on this proposed rule and if you intend to go forward with that, what would we say to those very rural parts of my district, for example, that simply have no choice? They would be out of compliance.

Ms. MCCARTHY. Well, the recommendation that EPA, that I made, in the proposed rule was to consider a range between 70 and 65. And if you look at all of the national rules that are in place today and what we expect to see moving forward, we do know that by 2025, at the range of 70, that you are likely see nine counties in non-attainment by 2025 at that level because of all of the efforts already underway to reduce that pollutant.

And so, I don't necessarily believe that there are no ways to achieve attainment out west. I do know California, that was with the exception of California, nine counties, has particular challenges but they are looking at an attainment date of the year of outside of 2037. So this is a health-based standard that we will work with states as we have done before to try to make sure that they are not trying to do anything that is outside of their authority or purview. They certainly don't have to get down to levels that are not attributable to them. And we will work at looking at the costs associated with those and be as reasonable as we can moving forward.

But this is what the health studies are telling us are necessary to protect public health and welfare.

Mr. STEWART. I look forward to a further conversation with you on that issue.

Ms. MCCARTHY. Okay. Thank you.

Mr. STEWART. I don't think we will settle it here but thank you.

Ms. MCCARTHY. But thank you so much for the questions. I appreciate it.

Mr. CALVERT. Thank you, Mr. Stewart. He is modest. He still holds the world speed record for flying around the globe so we congratulate our colleague. We will take this as far as we can, we may have to recess for a little while and come back. But go ahead Mr. Jenkins.

SPRUCE MINE PROJECT

Mr. JENKINS. Troubles in West Virginia, Greenbrier County, Fayette County and your EPA folks on the ground have been very helpful in the water quality testing and, you know, it kind of reminds me of what the core functions of the EPA are and those are important functions and I appreciate that kind of work. My concern is that there are a number of actions and activities of the EPA that I simply can't agree with. I am very familiar with what I believe and so many others believe is agency overreach as it comes to the Buffalo Mountain Project, and the Spruce Mine Project. It is just incredible to me that you can have a Corps-issued permit and then turn around and have the EPA retroactively veto it.

With both of these projects and so many others, the message coming out from this EPA and their actions are having, candidly, a devastating impact on my state and my people. This is real as you well know, I am sure. We have lost 9,000 jobs in West Virginia just in the last few years that have been impacted, in my opinion, in a large degree–but I don't think anybody would dispute at least some degree–by the actions and behaviors of the EPA.

And I am glad you are nodding your head. I think—

Ms. MCCARTHY. I am listening.

Mr. JENKINS. Well, okay. I was hoping that the nodding meant you agree. But I am very troubled. Our production is down 20 percent in just the last few years and now you are proposing a water rule and a power plan that is going to exacerbate the unemployment, the underemployment of the people of West Virginia. And I simply can't support that. You know, as a new member of Congress, I get a justification of appropriated—this is your justification, supposedly, for what I call your war on coal.

And it is a war on coal. It is a war on the jobs of the people of West Virginia. You went on your listening tour but you didn't come to West Virginia and you were challenged yesterday by the congressman from Ohio who just simply asked, would you come to my state? You could not bring yourself to say, yes, I will come to Ohio.

So let me ask you, will you come to West Virginia?

Ms. MCCARTHY. So let me——

Mr. JENKINS. And I saw how you worked with the congressman yesterday. Just simply, will you come to West Virginia to hear the voices of the people of our state of the impact on the coal and water plan and rules that you have got? Will you come to West Virginia personally?

Ms. MCCARTHY. Sir, my answer is the same as yesterday is that we have done extensive outreach. We have hearings all over the U.S. If there is a stakeholder group that I have not heard from that you think was precluded from commenting, we are happy to address that issue.

Mr. JENKINS. The stakeholders that I care about are the hardworking men and women of West Virginia. It is incredible to me that the administrator wants to go off and meet with groups. Why don't you want to meet with the people? Meet with the people of West Virginia. Look at that coal miner in the eye.

That coal miner may not be with a stakeholder group but they have got to put food on their table each and every day and that

hardworking miner needs to get government off its back. So what I am asked to do as an appropriator now is say, do I agree with your justification for your budget.

So let me ask you, number one, does your budget, if we approve it as requested, give you the third largest budget in EPA history?

Ms. MCCARTHY. I don't know how it is clarified, sir, how it ranks.

Mr. JENKINS. Okay, the next question then.

Ms. MCCARTHY. Yes. Yes.

Mr. JENKINS. Okay, well, great.

Ms. MCCARTHY. That was a good one.

PROPOSED BUDGET

Mr. JENKINS. Does your budget propose a $58 million increase to fund the President's climate action plan?

Ms. MCCARTHY. Just short of 58.

Mr. JENKINS. Okay. This budget increase proposal increases your budget by almost a half a billion dollars.

Ms. MCCARTHY. Yes.

Mr. JENKINS. And but it also cuts, does it not, it cuts out $54 million from the State Revolving Funds Program?

Ms. MCCARTHY. As opposed to 2015 enacted but it is a significant increase over the presidential request——

Mr. JENKINS. And your budget sets forth that you are not growing the number of FTE workers. Instead what you actually are doing, while you take pride in maybe not growing your employment, you actually are asking for funding for lawyers to carry out the regulatory and the legal challenges that you are faced with, are you not?

Ms. MCCARTHY. That is not correct, sir.

Mr. JENKINS. Well, so you are not asking for new money, I think it was $27 million to fund a new FTE lawyers——

Ms. MCCARTHY. That is correct.

Mr. JENKINS. Okay, well——

Ms. MCCARTHY. But I wanted to explain. EPA has shrunk its workforce significantly because of budget constraints. We are trying to hire to keep our work moving forward. The lawyers you are referring to are not specifically dedicated to rulemakings.

We have identified that in order to serve the public, including the business community, that our ability to assess the legal viability of permits and other things, it is necessary to have more legal staff to be able——

Mr. JENKINS. Less—you want more lawyers——

Ms. MCCARTHY [continuing]. To get our job done in a variety—

Mr. JENKINS. Well, I don't want to fund more lawyers to defend what I believe is overreach and improper action. Last question.

Ms. MCCARTHY. Yep.

JOB LOSS

Mr. JENKINS. Yesterday I was stunned, stunned, you said "In the data we see, job loss is not a consequence of an environmental rule." So you are saying the actions of your agency and environmental rules have no impact on job losses?

Ms. MCCARTHY. I do not know whether—what specific quote you are using but I indicated that we do a thorough analysis of costs and benefits for our major rules——

Mr. JENKINS. Well, let me ask you just simply——

Ms. MCCARTHY. [continuing]. And I indicated that——

Mr. JENKINS. [continuing]. I know my time is up. Let me just simply ask you because I have got the audio for it and I would play it for the speaker right now. You said, "In the data we see, job loss is not a consequence of an environmental rule." And that, to me, showed an incredible lack of sensitivity and awareness and concern about the actions of this agency.

Because if you go into your rulemaking process with an attitude that nothing we do impacts jobs, then you don't care about jobs and I do. Thank you, Mr. Chairman. I yield back.

Ms. MCCARTHY. You may want to listen to the rest of the conversation, sir, because we care deeply about economic implications and jobs. Care deeply about it.

Mr. CALVERT. All right, we are going to take a short recess for approximately 15 minutes. We have some votes. We will be right back. Thank you.

[Recess]

Mr. CALVERT. The hearing will reconvene. Sorry for the absence. Mr. Joyce, you are recognized.

GREAT LAKES RESTORATION INITIATIVE

Mr. JOYCE. Thank you very much, Mr. Chairman. Good afternoon, Administrator McCarthy, and I am sorry you had to wait for us.

As you know, the Great Lakes Restoration Initiative or GLRI, has provided approximately $1.96 billion toward restoration efforts since the initial year of funding in fiscal year 2010. In the current fiscal year, the GLRI receives $300 million in funding. The President's fiscal year 2016 budget requests $250 million for the GLRI.

Given that the EPA is the lead Federal agency implementing and administering the GLRI, how is this proposed $50 million decrease expected to impact the EPA's efforts to restore and maintain the chemical, physical, and biological integrity of the Great Lakes Basin ecosystem?

Ms. MCCARTHY. First of all, let me thank you for your service on the task force, a significant amount of your time I know is spent here.

There was some very difficult decisions that needed to be made in the budget, and I do recognize that any decrease will have to come with a prioritization among the agencies on what is focused on.

I also recognize that this is an aggressive schedule of work to get done and a lot of needs. I think we will have to work with the agencies and also with the task force to make sure we are prioritizing resources effectively.

Mr. JOYCE. It just does not make much sense to me that our President being from Illinois, a border state of the Great Lakes, initially this being one of his projects, and we realize the funding should be $475 million, and last year he proposed $275 million, this year $250 million.

We rely on the bipartisanship of this committee and the people who care about the Great Lakes to continue to come up with the funding. Obviously, they want to reprioritize that somewhere else because Secretary Jewell told us yesterday these budgets are set to their priorities, and I think the Great Lakes should be the number one priority. I do not think of it is as a lake or a series of lakes. I think of it as a national treasure that we need to take care of.

Ms. MCCARTHY. I understand your feelings.

Mr. JOYCE. Is the EPA prepared and able to use GLRI funds if needed to support key actions to prevent Asian Carp and other invasive species from entering the Great Lakes from the Mississippi River Basin? For example, if funding for the Army Corps of Engineers in fiscal year 2016 is inadequate to move forward quickly with the development of near term control measures at the Brandon Road Lock and Dam, would GLRI funds be provided to supplement their budget for this work?

Ms. MCCARTHY. We could certainly talk through that with the task force.

Mr. JOYCE. Let's move on to another Great Lakes issue, if I could, the algal blooms. Can you talk about specific provisions within the budget request that will help the EPA prevent or respond to the contamination of drinking water from harmful algal blooms, such as occurred last summer in Toledo, Ohio?

Ms. MCCARTHY. Yes. I do know the agency is actively looking at this issue in a number of different ways. We are looking at a cross agency strategy to identify and map where harmful algal blooms are already happening.

We are taking a look at what source waters those harmful algal blooms might impact. We are taking a look at the treatment facilities at those source waters so we can make sure that drinking water systems are highlighted. Needs for upgrades.

As you know, we have asked for a significant amount of state revolving funds to be able to support drinking water. For the first time in I do not know how many years, drinking water is actually a larger portion of the budget on SRF than wastewater, than clean water activities, because we need to address them.

We are also looking at some guidance for individual communities on what the levels are they should be testing to and thinking about, and we are working with Congress as well on a number of other initiatives that we need to undertake.

I think this is a new phenomenon and one that we are getting our arms around, but we are trying to be as aggressive as we can not just in responding to where the blooms are happening but understanding what is the cause, and getting at the root cause of those problems, which is very complex in some areas.

DRINKING WATER PROTECTION ACT

Mr. JOYCE. This week, the House passed the Drinking Water Protection Act, with my support by a vote of 375–37, which in my two years around this place is big numbers.

This bill would direct the EPA to develop and submit to Congress a strategic plan for assessing and managing risks associated with cyanotoxins in drinking water provided by public water systems.

What is the current status of efforts to establish national health advisory levels for microcystin and other cyanotoxins?

Ms. MCCARTHY. Yes. We are looking at developing an advisory now. As you know, when the incident in Toledo happened, we were relying on the World Health Organization, and the standards are advisories that they have. We think we can do a better job at that and continuing to advance the science moving forward. We are looking at that now.

The development of an actual water quality standard is something that I know folks are anxious about. It is quite a lengthy process. We need to just keep moving forward and provide advice and look at what we do with our states and our local governments moving forward.

Mr. JOYCE. Thank you. I was wondering if I could yield some of my time to the distinguished lady from Minnesota if she had further questions.

Mr. CALVERT. Actually, I was going to recognize her right after you.

Ms. MCCOLLUM. I will under his time.

Mr. JOYCE. Thank you. I yield back.

Mr. CALVERT. Ms. McCollum.

CLIMATE CHANGE AND NATIONAL SECURITY

Ms. MCCOLLUM. Thank you, Mr. Chair. I do have a question, but I am going to do a little bit of a redirect. I am going to quote from the President of the United States. "No challenge poses a greater threat to future generations than climate change." When we take the President's words, I believe we should take them in the full context.

As a member of the Defense Committee, I would also quote the Department of Defense, page one of their climate change adaptation roadmap, "Climate change will affect the Department of Defense's ability to defend the nation and pose immediate risk to the United States' national security." There is a whole report.

Another item I would quote from is from Navy Admiral Samuel J. Locklear, III, in an interview at a Cambridge hotel on a Friday in March, 2013. He is talking about climate change. "This is probably the most likely thing that is going to happen that will cripple the security environment, probably more likely than any of the other scenarios we talk about."

Our military along with the President does realize that if we do not address climate change, for future generations, it puts us in a very, very dangerous place with our national security.

BROWNFIELDS

Let's go back to today. We know you have a budget that is below 2005 levels, so this is not an extravagant budget or anything like this. It is below 2005 levels. I want to talk about 2005 levels and Brownfields, because this is not an extravagant budget.

Brownfields' redevelopment benefits communities. We know it enhances our economic ability to grow, retain jobs, and create new jobs. I am pleased that you have $110 million for Brownfields' state or tribal grants.

This is, to quote one of the other members, large. This is the largest Brownfields' request under this Administration, but here again, the total budget for the EPA is below 2005 levels when adjusted for inflation.

Here is my concern. There is an estimated 450,000 Brownfields in this country, and the EPA, with the funding that it has, has the result of only 118 clean ups per year. This is a terrible ratio, and you are working within the budget constraints that you have, but many of the states, communities, and tribes that I work with and hear from all around the country are really eager to redevelop.

This increase is a good start, but if we do not really jump start this, how do you envision the EPA to ever facilitate reducing this backlog in Brownfields and putting America's lands back to work for good American jobs for families?

Ms. MCCARTHY. I think you are raising a very important question because our Brownfields' funds have been extremely important for economic development, not just in our urban areas but our rural communities.

I think the challenge is that many of us spend a significant amount of our Brownfields' resources to do assessments and plans. It is carrying out the clean up efforts associated with those that are most challenging.

That is why in fiscal year 2016 we are requesting a bump up of $30 million to $189.1, but a total of $49.5 million has been requested to support approximately 150 state and tribal response programs, of which a $1.7 million increase from fiscal year 2015 will be used to prioritize efforts to small and rural communities, as well as funding for new tribal grantees.

We are doing what we can, but you are absolutely right, the challenges are large, but we are trying to find ways in which we can coordinate our funding most effectively and not just identify the problems and solutions but bring them to the table.

Ms. MCCOLLUM. Are you waiting for Mr. Rogers to come back are you getting ready to wrap up?

Mr. CALVERT. I am going to ask a question, too.

LEAD PAINT

Ms. MCCOLLUM. I had another question because it comes up and is something I think we would all like to see solved and that is lead paint. We know how dangerous lead is. It affects every organ, it affects the developmental abilities of our children. People want, to shorthand it, to get the lead out. We do want lead to be removed from the environment in which our children are.

But there is so much confusion in the information surrounding the lead renovation, repair, and painting rule. There are testing kits, and certification of who can remediate lead. But people are confused about it.

If a rider prohibiting "lend-safe" progress were to be enacted, I think it would really impair your work to certify workers, to do training and outreach, to work with states in doing it.

What the heck is going on with the lead kits? Are the lead kits safe to use? Do they really let you know what is going on? Quite frankly, I think if this is confusion, we need to end the confusion. We need to figure out how to stop this constant rider from popping

up when I think there is consensus on both sides of the aisle. We do not want our children exposed to lead.

How can you help us clear this up to stop these riders? Because if they were to be enacted, I think would have an outcome that people would not want with our children being more exposed to lead.

Ms. MCCARTHY. Ranking Member, I think everyone agrees that we need to address lead paint and we need to keep our kids safe. That is something I think we can all agree on.

The agency did create some alternatives to help ensure that the lead renovation, repair and painting rule could be done and carried out in a cost effective way.

There are now two currently available test kits. Those are an opportunity to screen so you can understand and a contractor can easily detect whether or not there is any opportunity for lead paint to be there so they can properly conduct their work.

The second thing we did was we provided an alternative to collect paint chips, so they could then take it to an EPA accredited lab, which is also a cost effective way to understand and detect whether there is lead paint and then to subsequently make sure you are protecting kids as it is being removed.

The third was you could hire a lead paint inspector. There is an x-ray florescent analyzer, which is something that can be brought into the home and easily detect where lead paint exists.

We think we have provided a range of cost effective alternatives for implementing this rule, and we think it is extremely important for us to move on and provide stability here to the contractors that are trying to do the right thing and to families that are trying to protect their kids.

Ms. MCCOLLUM. Does the rider shut down your ability to move forward with training, if it was to go on? My understanding is it takes us backwards.

Ms. MCCARTHY. The ones that we are familiar with—I am hesitating because I do not know the exact one that might be on the table, but the ones that have been proposed in the past would preclude us from moving forward.

Ms. MCCOLLUM. Would you provide us in writing those three alternatives and also where the EPA lead testing facilities are, if someone can mail something in, and what the cost would be to use the lab?

Ms. MCCARTHY. Absolutely.

Ms. MCCOLLUM. Thank you. Thank you, Mr. Chairman.

Mr. JOYCE. Can I piggy back one question on Brownfields?

Mr. CALVERT. Mr. Joyce.

BROWNFIELDS

Mr. JOYCE. Can you tell us what plans you have to leverage the funding for Brownfields by partnering with states, municipalities, and private investors, to further advance the clean up efforts?

Ms. MCCARTHY. We tend to almost always leverage our Brownfields' funds. If you will give me a second, I will see if I can identify the numbers.

I guess I do not have it with me. I will follow up with you and let you indicate—the thing that we have done a study of, which may be of interest to you, is that when Brownfields have been rede-

veloped and also when Superfund sites have been turned over, we have some wonderful economics of what it does for the area in terms of economic vitality, what the subsequent investment is in that area and what it provides.

I am happy to share that information with you, and I apologize that I do not have it on hand.

Mr. JOYCE. No worries. I have seen this work in my own district, and I would be glad to emphasize that to the people where the sites exist now as to how they could work in conjunction with you to clean up those sites.

Ms. MCCARTHY. That would be great. Thank you.

Mr. JOYCE. Thank you. I yield back.

CALIFORNIA WATER

Mr. CALVERT. Everybody up here knows that I cannot have a hearing without bringing up California water. This is my opportunity.

Ms. MCCARTHY. I want it noted that it was not me who groaned.

Mr. CALVERT. Administrator, I am sure you are well aware that my home State of California is suffering the most severe drought conditions the West has faced in recent years. California's biggest water challenge is in Northern California where the rivers of the Sierra Nevada merge into the Sacramento/San Joaquin Delta, the hub of the state's water system.

State and water projects draw supplies that travel through the Delta to provide for 25 million people, three million acres of agriculture, 750 different types of plants and animals, and California's $1.7 trillion economy.

Over the years, the Delta's ecosystem has deteriorated, and its 1,100 mile levy system is increasingly vulnerable to failure caused by earthquakes, floods, and other forces of nature.

The decline of the Delta's ecosystem has led to historic restrictions in water supply deliveries, and it cannot be stressed enough the pressing need to improve California's water reliability.

Absent a new course of action, we will have to steal all the water from Idaho. No, that is not the case.

Who put that in?

Ms. MCCARTHY. I wrote that down.

Mr. CALVERT. Absent a new course of action, we will have an economic and environmental collapse in California, and that is true. In response to this need, Federal and state officials, water agencies, and other interested parties have undertaken comprehensive efforts to fundamentally and systematically improve both the state's water reliability and restore the Delta's ecosystem.

This effort is the Bay Delta Conservation Plan. Today is the result of more than seven years of collaboration, scientific analysis, policy review, public input. The BDCP would simultaneously protect California's water supply, improve the Delta ecosystem, through what would be the largest ecosystem restoration project on the West Coast, remove pollutants, invasive species, other stressors harming the Delta environment, and create up to 17,000 jobs.

More than 400 public meetings and briefing's have taken place over the past seven years, and in July of 2014 we saw the close

of a 228 day public review and comment period on the draft BDCP and its associated environmental impact report.

In August, your agency raised last minute concerns that have now delayed the progress in getting closure on a new course of action. This is very disappointing to all the stakeholders that have been participating for many, many years.

Administrator, my question for you is does your agency understand the urgency of the situation in the Delta, because without the strategic investment in the Delta, the water supply and ecosystem will continue to deteriorate and jeopardize the delivery of safe, reliable drinking water to 25 million people.

Is your agency actively working along with the other lead Federal agencies, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the Bureau of Reclamation, to resolve the BDCP concerns in a timely manner? We need to get this done.

Ms. MCCARTHY. Yes, sir, I do understand the seriousness of the issue, and yes, we are working very closely with all of the agencies engaged to make sure that the supplemental draft EIS resolves some of the issues that have been raised, frankly, not just by EPA but by many other agencies.

We are confident we can do that and we are at the table in the most positive productive way we can be, and we will stay there until we get these issues resolved.

Mr. CALVERT. I have heard from a number of critics, and they felt somewhat that they have had this open process for a number of years, EPA has been at every single meeting, they thought everything was merrily going around, and then all of a sudden, the rug was ripped from underneath the process, and it just kind of halted progress on something that is significantly important to the State of California.

Ms. MCCARTHY. It is not often that the agency sees the lead agency developing an EIS, a draft EIS, to agree that a supplemental was necessary. I do think it was not just EPA but other agencies that identified there were some gaps in the data or in the systems.

I will make sure that the agency offers no surprises moving forward. We want to be at the table and we want to be participating. I think our region out there feels like they have been doing that all along, but if there is any question of that, you can be assured that I will be watching it as well.

Mr. CALVERT. Thank you. Mr. Simpson?

REGIONAL HAZE

Mr. SIMPSON. Thank you, Mr. Chairman. Just for the benefit of my good friend from Minnesota, the Ranking Member, I just wanted you to know that one of our Admirals, the Chairman of the Joint Chiefs of Staff, Admiral Mullen, said the biggest threat this country faces is the debt and deficit that we currently have.

That is the challenge that we face. We can all point out issues that need to be addressed. The question is how do you get the money and so forth to do it? Which is a primary concern of this budget, $71 billion, is above the budget caps.

Let me ask you about three questions that deal with this budget. The fiscal year 2014 omnibus included directives to the EPA to so-

licit comments from the states and stakeholders and update the air modeling tool, CALPUFF, and the cost manual, which are the two components that factor into EPA's decision on regional Haze regulations.

Can you update me on steps the EPA has taken to update this modeling tool and the cost manual?

Ms. MCCARTHY. I am sorry. I do not have all the details on that. I certainly remember from the time that I was the AA for Air that we started on both of those projects moving forward. I know we have been working hard on the cost manual in particular, but if it is okay with you, Congressman, I am happy to send you back an exact status on both of those.

Mr. SIMPSON. Okay.

Ms. MCCARTHY. As soon as I can.

IRON AND STEEL/EPA DRINKING WATER

Mr. SIMPSON. Secondly, the budget removes the Fiscal Year 2015 appropriations language, applying by American requirements for iron and steel used in EPA drinking water, state revolving loan fund projects which is the Aderholt-Visclosky amendment. Why? What are the problems that this presents?

Ms. MCCARTHY. I will let David approach this.

Mr. BLOOM. We traditionally exclude language added by Congress such as that.

WORKFORCE

Mr. SIMPSON. I am not sure that is the answer you want to be giving.

But I suspect that there will be efforts to, and probably successful efforts to put the language back in. And I understand that it causes some challenges because there are some things that are difficult to get from America and so forth, and you have to exclude them and all in that kind of process. But I understand that. I am sure that will be an effort of this Committee.

The other question, your budget assumes a relatively flat workforce, but it does shift some employees around. The budget proposes shifting or creating 65 new FTEs for greenhouse gas regulatory work and 24 FTEs that are attorneys to assist the legal and regulatory needs. Why is that?

Ms. MCCARTHY. Actually, these are not litigation attorneys. Again, these are attorneys that we feel we need to properly do our core work. There is a legal review of permits when they go out. There is a legal review of plans that need to be approved by the agency, and we have heard from states over and over again, as well as many of you, about getting quicker in terms of the work we do. We have been doing an exercise within the agency to look at our decision-making processes and find where we need to add resources so that we can be assured of getting them done in a quicker way, and many times it is because our attorneys are not available and focused on some of these key deliverables that we need for the business community and our states. We are trying to do what we are supposed to do, Congressman, which is to expedite things like this so that we can show that we are working effectively and efficiently. It is a switching of resources. But remember, I cut down

the FTEs in the agency considerably. We had in excess of, I think, 18,000 staff at one time. You know, I am down in the 14,000s trying to work my way back up to the 15. So I am trying to do everything I can to expedite. And when I say that I need resources from the attorneys, it is because it is where we see the roadblocks happening and where we see the shifts, not because we are using them for added litigation purposes.

Mr. SIMPSON. Well, you have been successful. You are back up to 15,000 now, 15,034.

Ms. MCCARTHY. Well, that is what we can—that is our ceiling that we are looking at. It is not where we are hiring.

Mr. SIMPSON. But you can assure us that if we allow the shifts to occur, and you get the 24 attorneys and 65 greenhouse gas regulatory people working in that arena, that we can speed up the permitting process and you will be able to demonstrate that next year when you come back?

Ms. MCCARTHY. We will give it our best shot. I do believe it. And I think we have already—we will be able to show some really added expedited scheduling for what we do just working with the states and making things work. I am trying not to ask for more people. I am trying to be able to shift resources effectively to where I see efficiencies can be had.

INFRASTRUCTURE

Mr. SIMPSON. And one final question if I could, Mr. Chairman, and that is your budget proposes, during a time when we have asked for the third highest EPA budget in history, which is what this budget request would be, proposes to reduce the Clean Water State Revolving Fund by $333 million and increase the Drinking Water State Revolving Fund by $297 million. So there is a net decrease of funds in the State Revolving loan funds. I have got to tell you, I think one of the biggest challenges we face in this country now is the infrastructure of the water and sewer systems in this country. Engineers will tell you there is roughly a $700 billion backlog out there. What we put in at the federal level, plus what the states add to it and local communities means that if we kept doing that, at this rate we could address the backlog that exists in roughly 100–150 years. That is the backlog that exists today. Somehow this agency, needs to be at the forefront of deciding how we are going to address that need because the state revolving loan funds, while a great idea when they started, are insufficient to address the need that exists out there. Would you agree with that?

Ms. MCCARTHY. I think that we see ourselves facing more and more of a backlog of work that needs to get done. Specifically, I know that the backlog on the drinking water is probably $348 billion, and the need on the clean water SRF is $298. I think it's clear that the SRFs are not the only tool that we need to bring to the table. So we are also standing up that new center that is going to look at water, infrastructure, and resiliency financing, because we need to bring public-private partnerships to the table. The private sector benefits as much as we do when you look at how much water the private sector utilizes. And I am not suggesting that we do not want them to have it; just that we cannot always rely on public sector funds to get this done, even though we do our best to lever-

age those funds. And I also do not want you to think that the rest of the agency is growing while the SRF is staying more stagnant than you would like. I realize that when you look at it dollar for dollar, you may be looking at the third largest budget, but if you look at this, it does not adjust for inflation at all. And if you look at our 2016 total budget, if you adjust it for inflation, it becomes the ninth largest over the last 12 years. And you know what has happened over the last 12 years. The requirements for EPA and the responsibilities we have been given by Congress over the last nine years have been considerable. So we are looking at the new challenges. We are looking at the new contaminants and the new challenges we are seeing moving forward. And this is not a budget that I think is overly inflated in any way. And in fact, I think it is a reasonable approach to trying to get us on a trajectory where we can do what Congress gave us to do in a responsible and efficient way.

Mr. SIMPSON. Thank you. Thank you for being here today and for your testimony and putting up with our votes in the middle of it all.

Ms. MCCARTHY. That is quite all right.

Mr. SIMPSON. Thank you.

Ms. MCCARTHY. Thank you for the opportunity.

Mr. CALVERT. I thank the gentleman. And we certainly thank you, Administrator McCarthy, for coming here today.

I am sure there are a number of other questions that need to be answered for the record, so we will keep the record open for five days. And we look forward to your timely responses to those questions.

Ms. MCCARTHY. Thank you so much.

Mr. CALVERT. And we will need to work together to find out what your priorities are as we move forward because, obviously, your budget request is not the budget we will be working under, so.

Ms. MCCARTHY. It would be my pleasure to continue the conversation. Thank you.

Mr. CALVERT. So we will be getting our allocations, I suspect, late March, or early April. We will have to meet again after that and find out how we are going to approach all of this.

Again, thank you for your courtesy, and we are adjourned.

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Fiscal Year 2016 Budget Oversight Hearing: Environmental Protection Agency
February 26, 2015
Questions for the Record

Questions from Mr. Calvert

Waters of the United States/ "Navigable Waters"

In comments submitted to the Agency in October, the Small Business Association believes EPA should have conducted a Small Business Advocacy Review Panel prior to releasing the Waters of the US rule. As such, the Small Business Association recommends that EPA withdraw the proposed rule and conduct a small business review panel prior to re-proposing the rule.

Calvert Q1: How does EPA respond to the comments from the Small Business Association to conduct a Small Business review panel prior to taking additional steps on this rulemaking?

Answer: The EPA's proposed rule is fully consistent with all applicable laws, including the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA). The proposed rule at 79 FR 2220 provides the agencies' basis for the certification of no significant economic impact on a substantial number of small entities.

The proposed rule is not designed to "subject" any entities of any size to new regulatory requirements or specific regulatory burden. Rather, it is a jurisdictional rule that imposes no direct costs. *See Cement Kiln Recycling Coalition v. EPA*, 255 F.3d 855 (D.C. Cir. 2001). The rule is designed to clarify the statutory scope of "the waters of the United States, including the territorial seas" (33 U.S.C. 1362(7)), consistent with Supreme Court precedent. This question of CWA jurisdiction is informed by the tools of statutory construction and the geographical and hydrological factors identified in *Rapanos v. United States,* 547 U.S. 715 (2006), which are not factors readily informed by the RFA.

Nevertheless, the scope of the term "waters of the United States" is a question that has continued to generate substantial interest, particularly within the small business community, because permits must be obtained for discharges of pollutants into those waters. In light of this interest, the EPA and the Corps determined to seek wide input from representatives of small entities while formulating the proposed definition of this term that reflects the intent of Congress consistent with the mandate of the Supreme Court's decisions. Such outreach, although voluntary, is also consistent with the President's January 18, 2011 Memorandum on Regulatory Flexibility, Small Business, and Job Creation, which emphasizes the important role small businesses play in the American economy. This process has enabled the agencies to hear directly from these representatives, throughout the rule development, about how they should approach this complex question of statutory interpretation, together with related issues that such representatives of small entities may identify for possible consideration in separate proceedings.

The agencies have prepared a report summarizing their small entity outreach, the results of this outreach, and how these results have informed the development of this rule. This report, *Final Summary of the Discretionary Small Entity Outreach for the Revised Definition of Waters of the United States* (Docket Id. No. EPA-HQ-OW-2011-0880-1927), is available in the docket.

Consistent with conclusions under the RFA and based on this coordination voluntarily conducted with the small business community, the agencies do not intend to delay the rulemaking to convene a small business review panel.

Consistent with conclusions under the RFA and based on this coordination voluntarily conducted with the small business community, the agencies do not intend to delay the rulemaking to convene a small business review panel.

Calvert Q2: Does EPA plan to repropose the rule after reviewing and incorporating the comments received on the rule?

Answer: No, the EPA does not plan to repropose the rule.

Diesel Emissions Reductions (DERA) grants

The DERA program is a successful, bi-partisan program that provides $13 of economic benefit per Federal dollar, the retrofit technology supported by DERA reduces black carbon emissions by 90 percent and projections estimate that nearly 2,000 lives will be saved by 2017 as a result of this funding. The program has achieved real pollution reductions without the need for heavy-handed, top-down regulations along with the ability to leverage private investment three-to-one.

The Administration again proposes to cut the program by two-thirds at the same time that the Health Effects Institute released a new study that diesel exhaust from new technologies doesn't lead to carcinogenic lung tumors in rats and includes 90 percent less toxic emissions than older diesel engines. Yet, only 30 percent of trucks and other heavy duty vehicles on the road have transitioned to the newer, cleaner technologies.

Calvert Q3: Given the large demand for these grants and the work left to do, why is the program again reduced in FY2016 amidst increases elsewhere with EPA's budget?

Answer: DERA funding is reduced in the FY 2016 President's Budget from the FY 2015 Enacted Budget due to tough budget choices in a constrained federal budget context. The FY 2016 budget continues the Agency's targeted approach designed to direct DERA funding to reduce diesel emissions in priority areas and areas of highly concentrated diesel pollution with a primary focus on ports and school buses.

Calvert Q4: Does the Administration disagree with the research findings from the Health Effects Institute?

Answer: The Administration agrees that new diesel engine technologies dramatically reduce emissions.

EPA Regulation

The latest Unified Regulatory agenda published by the Administration listed 129 EPA-planned rulemakings, and often EPA's rulemakings are deemed to be "economically significant" -- meaning that they would have an annual economic cost of over $100 million to implement.

Calvert Q5: Of those 129 proposed rulemakings, which rulemakings propose to reduce burden on the regulated community by eliminating or reducing existing regulatory requirements?

Answer: The EPA notes that the vast majority of the rulemakings listed in the fall 2014 regulatory agenda[1] have not yet been finalized. Suggestions on burden reduction opportunities may come at any point in the rule development process, including during the public comment period. Therefore, it is challenging to speculate at this time about which rules may ultimately contain burden reduction components when they are promulgated. Several rules identified in the regulatory agenda explicitly state an intention to reduce burden on the regulated community, including, for example, the National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule, Revisions to Ambient Monitoring Quality Assurance and Other Requirements, and Managing Oil and Gas Emissions from Minor Sources in Indian Country.

Nearly twenty rules listed in the fall 2014 regulatory agenda have been finalized, and several of them include some burden reduction elements. Examples of burden reduction elements include: simplified calculation methods and removing several reporting requirements from GHG Reporting rules, allowing new substitutes for refrigerants, and allowing alternative ways of measuring mercury emissions from power plants.

The EPA will continue to review existing regulations pursuant to Executive Order 13563 to determine which regulations could be modified, streamlined, expanded or repealed to make our regulatory system more efficient and effective. In the February 2015 progress report, the agency had completed 21 of the 44 reviews. [2]

In addition, the EPA has a long history of reviewing regulations and related activities at its own discretion in an effort to continually improve protection of human health and the environment and eliminate unnecessary burden on regulatory entities. It is the agency's ongoing responsibility to listen and be responsive to regulated groups and other stakeholders; rely on EPA expertise and quality scientific and economic analyses; address petitions for regulatory revisions; and otherwise respond to public and internal cues that indicate when reviews are necessary, including those that suggest ways to reduce regulatory burden. Also, pursuant to Section 610 of the Regulatory Flexibility Act, the EPA conducts reviews of our rules that 1) have been published within the last 10 years and (2) have a "significant economic impact on a substantial number of small entities." The EPA publishes in the Federal Register each year a list of any such rules that we will review during the next year. [3]

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[1] Available at http://resources.regulations.gov/public/component/main?main=UnifiedAgenda

[2] Available at http://www.epa.gov/regdarrt/retrospective/history.html

[3] Available at http://www.epa.gov/sbrefa/section-610.html

Calvert Q6: Please provide an example of a rule issued within the past year that could be characterized as deregulatory in nature, and when that was that finalized?

Answer: The EPA finalized amendments to the regulations promulgated as part of the National Recycling and Emission Reduction Program under section 608 of the Clean Air Act (79 FR 29682 (May 23, 2014)) that are deregulatory in nature. The EPA amended those regulations to exempt certain refrigerant substitutes, listed as acceptable subject to use conditions in regulations promulgated as part of the EPA's Significant New Alternative Policy program under section 612 of the Act, from the prohibition under section 608 on venting, release or disposal on the basis of current evidence that their venting, release or disposal does not pose a threat to the environment. Specifically, the EPA exempted from the venting prohibition isobutane (R600a) and R441A, as refrigerant substitutes in household refrigerators, freezers, and combination refrigerators and freezers, and propane (R290), as a refrigerant substitute in retail food refrigerators and freezers (stand-alone units only).

In addition, as part of the agency's Retrospective Review of Regulations plan,[1] the agency continues to look for ways to determine whether any existing regulations should be modified, streamlined, expanded, or repealed to make our regulatory system more efficient and effective. These retrospective review efforts are being pursued under Executive Order 13563 across the entire federal government in the spirit of reducing burden on the public by avoiding unnecessary costs on regulated industry, avoiding negative impacts on innovation, and serving as a form of accountability to the public in light of uncertainty.

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[1] Available at: http://www.epa.gov/regdarrt/retrospective/documents/eparetroreviewprogressrpt-feb2015.pdf

Targeted Airshed Grants

Despite a long history of implementing some of the most stringent air pollution control measures, the South Coast Air Quality basin has been classified as in non-attainment for ozone for nearly as long as a Federal standard for ozone has existed. Nearby, two of the busiest ports in the United States –the Port of L.A. and the Port of Long Beach -- are responsible for 40 percent of all of the U.S. container imports. Containers are loaded onto trucks, which then travel through Southern California to the rest of the country so mobile sources contribute to about 80 percent of the air pollution in the South Coast. Largely due to the topography and the large volume of transportation that occurs in and around the Inland Empire, additional resources are necessary to continue to make improvements. The FY 2015 Omnibus renewed the Targeted Airshed grant program to provide additional resources to areas across the Nation that are similarly struggling to meet air quality standards and need additional help.

With EPA's recent proposal to tighten the ozone standard to 65-70 parts per billion the South Coast air quality basin will invariably remain out of compliance. It will also cause many other counties to fall out of attainment with air quality standards.

Calvert Q7: EPA's FY16 Congressional Justification includes a statement that there is no request for this program in FY16 and funding has been eliminated. However, this does not justify why the President's budget does not include funding for the program. Does the Administration oppose these Congressional efforts to improve air quality for ozone and particulate matter? If so, please provide a justification for the elimination of funds.

Answer: Funding for the Targeted Airshed grant program has not been requested in FY 2015 or FY 2016 because the agency does not generally carry forward directed funding from its appropriations. An increase in state air grant funding is requested in the FY 2016 President's Budget for continued environmental state programs which will help nonattainment areas work towards achieving their goals of improving air quality.

Superfund Budget Request and Needs

The 2016 budget proposes $1.15 billion for the Superfund program, a $65 million increase over the FY15 enacted level. This includes a $53 million increase for cleanup programs, including an additional $34 million "to accelerate the pace of cleanups" in the long-term, remedial program, which is a goal that we share given the 1,321 sites on the National Priority List that need to be cleaned up.

Calvert Q8: I have heard that EPA is considering changes in how its Superfund contracts are structured. I have also heard a concern that new clean up contracts not be in place by the time the current clean up contracts end. Is this something you can look into so that there are not any administrative delays and we can continue to accelerate cleanups at Superfund sites?

Answer: The EPA is developing a new contracting strategy to guide the acquisition of services in the Superfund Remedial program. The new strategy, called the "Remedial Acquisition Framework" (RAF), focuses on establishing a contracting strategy that uses the fair opportunity process to ensure a fair and reasonable price for the work required and to enhance the agency's ability to award tasks to the most qualified contractors by taking into

consideration technical, cost, and past performance factors. As part of the RAF, emphasis on small businesses, competition, and streamlined and efficient processes are highlighted. The RAF will generate greater competition and maximize potential for the best price and best service for the Superfund program and the American taxpayer.

The agency is currently drafting a transition plan to ensure there are no gaps between the old and new contracts. The plan will examine ongoing and planned cleanups, and address how each project will obtain support to ensure that work will continue expeditiously throughout the procurement process.

Calvert Q9: Does EPA have similar estimates for what is required to cleanup all of the (1,321) Superfund sites currently on the National Priority List?

Answer: The EPA does not have a definitive current cost estimate for the cleanup of all sites on the Superfund NPL. In 2010, GAO analyzed responses to a survey of EPA regional officials and estimated that as of September 30, 2009, the cost to conduct remedial construction at non-federal NPL sites in 2015 and beyond was estimated at $3.036 billion. (GAO Report 10-380, p. 20 (May 2010)).

Pesticide Program - Consultations on the Endangered Species Act

Litigation continues to drive Endangered Species Act reviews of pesticides at EPA. As the chemistry evolves, newer pesticides are generally able to mitigate the unintended consequences of their predecessors. Unfortunately, litigation that the Agency faces over new pesticides will not result in greater protection for any threatened or endangered species. Ironically, it is likely to result in the continued use of the older products.

The 2016 budget request includes an increase for the Office of Pesticide Program's compliance with the Endangered Species Act. However, the Committee has seen independent budget projections that indicate that the disjointed way EPA and the Services currently conduct endangered species reviews could cost almost $500 million.

Calvert Q10: Since the lack of coordination in ESA consultation among the federal agencies could lead to large budgetary inefficiencies, what process improvements can we expect to see from within reasonable EPA budget projections?

Answer: The federal agencies are working together to implement the National Academy of Sciences report. Based on the recommendations in the report the agencies identified joint, shared scientific approaches to apply to 5 initial consultations. The agencies have agreed to complete a "lessons learned" analysis when these consultations are complete to identify joint approaches that maintain the high scientific integrity called for in the NAS report but which can lead to completed consultations with less expenditure of resources. (We note that the 2016 budget request for EPA does not include a specific increase for the Pesticide Programs' work on implementing the Endangered Species Act.)

Calvert Q11: EPA has worked hard to improve the consultation process with Interior and Commerce, and we had a good briefing with your staff last year. Thank you for that effort. Are the Services working with EPA? Do you have support within the Administration for this effort? How can Congress help?

Answer: The Services, USDA and the EPA continue to work together on implementing the NAS report and the initial consultations. As the initial consultations proceed, issues that arise are resolved and utilized in the consultations.

Iron and Steel Requirements for the SRFs

For EPA water infrastructure projects, the "Use of American Iron and Steel" provision in the Interior appropriations bill requires that all steel be "produced in the United States." EPA has interpreted this language to require that all steel manufacturing processes, including "melting," occur in the U.S. This interpretation excludes all steel sheet and plate mills in the western U.S. and their downstream manufacturing customers from participating in SRF and WIFIA projects. Steel slabs – a partially manufactured item under EPA's interpretation, yet the raw material of production for western U.S. slab converter mills – are rarely available for purchase domestically. These U.S. slab converter mills have no choice but to import slabs to begin their steel production and EPA's interpretation is impacting California manufacturers.

Calvert Q12: It's my understanding that if EPA interpreted the language to require that hot rolling and subsequent processing of steel occur in the United States, then the provision would protect more American jobs. Can we work together to identify ways in which EPA's interpretation can be helpful for all American jobs?

Answer: EPA is implementing the AIS requirement using the existing definition of iron and steel production used in Federal Acquisition Regulations and historical precedent set by similar requirements (for example, Federal Highways Administration's Buy American requirements). This definition of production requires that all manufacturing processes, except coating, must take place in the U.S.

The suggested alternative to require that only hot rolling and subsequent processing occur in the United States would mean that many other intermediate products beyond slabs could also be considered domestic. This may include billets, blooms, wire rod, tube rounds, and bands that are used as intermediate semi-finished goods for further processing and finishing. The scope of the AIS provisions would be substantially lessened with the potential volume of products that could be covered. This could negatively affect U.S. jobs and the value added by U.S. manufacturing.

The American Iron and Steel provision allows EPA to approve waivers in cases where products to be used in the SRF projects are not domestically available in sufficient quantity or quality.

Calvert Q13: The President's budget proposes to delete Sec. 424 from the FY2015 Omnibus that applies the same requirements to the Drinking Water State Revolving Fund as those that exist under current law for the Clean Water State Revolving Fund. What is the Administration's

position on the Use of Iron and Steel via the State Revolving Funds and why does it differ between the two SRFs?

Answer: The Administration is not opposed to Buy American requirements in the SRFs, but generally deletes legislative riders from prior years in its requested appropriations language for the Budget. If this requirement is included in any future bills, we recommend consistent language between the programs.

e-Enterprise and e-Manifest

EPA's proposed e-Enterprise initiative offers a menu of technological options for increasing efficiency with States and the regulated community. It's critical to understand the three- or five-year plan for these investments.

Calvert Q14: In a constrained budget environment, what would be the top two or three e-Enterprise projects that should be funded first? Please explain why those two or three projects rise to the top of the priority list.

Answer: Projects aligned with the E-Enterprise business strategy improve environmental outcomes and dramatically enhance service to the regulated community and the public by maximizing the use of advanced monitoring and information technologies, optimizing operations, and increasing transparency. E-Enterprise will save the federal government, states, tribes and American businesses valuable resources. The EPA estimates that projects aligned with E-Enterprise could result in cumulative net savings of over $1.0 billion within 10 years for the EPA, states and the regulated community. The EPA's FY 2016 total request for E-Enterprise is $54.3 million. The amount above base FY 2015 enacted resources is $40.4 million.

The priority areas for E-Enterprise projects in FY 2016 include: (1) Existing projects aligned with E-Enterprise, (2) Environmental information grants for states, and (3) Continued support of shared services. Investing in these priority areas will allow EPA to develop the foundational work necessary to continue building out the strategy in future years.

Priority FY 2016 E-Enterprise activities which require funding above base resources include:

1. Existing projects aligned with E-Enterprise ($9.8 million): These projects are part of base programs (e.g. Safe Drinking Water Information System (SDWIS), e-Manifest, and air and water program components of the Integrated Compliance Information System (ICIS)). These ongoing projects are key to the most basic operations of the EPA's programs and are important to the American public.
2. Environmental Information Grants for States ($15.7 million): These funds will help build the E-Enterprise foundation in states by allowing for broader state participation in joint governance and implementation of E-Enterprise-aligned projects. Broader state participation will result in greater efficiency across the environmental enterprise, including at the individual state level, for E-Enterprise projects that go forward.
3. Continued support of enabling the highest priority shared services and program modernization projects ($7.3 million): These services include the E-Enterprise portal and common business functions (i.e. - facility and chemical registries), that offer a convenient one-stop location for two-way business transactions and access to environmental information. The E-Enterprise portal and

associated shared services are key to meeting the overall goals of E-Enterprise and offer burden reduction, increased efficiency and cost savings across the enterprise. To date, the EPA has held requirements-gathering webinars for the E-Enterprise portal with over 400 stakeholders from industry, states and the general public receiving valuable, positive feedback on desired functionality for the portal.

The remaining $7.6 million in FY 2016 resources support a wide variety of additional projects that will improve efficiency and make environmental data more readily available to the public, states and tribes. These funds will improve the performance of other shared services (e.g. electronic signature services and data exchange), support advanced monitoring and initiate the next round of program and legal framework modernization.

Calvert Q15: The e-Manifest system will significantly reduce paper recordkeeping costs in the regulated community for hazardous wastes by relying on an electronic tracking system. $7.2 million that has already been appropriated to build the system and the budget proposes an additional $7.5 million to build the system, which is greater than EPA's original estimates for the entire cost of the program (original estimate: $6-8 million). Please explain why the program is already over budget.

Answer: At a FY 2012 hearing before the House Subcommittee on Environment & Economy, the EPA estimated $15 million for the system. An alternatives analysis prepared in 2013 also estimated system development costs of approximately $16 million over three years and the EPA's efforts are on track within those amounts. These system development costs entail developing and building the full national core transactional IT system that industry would interact with and that would maintain the mobile workflow as shipments move from one place to another. Beyond system development, additional costs for program implementation will include system operations, as well as regulatory development, and e-Manifest Advisory Board costs. This is a national IT system, for approximately 160,000 hazardous waste handlers, including between 4.6 and 5.6 million manifests each year. The benefits realized from the development of an e-Manifest system are significant. The EPA estimates that that an e-Manifest system will reduce the reporting costs to users by more than $75 million per year compared with costs of the current paper manifest system.

With the combined FY 2014 and FY 2015 funding, the agency has made significant progress on regulatory development and system development including completing detailed e-Manifest technical architecture plans. During FY 2015, the agency will continue implementing provisions of the Hazardous Waste Electronic Manifest Establishment Act by undertaking three key activities: (1) continuing system development planning, and conducting appropriate acquisition processes for full scale system development and testing; (2) continuing the development of the e-Manifest user fee regulation; and (3) establishing the e-Manifest Advisory Board. The FY 2016 request will allow the full system development process to proceed. During FY 2016, the agency will continue implementing provisions of the Hazardous Waste Electronic Manifest Establishment Act by undertaking three key activities: (1) conducting iterative/modular system development including prototyping as well as extensive user testing; (2) continuing the development of the e-Manifest user fee regulation

including stakeholder involvement and issuing the proposed regulation; and (3) hosting at least one e-Manifest Advisory Board meeting.

Hydraulic Fracturing Study

EPA has been working on a study to determine whether there is a relationship between hydraulic fracturing and drinking water for more than four years. The Agency has developed several new research areas and may have 30 or more separate reports as part of this study despite a singular request from Congress to determine whether there is a link between hydraulic fracturing and drinking water.

Calvert Q16: EPA has requested an additional $4 million for FY16. Why is the $30 million that EPA has received to date an inadequate amount to complete the study?

Answer: The EPA's study of the potential impacts of hydraulic fracturing for oil and gas on drinking water resources in the United States was developed with input from the EPA Science Advisory Board, is national in scope, and reflects multiple, complex activities associated with the use of water in hydraulic fracturing beginning with water acquisition and ending with the wastewater treatment and disposal. To the best of our knowledge, there has been no prior study of the potential impacts of hydraulic fracturing on drinking water resources of this scope and magnitude. The study will produce at least 28 peer reviewed reports and publications, and a state-of-the-science assessment report.

The resources needed for the EPA's hydraulic fracturing study are related to the complexity of the topic, extensive stakeholder outreach activities that ensure the EPA has access to all relevant information, and a robust external, independent peer review process for all of the EPA's scientific products. When completed, the products from the EPA's hydraulic fracturing study will provide information useful to decision-makers involved with ensuring that hydraulic fracturing activities do not impact the nation's drinking water resources.

Most of the hydraulic fracturing reports and publications will be completed and released as final in FY2015. The EPA expects to complete the hydraulic fracturing drinking water assessment report as a draft report in spring 2015. The draft report will be released for public comment, and submitted to the EPA Science Advisory Board for external, independent peer review. Resources are requested in FY2016 to revise and finalize the draft assessment report to enable the agency to fully address the comments received through public and SAB peer review.

Calvert Q17: A draft was supposed to be released in December 2014, but that has been delayed until "Spring 2015". Why has the draft been delayed? Please provide an updated timeline for release of the draft along with the schedule and major milestones before the report is finalized.

Answer: There has been no prior study of the potential impacts of hydraulic fracturing on drinking water resources of this scope and magnitude. As part of our study on the potential impacts of hydraulic fracturing for oil and gas on drinking water resources, the EPA has conducted substantial original research as well as conducted an assessment of existing research. The public, industry, as well as other federal agencies, state and interstate regulatory agencies, non-governmental organizations, tribes, and others have had and will continue to

have the opportunity to provide input and comment through enhanced stakeholder engagement and engagement through the Science Advisory Board (SAB) peer review process.

History and Projected Timeline:

2009: US Congress urged EPA to conduct a study

2010: Mar 2010: The EPA announced that it would conduct a research study to investigate the potential impacts of hydraulic fracturing on drinking water resources

Mar – Jun 2010: SAB advisory on scoping documents

Jul – Aug 2010: Public meetings with stakeholders to identify concerns and study scope

2011: Feb 2011: Released Draft Study Plan

Feb – Mar 2011: Held Technical Workshops

Feb – Aug 2011: Draft Study Plan reviewed by SAB members

Nov 2011: Released Final Study Plan

2012: Nov 2012: Held Technical Roundtables

Dec 2012: Released Progress Report

Feb – July 2013: Held Technical Workshops

2013: May 2013: SAB Consultation

Oct 2013: Reconvened Technical Roundtables to review results of Technical Workshops

Fall 2013- 2014: Continued stakeholder engagement on the EPA's research

2014: Additional stakeholder engagement with states and industry

2015: Release Draft Assessment Report of Results to the SAB and the public

2016: Finalize Assessment Report

Small Drinking Water Systems

EPA's budget includes several priority goals as part of its strategic plan and as part of its performance plan for fiscal year 2015. One goal, related to drinking water proposes to engage with an additional ten states (for a total of 30 states) to improve small drinking water system capability.

Calvert Q18: What resources are necessary so that your Agency may engage with all 50 states to improve small drinking water system capability?

Answer: One of the FY 20142015 Agency Priority Goals was to "engage with an additional ten states (for a total of 30 states) and three tribes to improve small drinking water system capability." This goal represents just one aspect of EPA's strategy to engage with states on small drinking water system capability. For example, EPA continues to offer resources, training and tools to all 50 states to enhance their ability to assist drinking water systems. To further improve small drinking water system capability, EPA is requesting additional

resources in FY 2016 as part of the agency's infrastructure investment. These funds will enable states to augment their roles and participation in building small drinking water system capabilities and partnerships. For example, $9 million is requested to expand upon existing technical, managerial, and financial capability programs, and develop additional tools and partnerships to promote sound asset management, as well as strengthen state resources to engage in these activities. In addition, $9 million is requested to provide technical assistance for small systems to plan and facilitate partnership, regionalization, or consolidation agreements. The EPA also is requesting an increase of $7.7 million in the Public Water System Supervision funding in order to enhance state and tribal efforts to provide increased operator training and technical assistance to small communities so they can acquire the knowledge and expertise needed to properly operate drinking water systems and therefore protect public health. These resources will enable all fifty states to engage fully in activities targeted to improving their technical, managerial and financial capabilities to work with their drinking systems.

Energy STAR program

A longstanding Committee concern is how EPA and other agencies in the bill define a climate change program. For example, EPA has repeatedly redefined the Energy STAR program as its largest climate change program at $44 million. Most Americans would disagree that they are combating climate change when they purchase a new Energy STAR refrigerator, dishwasher or ceiling fan. Similarly, most Americans would disagree that they are opposing climate change if they decide to purchase a non-Energy STAR product. Their priority is buying an appliance for their home that works for them aesthetically, which may be efficient and save them money in the long run on their utility costs. So the Energy STAR program is a program that promotes efficiency -- doing more with less – and taking advantage of the latest technologies.

Calvert Q19: Does the program adjust estimates of greenhouse gas reductions as the sources of electricity generation in the energy sector change?

Answer: EPA's climate protection partnerships are important components of the U.S. Government's strategy to address climate change. The EPA is committed to documenting quantifiable program results and using well-established methods to estimate the benefits of its programs. The EPA calculates GHG emissions reductions from the ENERGY STAR program by applying carbon dioxide emissions factors, as applicable, to net annual electricity and fossil fuel savings attributed to the program. For electricity, a national marginal emissions factor is assumed to reflect power plants that will run less due to energy efficiency. EPA adjusts emissions factors as needed to reflect changes in the energy sector.

Calvert Q20: In order for a product to qualify for an Energy STAR label, does a company need to show a reduction in the amount of greenhouse gas emissions? Is that technically feasible for a company to demonstrate?

Answer: Manufacturers that participate in the ENERGY STAR program deliver greenhouse gas emission reductions by demonstrating that their products meet strict guidelines for energy

efficiency. To earn the label, products must be independently certified to meet these guidelines based on testing using standardized test methods.

Calvert Q21: If an Energy STAR product is powered by electricity generated from wind, solar, nuclear or another zero emissions source, then how has the Energy STAR product reduced emissions? Please explain.

Answer: Given the interconnected nature of the power grid, the electricity delivered to customers is generated from a wide variety of energy resources and not attributable to a single generator. In the event that a customer generates electricity from a non-emitting source, we anticipate that use of ENERGY STAR products will reduce the remaining amount of electricity that the customer will purchase from their utility, still reducing the need for electricity from the grid.

Pollinators

The budget justification (page 67) states that EPA's FY 2016 budget for the Office of Pesticides Program includes an increase of approximately $1.5 million above FY 2015. This increase would fund laboratory research and technical analysis on pollinators (e.g., honeybees, monarch butterflies) and related resources (e.g., hive structures), improving our scientific understanding to promote pollinator health through the regulatory processes.

Calvert Q22: What criteria did the agency use to determine the proposed increase in OPP's funding regarding pollinators? What criteria does OPP use to determine the necessary laboratory research and technical analysis it conducts on pollinators? Were other Federal agencies, such as USDA, consulted about these research plans? What research is EPA conducting on evaluating and addressing non-pesticide threats to pollinator health? What research is EPA conducting on the development of miticides to combat varroa mites?

Answer: 1) EPA proposed a funding increase regarding pollinators to enhance its laboratory's capability to analyze pesticide occurrence in bee colonies, pollen, and other relevant environmental media. EPA has been working with researchers from other federal agencies (such as USDA) and the public and private sector to examine how pesticide residues correlate with particular agricultural crops where the bees are located and with pesticide use information. The Pesticide Program's Analytical Chemistry Laboratory has been analyzing the frequency and quantity of pesticides (*i.e.,* loading) in pollen and bee bread (pollen and honey) in colonies. Along with other labs, this lab also assists in refining detection methods for classes of pesticides. The additional funding will ensure our continued involvement and enhance our laboratory capability to perform pesticide residue analyses necessary to advance the science and evaluate pesticides.

2) EPA has identified the basic suite of laboratory- and field-based studies used to assess the likelihood of adverse effects to individual bees and bee colonies from exposure to pesticides. Under the Federal Insecticide, Fungicide, and Rodenticide Act, pesticide manufacturers, or registrants, are required to provide the data from these studies. EPA also has an interest in answering broader questions that extend beyond individual chemicals and for which there are opportunities to partner with other federal agencies and the public/private sectors. The basic

criterion for EPA involvement in technical analysis of pesticide residues has been whether the research conducted by either other federal agencies or public/private stakeholders is likely to inform regulatory decisions. Another criterion is whether the information generated from the external research will enhance EPA's understanding as to the extent to which pesticides are affecting pollinators.

3) EPA has partnered with the USDA on identifying and conducting multiple studies. For example, EPA has been collaborating with USDA on developing a pesticide module for the USDA VarroaPop simulation model in order to estimate the effects of pesticide exposure on colony survival with and without the presence of Varroa mites. This research has been funded, in part through the Regionally Administered Research Effort (RARE) grant awarded by EPA Region 5 as well as USDA and has included the Office of Pesticide Programs as well as the EPA Office of Research and Development and Health Canada's Pest Management Regulatory Agency. EPA also has worked with the USGS to examine pesticide residues in pollen from plants that are attractive and considered nutritious for bees.

EPA has worked closely with the USDA as a co-chair of the Colony Collapse Disorder (CCD) and Honey Bee Health Steering Committee to identify research needed to address uncertainties associated with multiple factors affecting pollinator declines. EPA science staff have also provided reviews of study proposals submitted in response to USDA-issued requests for proposals to better ensure that the data provided by the studies can help to inform EPA regulatory decisions. For example, EPA met with USDA Agricultural Research Service to review the Southern Row Crop Initiative research proposal that was developed with input from commercial beekeepers in the Southeast.

Finally, EPA has worked with USDA, the Departments of Defense, Education, Energy, Interior, State, Housing and Urban Development, and Transportation, as well as the General Services Administration, the Army Corps of Engineers, the National Science Foundation, and the Smithsonian Institute on the overall Pollinator Strategy as directed by the President's June 2014 Memorandum -- Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators.

4) As part of its overall research related to adverse outcome pathways, EPA is looking at those pathways relevant to among other things, linking both pesticide and non-chemical stressors (e.g., Varroa mites and nosema) to impacts on bee survival. This process is effectively providing a weight of evidence evaluation for each putative mechanism and also identifying where the major gaps in scientific understanding are. As such, the effort could help determine the necessary laboratory research and technical analyses that need to be conducted to fill some of those gaps. In addition, EPA is conducting research relevant to effects of certain classes of pesticides on honey bee colony success. While the focus is on pesticides, other environmental (non-pesticidal) factors also are being evaluated.

5)At this time, we are not doing any research directly related to development of miticides to combat Varroa mites.

Neonicotinoid Seed Treatments in Soybeans

On October 15, 2014, EPA released a study on the benefits of neonicotinoid seed treatments in soybean production.

Calvert Q23a: What prompted EPA to conduct this study? How will it be used in EPA regulatory decisions?

Answer: A risk and benefits analysis is part of all registration reviews, and this analysis is part of the EPA's overall neonicotinoid registration review case. Following published reports questioning the benefits of neonicotinoid insecticide seed treatment in soybean and other crops, EPA decided to focus first on these seed treatments. We will incorporate our findings into the registration review process for the neonicotinoid pesticides. If the risks associated with the seed treatment use of the neonicotinoids in soybeans outweigh the benefits, EPA will consider taking additional regulatory action to address these concerns.

Calvert Q23b: Did EPA conduct similar analyses of the efficacy of seed treatment in other crops? If not, why not? If so, what were the criteria used to select these crops? Were these studies publicly released?

Answer: We chose to focus first on the neonic seed treatments for soybeans following published reports questioning the benefits of neonicotinoid insecticides in soybeans. Our assessment compared the yield benefits and costs of soybeans grown from neonicotinoid-treated seed with soybeans grown using other pest control strategies. It was not an analysis of efficacy. The EPA typically assesses the benefits of a chemical on a crop by crop basis, and the report on soybean seed treatment is the first completed for the neonicotinoids. The EPA will perform additional benefits assessments as we complete the registration review of the neonicotinoids.

Calvert Q24: The soybean report relied on acreage and price data from the National Agricultural Statistics Service. Did EPA draw on other USDA data – including seed treatment usage rates and efficacy – in conducting its analysis?

Answer: In addition to acreage and price data from the National Agricultural Statistics Service (NASS), the EPA used the following USDA data sources in conducting its analysis:

- USDA Economic Research Service's soybean enterprise budgets (USDA ERS, 2014).

Source: United States Department of Agriculture, Economic Research Service (USDA ERS). 2014. Commodity Costs and Returns: Soybeans. < ers.usda.gov/data-products/commodity-costs-and-returns.aspx#.U3yycfldWZ28>

- USDA historical usage data (pounds applied) from 1987 to 2004 (Fernandez-Cornejo et al., 2014).

Source: Fernandez-Cornejo, J., Nehring, R., Osteen, C., Wechsler, S., Martin, A., and Vialou, A., 2014. Pesticide Use in U.S. Agriculture: 21 Selected Crops, 1960-2008. USDA-Economic Research Service Economic Information Bulletin Number 124. pp 65-68.

Calvert Q25: The soybean study relies heavily on "EPA Proprietary Data." What is the source of this data? Is comparable publicly-available data available?

Answer: The source of EPA proprietary data is a private market research firm, GfK Kynetec. These data are collected annually from field crop, vegetable, and fruit producers. The study design used by GfK Kynetec results in a statistically valid estimate of pesticide use by state and by crop. The information on seed treatments by active ingredient is not publicly available due to the licensing agreement GfK Kynetec requires for use of its data. Although USDA NASS provides pesticide usage data, it was not adequate for the seed treatment benefits study because it does not include information on seed treatments by active ingredient. Also, USDA NASS data do not include information on target pest which was important for the soybean seed treatment benefits assessment.

Federal Agency Actions Regarding Neonicotinoid Pesticides

On July 17, 2014, the U.S. Fish and Wildlife Service announced that it was banning the use of neonicotinoids on USFWS lands.

Calvert Q26: Was EPA consulted by the Service regarding its decision? What guidance did EPA offer?

Answer: No, the Services did not consult the EPA on its decision to ban use of neonicotinoids on USFWS lands.

In October 2014, the Council on Environmental Quality issued guidance on the use of neonicotinoids and plant materials treated with this class of chemistry on certain federal properties.

Calvert Q27: Was EPA consulted about this action? What guidance did EPA offer?

Answer: No, the EPA was not consulted.

Questions from Mr. Simpson

Biomass

Markets for forest biomass are important to private and public forests and the rural communities they support in Idaho and throughout the country. Back in 2010 your predecessor created uncertainty by suggesting that biomass was not a carbon neutral energy source. You are now reconsidering that position and are looking more favorably on the carbon benefits of forest biomass – both the biomass the comes from the forest and the residuals produced by mills - which is a positive step. However, the uncertainty continues and is limiting the development of this carbon-neutral energy source, which can serve as an important opportunity for job creation and investment in rural areas.

It is essential that EPA reaffirm the carbon neutrality of biomass. This will strengthen our energy position, keep our forests healthy and productive, and help rural communities.

Simpson Q1: Can you provide an update on EPA's work to clarify the carbon neutrality of forest biomass?

Answer: In 2011, the EPA released a draft framework, Draft Accounting Framework for Biogenic CO2 Emissions from Stationary Sources. In 2012, the Science Advisory Board (SAB) completed its peer review of the draft framework, providing various recommendations, including the finding that it is not scientifically valid to assume that all biogenic feedstocks are "carbon neutral." A biogenic feedstock's net CO2 contribution to the atmosphere is a conclusion that should be reached only after considering a particular feedstock's production and consumption cycle. The EPA released a revised Framework report in November 2014, which incorporated SAB recommendations and recent scientific literature.

The EPA developed the revised report to continue advancing our understanding of the role the use of biomass can play in reducing overall greenhouse gas emissions. As a next step forward, the EPA will continue to refine its technical assessment through a second round of targeted peer review with the SAB this year, which includes public comment opportunities. Continued evaluation of the Framework will parallel EPA's consideration of biomass in the context of its policies and programs, such as informing efforts to rely on the use of sustainably-sourced material in compliance plans under the Clean Power Plan and revisions to the Prevention of Significant Deterioration rules.

Simpson Q2: Many states and manufacturing facilities want to rely on carbon-neutral forest biomass as an important carbon-neutral energy source. How would you advise them to proceed pending EPA clarification?

Answer: As a next step forward, the EPA will continue to refine its technical assessment through a second round of targeted peer review with the Science Advisory Board (SAB) in 2015. The SAB peer review process includes public comment opportunities. Though the SAB peer review and continued evaluation of the Framework will parallel EPA's consideration of biomass in the context of its policies and programs, the revised framework is expected to

provide important information regarding the scientific basis for assessing biomass-derived fuels and their net atmospheric contribution of CO2 related to the growth, harvest, and use of these fuels. As part of this technical process, we will continue to assess and closely monitor overall bioenergy demand and landscape conditions for changes that might have negative impacts on public health or the environment. EPA is interested in addressing questions from states. If states have questions on this topic, EPA regional staff are available to work with them.

OZONE

The EPA's proposal to further restrict ozone standards from 75 parts per billion to 70 or 60 will have a significant impact on carefully crafted state programs and industries in my district. According to Idaho's DEQ air quality administrator, the EPA's ozone proposal would likely put into non-attainment status our "Craters of the Moon" national monument area, which happens to be one of the cleanest air sheds in our state. Clearly in certain areas like the Craters monument the background ozone levels are not directly caused by domestic sources, yet your plan would punish our economy and industries for something they have little or no control over.

Simpson Q3: Madam Administrator, how does EPA intend to account for background levels of ozone as it proposes to tighter ozone standards?

Answer: Under the Clean Air Act, states are not responsible for reducing emissions that are not in their control. Existing and upcoming EPA regulations and guidance will assist states in ensuring background ozone does not create unnecessary control obligations as states continue their work to improve air quality.

Simpson Q4: How does EPA's proposal provide relief for areas that can prove they are not contributing to ozone issues in their areas?

Answer: Assuming a state or the EPA can provide an adequate assessment or demonstration to legally invoke regulatory relief, there are a few types of relief that are described in the proposal. As examples, an area may obtain relief from designation as a nonattainment area, relief from the more stringent requirements of higher nonattainment area classifications, or relief from adopting more than reasonable controls to demonstrate attainment.

Waters of the United States

Simpson Q5: EPA asserts that its intent in promulgation of the proposed regulation that would amend the definition of Waters of the United States (WOTUS) is to provide clarity in the face of unsettled case law. The proposed regulation hinges the revised definition of WOTUS based on the so-called significant nexus test set forth in the concurring opinion by Justice Kennedy in the Rapanos decision. No other Supreme Court Justice joined Kennedy in his opinion, but the plurality of the court agreed with the Scalia test of a relatively permanent flow. Please explain why the Agency believes it has the authority to choose to follow only one test of connectivity on which to base its proposed regulation. Has EPA previously promulgated a regulation under the Clean Water Act based on one opinion in a divided decision? If so, please provide specific examples.

Answer: The proposed rule fully reflects the language of the Clean Water Act and the limitations on jurisdiction articulated by the Supreme Court. The Agencies have worked hard to ensure the proposed rule is consistent with the Supreme Court's decision in *Rapanos v. United States*, 547 U.S. 715 (2006). Since the Rapanos decision, the Agencies have been clear in federal court filings and guidance documents signed in 2007 and 2008 that jurisdiction under the Clean Water Act exists if either the plurality's or Justice Kennedy's standard is satisfied. The proposed rule is consistent with this long-held view.

Simpson Q6: EPA is under no statutory or court ordered deadline to promulgate this regulation, yet the Agency failed to engage its state partners in a robust consultation in advance of development of the draft regulation. The Committee is aware that 34 states have expressed some level of opposition to the proposed regulation. Do you believe the proposed regulation would have broader support from the states had you taken the time to adequately consult with them?

Answer: The EPA did consult with the States. As part of the agencies' consultation process, the EPA held three in-person meetings and two conference calls in the fall and winter of 2011, to coordinate with state organizations prior to beginning formal rulemaking. EPA also worked closely with states and municipalities after the rule was proposed. Organizations involved include the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the County Executives of America, the National Associations of Towns and Townships, the International City/County Management Association, and the Environmental Council of the States (ECOS). In addition, the National Association of Clean Water Agencies (NACWA) and the Association of Clean Water Administrators (ACWA) were invited to participate. As part of the consultation, 12 counties, eight associations and various state agencies and offices from five states (Alaska, Wyoming, Kansas, Tennessee, and Texas) submitted written comments. In addition, the EPA held numerous outreach calls with state and local government agencies seeking their technical input. More than 400 people from a variety of state and local agencies and associations, including the Western Governors' Association, the Western States Water Council and the Association of State Wetland Managers participated in various calls and meetings. The agencies' engagement with states continued through a series of conference calls organized by both the ACWA and the ECOS.

During the public comment period, the agencies met with stakeholders across the country to facilitate their input on the proposed rule, holding over 400 meetings all across the country to offer information, listen to concerns, and answer questions.

These actions represent the agencies' commitment to provide a transparent and effective opportunity for all states to participate in the rulemaking process.

Simpson Q7: The Committee understands that more than 800,000 comments have been received on the draft rule, yet EPA has stated its intention to publish the final rule as early as this spring. How is it possible to thoroughly review this large number of comments from the public in such a short time period? Also, when will EPA finish posting all of the comments to their website?

Answer: The agencies received more than a million comments on the proposed rule. Many of these comments are identical or nearly identical letters received as part of multiple mass mailing campaigns. The agencies are working closely together to read, organize, and respond to these comments. In addition to the staff from the agencies' headquarters offices, the EPA regional offices and the Corps district office staff have also been engaged to meet the staffing needs to understand and respond to public comments. All public comments including examples of the mass mail-in campaigns are available online at regulations.gov. The remaining letters not posted to the public docket are duplicate letters and multiple copies of identical letters received as part of mass mail-in campaigns.

Simpson Q8: The Connectivity Report was conceived by the Agency as a means to develop a scientific basis for the proposed regulation. Yet, EPA failed to await completion of the peer review of the Connectivity Report by the Science Advisory Board prior to development of the draft. Please explain why.

Answer: The agencies are committed to a rulemaking built on the best-available, peer-reviewed science. The proposed rule was informed by the final draft of the Connectivity Report, which had undergone two rounds of external peer review that provided strong support for the report's primary findings and conclusions. The agencies also recognized the importance of ensuring that this supporting science was available to the public as they reviewed and commented on the proposed rule. In order to afford the public greater opportunity to benefit from the third and final external peer review by the EPA Science Advisory Board (SAB) and to respond to requests from the public for additional time to provide comments on the proposed rule, the agencies extended the public comment period on the proposed rule to November 14, 2014. The SAB completed its review of the scientific basis of the proposed rule on September 30, and the SAB completed its review of the EPA's draft connectivity report on October 17.

Simpson Q9: We understand EPA has advised stakeholders that it does not intend for stormwater features that are within a permitted MS4 to be jurisdictional as WOTUS. Since one of the stated aims of the proposed regulation is to provide more clarity, do you agree that this uncertainty needs to be corrected? Will the final rule provide a specific exclusion for these stormwater features? If not, why not?

Answer: The agencies, EPA and the Corps of Engineers, did not intend to change the jurisdictional status of various components of stormwater systems and drainage networks as a result of their proposed rule. Numerous stakeholders commented that the proposed rule created confusion about whether stormwater control features would be considered jurisdictional waters. The agencies recognize that more clarity is needed and have committed to clarifying which components are jurisdictional and which are not.

Simpson Q10: Have EPA and the Corps conducted an analysis of the impact of the proposed regulation on the Nationwide Permitting Program? Some experts believe 80 percent of projects that currently qualify for NWPs will now require individual permits. I am concerned that this will bring many critical development and infrastructure projects to a halt, negatively impacting jobs and the economy. Will you commit to expediting reauthorization of the Nationwide Permits following promulgation of the WOTUS rule?

Answer: The proposed rule would not alter the Clean Water Act Section 404 permitting process administered by the U.S. Army Corps of Engineers and two authorized states. The proposed rule does not alter the Corps' existing nationwide permits (NWPs) that currently streamline the permitting process. In general, the agencies believe the proposed rule would expedite the permit review process in the long-term by clarifying jurisdictional matters that have been time-consuming and cumbersome for field staff and the regulated community for certain waters in light of the 2001 and 2006 Supreme Court cases.

The Corps' NWP program, which authorizes Clean Water Act Section 404 discharges that would have no more than minimal adverse impacts to aquatic resources, is available for activities that qualify. For example, Nationwide Permit 3 ("Maintenance"), Nationwide Permit 12 ("Utility Line Activities"), and Nationwide Permit 14 ("Linear Transportation Projects").

The Corps has responsibility for managing the day-to-day permit processes under Section 404 of the CWA and would need to respond to the question on expediting reauthorization of the Nationwide Permits. The EPA remains committed to work with the Corps to provide input to the Corps as it develops proposed permits.

Simpson Q11: EPA officials have stated the proposed rule does not cover the authority to regulate these waters. Then why have you spent 7 years and millions of dollars writing a new rule?

Answer: The responsibility to implement the Clean Water Act (CWA) rests with the EPA and the Army Corps of Engineers. Clean Water Act programs are applicable to all "navigable waters" which are defined in the statute as the "waters of the United States, including the territorial seas." Supreme Court decisions in 2001 and 2006 changed the test for determining which waters upstream of navigable waters should be protected under the Act.

In 2008, the agencies issued guidance to interpret and apply the 2001 and 2006 Supreme Court decisions. This guidance provided agency field staff and the public with the information needed for permit decisions. However, the Supreme Court, Members of Congress, developers, farmers, states and local governments, energy companies, and many others have repeatedly called for new regulations to make the process of identifying waters protected under the Act clearer, simpler, and faster. With improved science and practical knowledge based upon years of experience, the agencies believe that regulatory improvements can and will be made through this rulemaking. The agency's proposed science-based rule is consistent with the Supreme Court's decisions and will improve the process for identifying which waters are and are not subject to the CWA.

Simpson Q12: Why did EPA and Corps only look at the cost of 404 permits when developing their economic impact numbers anything we don't already have authority to regulate." If it is not your intent to regulate certain activities or waters will you clarify the rule by including specific exemptions? If you? What additional costs of compliance with this rule will occur for permits under other sections such as 303, 311, 401 and 402?

Answer: The agencies did consider costs to other Clean Water Act programs in the economic analysis for the proposed rule, and did not limit the analysis to Section 404. The agencies considered costs regarding compliance with Clean Water Act Sections 404 and 401, Section 402, Sections 303 and 305, and Section 311. The agencies will issue a revised economic analysis with the final rule which will include an assessment of estimated costs and benefits for CWA programs under 303, 305, 311, 401, 402 and 404.

The agencies are carefully reviewing comments as we consider how the final rule can be clearer on what is and is not jurisdictional, including specific exemptions.

Simpson Q13: When drafting the WOTUS regulation, did you look specifically at the impact to the U.S. agriculture industry, and can you provide me with a specific agriculture example of something that would require a permit and something that would not require a permit?

Answer: The agencies considered the concerns and interests of the agriculture industry, and their considerations about that sector were factored in to the agencies' decision-making process.

The Clean Water Act exempts from the Section 404 permit program discharges associated with normal farming, ranching, and forestry activities such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices (Section 404(f)(1)(**A**)). To be exempt, these activities must be part of an established, ongoing operation. For example, if a farmer has been plowing, planting and harvesting in wetlands, he can continue to do so without the need for a Section 404 permit, so long as he does not convert the wetlands to dry land. Activities which convert a wetland which has not been used for farming or forestry into such uses are not considered part of an established operation, and are not exempt. For example, the conversion of a bottomland hardwood wetland to crop production is not exempt, and would be subject to the Section 404 permit program.

Section 404 permitting requirements apply only to discharges of dredged or fill materials in wetlands, streams, rivers, and other waters that are waters of the United States. Farming activities do not require Section 404 permits when they do not occur in waters of the United States, including wetlands, or do not involve dredged or fill material.

Finally, discharges that are not exempt are not necessarily prohibited. Non-exempted discharges can be authorized either through a general or individual Section 404 permit before they are initiated.

Lead-Based Paint Renovation, Repair & Painting in Public & Commercial Buildings

EPA is proposing to expand its existing lead paint renovation, repair, and painting program – which protects children from lead paint hazards in older (pre -1978) constructed housing – to the vast stock of U.S. commercial buildings owned and managed by public, private, and non-profit owners, regardless of building age or whether children frequent the property.

EPA is moving forward with this proposed rule without having established a "hazard finding" or even conducted a survey to determine the prevalence of lead based paint in the commercial and public building stock and whether lead hazards exist. EPA regulations are already in place to cover repair and renovation activities in *any* building that is routinely frequented by children, such as a daycare center or after school or recreational facility that is located in a non-residential building. OSHA's Lead in Construction Standard (29 CFR 1926.62) currently applies to *all* construction work when an employee may be exposed to *any* detectable concentration of lead. Other OSHA and EPA rules strictly regulate lead abatement projects.

Simpson Q14: Has EPA established a "hazard finding" for lead in public and commercial buildings? Has EPA collected any field data regarding the prevalence of lead containing dust in public and commercial buildings?

> **Answer:** The EPA has not yet determined whether or not renovations to public and commercial buildings create hazards and has not yet proposed any requirements. EPA will not promulgate a rule unless such a hazard finding is made. Furthermore, the EPA is not considering wholesale application of the existing Lead Renovation, Repair and Painting Rule (RRP) rule to public and commercial buildings, regardless of building age. The statute directs the EPA to evaluate hazards in public buildings built before 1978. The agency's authority is therefore limited to the regulation of pre-1978 public buildings. The EPA has not determined what, if any, age limitations would be placed on the regulation of commercial buildings should the agency find that hazards are created.
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> The EPA is considering a different approach from that taken with the existing RRP rule. This tailored approach avoids the creation of a uniform hazard standard that may be more protective than necessary in some cases and not protective enough in others. Under the tailored approach, the EPA is considering exposure to children of all ages, including those over six years old that may not currently be protected by the existing RRP rule, such as those in elementary schools, as well as exposure to adults in various exposure scenarios.
>
> If the EPA reaches a preliminary conclusion that lead-based paint hazards are created by renovation activities, then the agency would consider a single rulemaking process for public and commercial buildings that would: address Section 403 of the Toxic Substances Control Act (TSCA) by identifying lead-based paint hazards in this context; determine whether such conditions are created by renovation activities in or on public and commercial buildings; and prescribe work practices as warranted to reduce, avoid, or eliminate such hazards under TSCA section 402.

Information Relevant to Renovations in and on Public and Commercial Buildings:

- Lead Exposure Associated With Renovation and Remodeling Activities: Phase I, Environmental Field Sampling Study (EPA, May 1997).
- Lead Exposure Associated With Renovation and Remodeling Activities: Phase II, Worker Characterization and Blood-Lead Study (EPA, May 1997).
- Characterization of Dust Lead Levels After Renovation, Repair, and Painting Activities. (EPA, November 13, 2007).
- Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint; Final Rule and Final Amendment to Rule (Consumer Product Safety Commission, September, 1977).
- Health Hazard Evaluation; University of California, Berkeley. HETA Number 99-0113-2853 (National Institute for Occupational Safety and Health, July, 2001).

In addition, numerous technical studies relating to lead-based paint and lead-based paint hazards are available on the agency's website at http://www2.epa.gov/lead/technical-studies

Simpson Q15: Members of EPA's Peer Review Panel about the Agency's reliance on several layers of theoretical modeling to support the development of the rule have raised serious concerns. The experts noted that GSA administers a large and diverse building stock and that the Agency should look to this building portfolio for information about lead in buildings and work practices. How does EPA intend to work with GSA to gather this information?

Answer: The peer reviewers were generally complimentary of the EPA's analytical approach and, in some cases, offered general or specific recommendations. The EPA is currently evaluating the comments and suggestions from peer reviewers and will incorporate appropriate changes and release a revised analysis with any proposal should the EPA determine that renovations to public and commercial buildings create hazards. The EPA has met with GSA to discuss our current efforts to determine whether or not renovations to public and commercial buildings create hazards. GSA has provided information to the EPA; if the EPA relies on such information in any proposal, then this information will be placed in the docket.

EPA is proposing to replicate its residential lead renovation program on a larger scale without assessing whether the current regulatory regime has been successful in reducing dust lead levels. Since 2010, EPA has required that workers who may disturb lead based paint in pre-1978 housing or child occupied facilities receive 8 hours of classroom training including 2 hours of hands on training in order to become a "certified renovator." EPA estimated that in the first year, some 8.4 million residential renovation events would be covered under the rule. (The availability of an EPA approved field test kit to determine whether lead was actually present on a surface was expected to reduce the number of renovations that were subject to the rule by some 4 million per year.) Using EPA's assumptions, and in the absence of a test kit, over 40 million regulated renovation, repair and painting (RRP) jobs have been performed by certified renovators since 2010.

Simpson Q16: Does EPA have any data to regarding whether dust lead associated with RRP jobs have been reduced? Specifically, is there any data to indicate whether dust-lead levels exceed any regulatory standard following cleanup and Cleaning Verification?

Answer: The discussion paragraph states that the EPA is proposing additional lead related renovation standards, however the EPA has not yet determined whether or not renovations to public and commercial buildings create hazards and has not yet proposed any requirements. Furthermore, the EPA is not considering wholesale application of the existing RRP rule to renovations to public and commercial buildings. The existing RRP rule does not require renovators to test dust lead levels or collect data after the completion of renovation activities. The EPA proposed, but did not finalize, an amendment requiring clearance testing. Furthermore, the combination of work practice and cleaning requirements of the 2008 RRP rule, rather than the cleaning requirements alone, are necessary to mitigate hazards created from renovation activities in target housing and child-occupied facilities. Data on dust lead levels for renovation and additional information on the effectiveness of the work and cleaning practices is found in the "Dust Study" (Characterization of Dust Lead Levels After Renovation, Repair, and Painting Activities. (EPA, November 13, 2007)).

Simpson Q17: EPA has not developed any general methodologies to assist building owners/managers/contractors in determining the presence of lead coated materials. Under OSHA, *each* potentially coated surface must be subject to laboratory paint chip analysis. There is currently no option for reliable on-site testing or a test kit to expedite this time consuming and costly process. Can EPA provide an update on the status of a reliable and accurate test kit that can be used to identify lead based paint?

Answer: If the EPA determines that renovations to public and commercial buildings create hazards, then the agency would include a description of general methodologies for testing for the presence of lead-based paint, as appropriate. The general methodologies would be developed to test painted surfaces rather than "lead coated materials." Such methodologies could include X-Ray fluorescence (XRF) testing, spot test kits, paint chip sampling, and risk assessments. The renovator could have the option to choose the type of approach that is most appropriate.

The existing RRP rule allows renovators to either, assume lead-based paint is present and use lead-safe work practices or determine if lead is present using one of three approaches. The renovator can determine if lead is present by: (1) using an EPA-recognized lead test kit; (2) collecting paint chips and sending the samples to an EPA-accredited laboratory for analysis; or (3) hiring a lead inspector or risk assessor, who may make a written determination about the presence of lead.

Furthermore, as directed by Congress in the FY15 Appropriations Bill, the EPA is planning to meet with relevant test kit stakeholders in 2015. Planning for that meeting is currently underway. The EPA intends to solicit input to better understand the current state of the science for lead test kits and lead-based paint field testing alternatives, as well as the existing market and potential availability of additional test kits.

Questions from Mr. Stewart

Ozone

The impact of the EPA's proposed lower National Ambient Air Quality Standards (NAAQS) for Ozone is estimated to be extremely devastating to the U.S. economy, especially in rural and sparsely populated areas of the West where high ozone levels occur naturally.

Stewart Q1: Why is the EPA seeking to lower the standard from its current level when many areas currently being monitored are out of attainment?

Answer: More than forty years of experience with the Clean Air Act has shown that America can build its economy and create jobs while cutting pollution to protect the health of our citizens and our workforce. Sections 108 and 109 of the Clean Air Act (CAA) govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires the EPA to periodically review the air quality criteria—the science upon which the standards are based—and the standards themselves. This rulemaking is being conducted pursuant to these statutory requirements.

The EPA sets the National Ambient Air Quality Standards (NAAQS) at a level that is requisite to protect the public health and welfare, based on the best available science. The U.S. Supreme Court ruled in Whitman v. American Trucking Associations, 531 U.S. 457 (2001), that under Section 109 of the Clean Air Act, the EPA may not consider the costs of implementation in setting standards. However, costs are considered when the NAAQS are implemented. Also, states are not responsible for reducing emissions that are not in their control under the Clean Air Act. Existing and upcoming EPA regulations and guidance will assist states in ensuring background ozone does not create unnecessary control obligations as states continue their work to improve air quality.

Under the Clean Air Act, states ultimately determine what local measures may be required to address local sources of air pollution. For that reason, the EPA presents an illustrative estimation of the costs and benefits of complying with proposed revisions to a NAAQS. EPA estimates that reducing pollution to meet a revised ozone NAAQS in 2025 will yield health benefits of $6.4 to $13 billion annually for a standard of 70 ppb, and $19 to $38 billion annually for a standard of 65 ppb, except for California, which was analyzed separately. Nationwide costs, except California, are estimated at $3.9 billion in 2025 for a standard of 70 ppb, and $15 billion for a standard of 65 ppb. The estimated benefits of a strengthened ozone standard outweigh the estimated costs by as much as a ratio of $3.33 to $1.

For decades, ozone pollution has been reduced by the combined efforts of federal, state, tribal and local governments. The costs and benefits of federal rules are evaluated during the public process for each rule. More than forty years of experience with the Clean Air Act has shown that America can build its economy and create jobs while cutting pollution to protect the health of our citizens and our workforce.

Stewart Q2: Why are the estimated health benefits of lowering the NAAQS for Ozone so much greater in 2015 than they were in 2011 and the recommendation of the Clean Air Scientific Advisory Board the same?

Answer: Consistent with statute, Executive Order, and OMB guidance, the EPA prepared a Regulatory Impact Analysis accompanying the proposed updates to the ozone NAAQS that shows the benefits and costs of illustrative scenarios states may choose in complying. Because states have flexibility in how to meet their goals, the actions taken to meet the goals may vary from what is modeled in the illustrative scenarios. Specific details, including information about how costs and benefits are estimated are available in the RIA (http://www.epa.gov/ttn/ecas/regdata/RIAs/20141125ria.pdf).

Because this RIA analyzes different current and proposed standards than in previous analyses, thanks to improvements in air quality (many as the result of federal actions such as the Utility Mercury and Air Toxics Standards), and as a result of federal and state actions that will come into effect over the next decade, meeting the proposed standards would require fewer emission reductions than estimated in the analysis conducted for the 2010 reconsideration proposal. Section 5.3 of the Regulatory Impact Analysis for the proposed rule explains in detail the updated benefits methodologies for the proposed standard. Under the proposed rule, the EPA estimates that meeting the standards will yield health benefits valued at $6.4 to $13 billion annually in 2025 for a standard of 70 ppb, and $19 to $38 billion annually in 2025 for a standard of 65 ppb, nationwide, excluding California. These benefits include the value of avoiding asthma attacks, heart attacks, missed school days and premature deaths, among other health effects. The EPA analyzed the benefits for California separately, because a number of areas in California would have longer to meet the proposed standards. Benefits of meeting the proposed standards in California add to the nationwide benefit after 2025, with values estimated at $1.1 to $2 billion annually after 2025 for a standard of 70 ppb, and $2.2 to $4.1 billion for a standard of 65 ppb.

Renewable Identification Number

Though lowering the volumetric requirements has provided some relief, RIN prices still remain high and the market remains volatile. One group inordinately impacted by high RIN prices are merchant refiners. They have no production, no blending, and no retail capabilities and, as obligated parties, are forced to buy replacement RINs in the market. This RIN tax raises the price of production and the price of gasoline for consumers.

Stewart Q3: Does EPA intend to take any measures to mitigate the inordinate impact of RINs pricing on merchant refiners? Do you have the necessary authorities to do so?

Answer: The EPA implemented the statute as Congress prescribed in such a way that the impacts on all obligated parties are proportional to their fuel production. As a result, the burden on merchant refiners is no different than that placed on any other refiner or importer. In recognition of the fact that different obligated parties are in different markets with different business plans, EPA provided in the RFS regulations a range of compliance options to all obligated parties. The RIN system itself was designed specifically to allow all obligated

parties to take advantage of the flexibility of the marketplace to ease compliance and minimize overall compliance costs. If an obligated party does not choose to blend the requisite amount of renewable fuels themselves, they can purchase RINs on the open market from those that over-comply.

111(d) Compliance

It is critical for owners to understand the cost implications of 111d compliance and to reconcile these costs with other large capital investments that are currently being imposed by other Clean Air Act regulations. It is critical for owners to understand the cost implications of 111d compliance and to reconcile these costs with other large capital investments that are currently being imposed by other Clean Air Act regulations.

Stewart Q4: Will the EPA's final rule contain clear guidance on how EPA and the states should credit coal-fired power plants that decide to shut down?

Answer: See response to question below.

The Regional Haze program of the Clean Air Act is requiring coal-fired power plants of a certain vintage to install costly pollution controls. To justify the cost of these Regional Haze controls as required by law, EPA assumes that these pollution investments will be amortized over a twenty year period; these amortization periods assume that these coal-fired power plants continue to be utilized at a high rate. Yet, EPA's 111d rule making requires lower utilization of these same coal plants. The assumption that these same plants are utilized less often to comply with 111d undermines the cost-effectiveness determination that was used to lawfully justify the controls required under the Regional Haze program.

Stewart Q5: What is EPA doing in the final rule to ameliorate the blatant conflict between the assumptions being made in Regional Haze determinations and the assumptions underlying its 111d rule making?

Answer: The EPA is currently reviewing the more than 4.3 million comments received on the proposal, including the comments on the issues addressed in the question, and will respond to the issues raised in those comments when the agency issues a final Clean Power Plan. The EPA notes that the proposed Clean Power Plan builds on what states are already doing to reduce carbon pollution from existing power plants.

The 111d proposal suffers from many ambiguities making it difficult or impossible for the regulated community to meaningful comment in this rule making process. To preserve the integrity of the administrative rule making process, EPA must provide adequate notice and a fair opportunity to comment. While EPA has undertaken a large public outreach effort in this rule making, these efforts belies that the public is adequately informed on rule being proposed by EPA. EPA's actions in this rule making process demonstrate that EPA has failed to provide adequate and fair notice to the public. Since its initial proposal in June of 2014, EPA has sought to rectify the ambiguities in its proposal by issuing Notice of Data Availability (ODAs) and even stating it will provide additional information after the comment period closed on December 1,

2014. Even with commitment to further clarify these uncertainties, the public will be left guessing on so many fundamental aspects of the rule.

Stewart Q6: In light of these problems, is EPA considering treating this comment period as essentially a request for information?

> **Answer:** The EPA held a 165-day public comment period on the proposal, which closed on December 1, 2014. The EPA is currently reviewing the 4.3 million comments received on the proposal.

EPA's rule making appears to disproportionately favor renewables under Block 3 and fails to adequately incentivize and/or acknowledge new nuclear generation as a viable compliance tool under Block 3. Given that 111d is aimed at cutting CO2 emissions from generation sources that are largely base load sources, it is logically that replacement generation should also come from a base load source like a new nuclear facility.

Stewart Q7: Will the final rule provide more guidance on how nuclear should be treated under Block 3?

> **Answer:** The EPA is currently reviewing the 4.3 million comments received on the proposal, including the comments on the issues addressed in the question, and will respond to the issues raised in those comments when the agency issues a final Clean Power Plan. The EPA notes that the proposed Clean Power Plan builds on what states are already doing to reduce carbon pollution from existing power plants.

Questions from Mr. Jenkins

EPA Clean Air Scientific Advisory Committee (CASAC)

Jenkins Q1: Has CASAC, as required by law, provided the EPA with an analysis of job and economic impacts of the pending Ozone Rule?

Answer: The U.S. Supreme Court ruled in Whitman v. American Trucking Associations, 531 U.S. 457 (2001), that under Section 109 of the Clean Air Act, the EPA may not consider the costs of implementation in setting National Ambient Air Quality Standards. The Court indicated specifically that EPA was not to consider potential job losses due to implementation of a standard, even if such job losses "might produce health losses". 531 U.S. at 466. Moreover, if EPA were to consider such costs, it would be "grounds for vacating the NAAQS, because the Administrator had not followed the law". Id. at n. 4. Therefore, CASAC did not consider such issues in its scientific review of the current standards or in developing its advice regarding revising the standards.

Jenkins Q2: If not, will the comment period be re-opened for comment on their findings?

Answer: See response above.

New Source Performance Standards

Recently, several other countries have made significant investments to build new, state of the art, ultra-supercritical coal fired power plants. These are the same plants that cannot be legally built in the U.S under EPA's NSPS for coal fired power.

Jenkins Q3: Why is the US moving in the opposite direction of what most major industrialized countries are doing?

Answer: See response to the next question.

Jenkins Q4: The tax credit for wind energy has expired and the investment tax credit for solar energy expires at the end of next year. Shouldn't he U.S. be following the example of Germany, Japan and China and build new highly efficient state of the art coal fired power plants, and retiring the older less efficient plants?

Answer: The proposed Carbon Pollution Standard for New Power Plants creates a clear path forward for future power plants to use technology that burns coal, while emitting less carbon pollution. The proposal reflects the ongoing trend in the power sector to build cleaner plants that take advantage of modern, American-made technologies, and would ensure that current progress continues toward a cleaner, safer and more modern power sector.

Coal and Affordable Energy

Coal is an abundant resource in America; why are we forsaking our largest base load power source for sources that put us at an economic disadvantage, and force consumers to pay more not only electricity but the products that require electricity to be produced.

Jenkins Q5: Why is the EPA seeking to reduce the quality of life for millions of Americans that are not wealthy?

Answer: The proposed Carbon Pollution Standard for New Power Plants creates a clear path forward for future power plants to use technology that burns coal, while emitting less carbon pollution. The proposal reflects the ongoing trend in the power sector to build cleaner plants that take advantage of modern, American-made technologies, and would ensure that current progress continues toward a cleaner, safer and more modern power sector.

The EPA projects that the Clean Power Plan will continue and accelerate the trend among states, cities, businesses and homeowners who have been working for years to increase energy efficiency and reduce growth in demand for electricity. Nationally, this means that, in 2030 when the plan is fully implemented, electricity bills would be expected to be roughly 8 percent lower than they would have been without the actions in state plans. That would save Americans about $8 on an average monthly residential electricity bill. Additionally, the Clean Power Plan will lead to climate and health benefits worth an estimated $55 billion to $93 billion in 2030, including avoiding 2,700 to 6,600 premature deaths and 140,000 to 150,000 asthma attacks in children.

Clean Power Plan (CPP) - General

The CPP, despite comments by some in the administration, is not fuel neutral. It will force even more coal fired power plants beyond the 60 GW closing due to EPA's MATS regulation. Most estimates center around another 40- 50 GW of coal closures. Further, it economically stops new coal plants to be built, because the standard is based upon unachievable technology requirements for CCS. CCS technology has not met EPA's own threshold for commercially available technology.

Jenkins Q6: Given the lack of Administration support for CCS projects, how do you expect new coal plants to be built or existing plants retrofitted?

Answer: The proposed Carbon Pollution Standard for New Power Plants creates a clear path forward for future power plants to use technology that burns coal, while emitting less carbon pollution. The proposal reflects the ongoing trend in the power sector to build cleaner plants that take advantage of modern, American-made technologies, and would ensure that current progress continues toward a cleaner, safer and more modern power sector.

The EPA projects that the Clean Power Plan will continue and accelerate the trend among states, cities, businesses and homeowners who have been working for years to increase energy efficiency and reduce growth in demand for electricity. Nationally, this means that, in 2030 when the plan is fully implemented, electricity bills would be expected to be roughly 8 percent lower than they would have been without the actions in state plans. That would save

Americans about $8 on an average monthly residential electricity bill. Additionally, the Clean Power Plan will lead to climate and health benefits worth an estimated $55 billion to $93 billion in 2030, including avoiding 2,700 to 6,600 premature deaths and 140,000 to 150,000 asthma attacks in children.

Jenkins Q7: During your discussions with states regulators, grid operators, utilities before writing the proposed rule, have you been surprised by the overwhelming concerns over cost, reliability, transmission, and grid problems expressed during the comment period?

Answer: The EPA is currently reviewing the more than 4.3 million comments received on the proposal, including the comments on the issues addressed in the question, and will respond to the issues raised in those comments when the agency issues a final Clean Power Plan.

Jenkins Q8: What steps are you taking to incorporate the serious concerns expressed with your proposed rule in the final version?

Answer: See response to the question above.

Jenkins Q9: Should you ask the President for more time?

Answer: States, cities and businesses across the country are already taking action to address the risks of climate change. The EPA's proposal builds on those actions and is flexible reflecting that different states have a different mix of sources and opportunities, and reflecting the important role of states as full partners with the federal government in cutting pollution. This proposal will maintain an affordable, reliable energy system, while cutting pollution and protecting our health and environment now and for future generations.

Clean Power Plan (CPP) - Affordability

Jenkins Q10: To achieve the CPP targets, doesn't a state have to substitute more expensive electricity sources for less expensive ones? Won't this cause an increase in energy costs for the average American household?

Answer: The EPA projects that the Clean Power Plan will continue and accelerate the trend among states, cities, businesses and homeowners who have been working for years to increase energy efficiency and reduce growth in demand for electricity. Nationally, this means that, in 2030 when the plan is fully implemented, electricity bills would be expected to be roughly 8 percent lower than they would have been without the actions in state plans. That would save Americans about $8 on an average monthly residential electricity bill.

Clean Power Plan (CPP) – Natural Gas Usage

Jenkins Q11: EPA Regulatory Impact Analysis indicates that natural gas pipeline capacity is only sufficient to support a 60% capacity factor—10% less than the CPP rule assumes. How long does EPA estimate it will take to build the additional pipeline capacity? How much does EPA estimate that it will cost?

Answer: Consistent with statute, Executive Order, and OMB guidance, the EPA conducted a Regulatory Impact Analysis that shows the benefits and costs of illustrative scenarios states may choose in complying with the proposed Clean Power Plan. Because states have flexibility in how to meet their goals, the actions taken to meet the goals may vary from what is modeled in the illustrative scenarios. Specific details, including information on pipelines are available in the RIA (http://www2.epa.gov/sites/production/files/2014-06/documents/20140602ria-clean-power-plan.pdf). In addition, DOE recently completed a study that concluded that the incremental increase in interstate natural gas pipeline expansion and associated investment that is expected to be required is modest, relative to capacity additions that have been made in the past. (http://energy.gov/sites/prod/files/2015/02/f19/DOE%20Report%20Natural%20Gas%20Infrastructure%20V_02-02.pdf)

Clean Power Plan (CPP) - RPS

Jenkins Q12: EPA relied upon state renewable portfolio standards (RPS) in its assumptions setting the emission targets. Many states rely upon out-of-state renewable sources to meet their RPS goals, but EPA assumes that all of a state RPS can be met with in-state renewable generation. How will EPA reconcile this disparity?

Answer: In the proposal, the EPA estimated the potential renewable energy available to states as part of BSER by developing a scenario based on Renewable Portfolio Standard (RPS) requirements already established by a majority of states. The EPA views the existing RPS requirements as a reasonable foundation upon which to develop such a scenario for two principal reasons. First, in establishing the requirements, states have already had the opportunity to assess those requirements against a range of policy objectives including both feasibility and costs. These prior state assessments therefore support the feasibility and cost of this scenario as well. Second, renewable resource development potential varies by region, and the RPS requirements developed by the states necessarily reflect consideration of the states' own respective regional contexts. This scenario's results for states represent a level of renewable resource development for individual stateswith recognition of regional differencesthat we view as reasonable and consistent with policies that a majority of states have already adopted based on their own policy objectives and assessments of feasibility and cost.

The EPA solicited comment on an alternative method of quantifying renewable energy that relies on a state-by-state assessment of RE technical and economic potential, rather than a regional application of state RPS commitments. More detail is available in the preamble; in the Alternative RE Approach TSD, available at http://www2.epa.gov/carbon-pollutionstandards/clean-power-plan-proposed-rule-ghg-abatement-measures; and in a Notice of Data Availability that the agency issued on October 28, 2014, available at http://www2.epa.gov/carbon-pollution-standards/clean-power-plan-proposed-rule. The agency also solicited comment generally on the proposed state RE targets and will carefully consider comments received on this issue as the EPA crafts the final rule.

Clean Power Plan (CPP) – CO2 Emissions

Jenkins Q13: The rule is intended to reduce CO2 emissions. EPA was unable to quantify any climate benefits from the rule. Why then is this rule necessary?

Answer: See response to the question below.

Jenkins Q14: If EPA could not quantify any climate benefits, how was it able to monetize benefits related to climate change?

Answer: On June 2, 2014, the EPA, under President Obama's Climate Action Plan, proposed the Clean Power Plan -- a commonsense plan to cut carbon pollution from power plants. The science shows that climate change is already posing risks to our health and our economy.

States, cities and businesses across the country are already taking action to address the risks of climate change. EPA's proposal builds on those actions and is flexible—reflecting that different states have a different mix of sources and opportunities, and reflecting the important role of states as full partners with the federal government in cutting pollution.

Consistent with statute, Executive Order, and OMB guidance, the EPA conducted a Regulatory Impact Analysis that shows illustrative benefits and costs of compliance with the proposed Clean Power Plan. The actual benefits and costs will depend on what measures the states choose to implement their goals.

Regarding the benefits, implementing the proposed rule will generate climate benefits by reducing CO2 emissions. Carbon pollution leads to long-lasting changes in our climate, such as rising global temperatures; rising sea level; and changes in weather and precipitation patterns. These impacts lead to changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services, among other effects.

The climate benefits estimates have been calculated using the estimated values of marginal climate impacts, known as the social cost of carbon (SC-CO2), presented in the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866.[1] The SC-CO2 is a metric that estimates the monetary value of impacts associated with marginal changes in CO2 emissions in a given year. It includes a wide range of anticipated climate impacts, such as net changes in agricultural productivity and human health, property damage from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning. It is typically used to assess the avoided damages as a result of regulatory actions (i.e., benefits of rulemakings that have an incremental impact on cumulative global CO2 emissions). In order to calculate the dollar value for emission reductions, the SC-CO2 estimate for each emissions year is applied to changes in CO2 emissions for that year, and then discounted back to the analysis year using the same discount rate used to estimate the SC-CO2.

While the impacts of CO2 emissions changes, such as sea level rise, are estimated within each integrated assessment model as part of the calculation of the SC-CO2, it is the resulting

monetized damages that are relevant for conducting the benefit-cost analysis. As such, it is the SC-CO2 estimates that are used in the RIA to estimate the welfare effects of quantified changes in CO2 emissions.

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[1] Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, Interagency Working Group on Social Cost of Carbon, with participation by Council of Economic Advisers, Council on Environmental Quality, Department of Agriculture, Department of Commerce, Department of Energy, Department of Transportation, Domestic Policy Council, Environmental Protection Agency, National Economic Council, Office of Management and Budget, Office of Science and Technology Policy, and Department of Treasury (May 2013, Revised November 2013). Available at: http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf

Jenkins Q15: The emission reductions estimated by EPA are from existing plants. If new natural gas generation is built to make up for the power generation lost from retiring power plants, then the CO2 emissions from these new plants are not limited by this rule. Is that correct? If so, then isn't EPA trading existing emissions for new emissions?

Answer: In September 2013, the EPA proposed carbon pollution standards for new power plants that will set national standards on the amount of carbon pollution that new power plants, including future natural gas plants, are allowed to emit. The EPA requested and received comment on the interaction between the proposed standards for new and existing power plants and is currently reviewing those comments.

Clean Power Plan (CPP) – Associated Costs

Jenkins Q16: Did EPA's cost analysis include the cost of building new natural gas plants, renewable generation or transmission upgrades to assure the power gets to where it is needed?

Answer: See response to question below.

Jenkins Q17: Did EPA include in its cost estimates that if some power plants have to close due to the emission limits, then rate payers will still have to pay for capital cost recovery for power plants that are closed?

Answer: See response to question below.

Jenkins Q18: Will this rule result in electricity consumers paying for the cost for the power plants that are closed plus for new power plants needed to be built to make up the gap in required electricity generation?

Answer: Consistent with statute, the EPA conducted a Regulatory Impact Analysis that shows the benefits and costs of a number of illustrative scenarios states may choose in complying with the proposed Clean Power Plan. Because states have flexibility in how to meet their goals, the actions taken to meet the goals may vary from what is modeled in the illustrative scenarios. Specific details, including information about how costs and benefits are estimated

are available in the RIA. (http://www2.epa.gov/sites/production/files/2014-06/documents/20140602ria-clean-power-plan.pdf).

Clean Power Plan (CPP) – Electric Grid Reliability

In November 2014, the North American Electric Reliability Corporation (NERC) released a report that found that meeting the targets set in the CPP will be difficult if not impossible to achieve without degrading the reliability of the grid.

Jenkins Q19: Did EPA consult with NERC before it proposed the CPP? If so, did NERC provide EPA with any concerns about the CPP? What concerns were raised?

Answer: Throughout the development of the proposed CPP, the EPA met with FERC, DOE, state regulators, grid operators, NERC and the industry to hear their suggestions and advice as to how to address reliability concerns. In particular, EPA spoke at and attended each of the four FERC technical conferences on the Clean Power Plan. The agency is confident that our careful consideration of the comments received and our diligent efforts to monitor compliance will ensure that the transition to a cleaner electric power system, called for by the CPP, can be achieved while reliability is maintained.

In a Jan. 15, 2015 letter from FERC Commissioner Tony Clark to Senator Lisa Murkowski, Commissioner Clark said that "it would be incorrect to suggest that FERC and its staff have had a significant or meaningful role in providing EPA the detailed, technical analysis that will be required to ensure the CPP does not impact grid reliability."

Jenkins Q20: Were there concerns that FERC raised in the few meetings it had with EPA? How were these concerns addressed?

Answer: See response above.

Jenkins Q21: FERC has scheduled several technical conferences on the Clean Power Plan and its implications for the safe and reliable operation of the electric grid. Does EPA plan to attend or participate? Will EPA consider the information gathered as part of the conferences in deciding whether or how to proceed with the CPP?

Answer: See response above.

Jenkins Q22: Several Regional Transmission Organizations have done analysis that concludes that the CPP will produce widespread reliability risks on their systems including significant loss of load and potential collapse. These RTOs are a lot more familiar and considerably more experienced than EPA at running the electric grid. Does EPA have any reaction to their concerns and analysis?

Answer: See response above.

Jenkins Q23: When EPA issued its Utility Mercury and Air Toxics rule it predicted that the rule would only force the closure of 5,000 megawatts of coal base load electricity generation capacity. The Energy Information Administration and others estimate that the rule will result in the closure of 50,000 to 60,000 megawatts of capacity. Given that EPA was so far off the mark

in assessing the cost and impacts of its earlier rules, why is EPA so dismissive of the impacts forecast by NERC and Regional Transmission Organizations?

Answer: The electric power sector is doing the necessary planning and investing to reduce emissions of mercury and other hazard air pollutants across the existing fleet of power plants. Utilities are making substantial progress in complying with MATS; most coal capacity is using retrofitting with pollution controls to meet the MATS requirements. The EPA, together with FERC and DOE, has been closely monitoring these compliance activities for any potential reliability issues that may arise. All of the information that the EPA has seen to date indicates that the planning authorities and grid operators, through their established processes, have been able to manage the changes to their respective systems.

There have been significant changes in the electricity market. Recent information from the Department of Energy details that the drop in natural gas prices reduces electricity prices and the revenues received by all generators and make natural gas plants more competitive relative to coal-fired plants. They further report that the slow growth in demand for electricity means that higher-cost generators are being dispatched less often. Furthermore, DOE estimates about coal closures cite a number of reasons for coal closures including low cost generation alternatives and reduced electric demand. [1]

Throughout the development of the proposed CPP, the EPA met with FERC, DOE, state regulators, grid operators, NERC and the industry to hear their suggestions and advice as to how to address reliability concerns. The agency is confident that our careful consideration of the comments and our diligent efforts to monitor compliance will ensure that the transition to a cleaner electric power system, called for by the CPP, can be achieved while reliability is maintained.

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[1] http://energy.gov/sites/prod/files/2015/02/f19/DOE%20Report%20Natural%20Gas%20Infrastructure%20V_02-02.pdf

404 CWA Permit Issues

Jenkins Q24: Before vetoing the permit for Spruce #1 Mine in Logan County, WV, did EPA ever review and expressly or tacitly approve the Corps-issued permit?

Answer: Throughout the history of review of the Spruce No. 1 Mine permit, the EPA expressed its concerns about the environmental and water quality impacts associated with the project. The EPA's review of the 2002 Draft Environmental Impact Statement (EIS) for the Spruce No. 1 Mine found gaps in the analyses of the mine and related adverse environmental impacts. The EPA was particularly concerned by the lack of information regarding the nature and extent of impacts to the high quality streams that would be buried under valley fills, and recommended additional evaluation to support the analysis of less environmentally damaging alternatives. In a letter dated August 12, 2002, the EPA Region III indicated the EIS contained inadequate information for public review and for decision-makers.

A revised Spruce No. 1 Mine Draft EIS was prepared in 2006. In the EPA's June 16, 2006, comment letter on the 2006 Draft EIS, the EPA recognized that impacts from the mine had been reduced and the quality of EIS information had improved. However, the letter also noted that the EPA had remaining environmental concerns including: potential adverse impacts to water quality; uncertainties regarding the proposed mitigation; the need for additional analysis of potential environmental justice issues; and the lack of a study related to the cumulative effects of multiple mining operations within the Little Coal River watershed. The EPA continued to stress its belief that corrective measures should be required to reduce environmental impacts and that other identified information, data, and analyses should be included in the Final EIS.

The Corps issued the Spruce No. 1 Mine Final EIS on September 22, 2006. On October 23, 2006, the EPA commented on the Final EIS, noting that many of the EPA's comments had not been adequately addressed. On January 22, 2007, the Corps issued a Clean Water Act Section 404 Permit for the Spruce No. 1 Mine.

After the Section 404 permit was issued in 2007, significant new scientific information emerged about the water quality impacts associated with surface coal mining projects like the Spruce mine. This additional data, presented in peer-reviewed scientific studies of the Appalachian ecoregion, reflect a growing consensus of the importance of headwater streams; a growing concern about the adverse ecological effects of mountaintop removal mining (specifically with regard to the effects of elevated levels of total dissolved solids discharged by mining operations on downstream aquatic ecosystems); and concerns that impacted streams cannot be easily recreated or replaced. The new scientific information was highly influential in the EPA's decision to invoke its 404(c) authority.

Questions from Ms. McCollum

Great Lakes Restoration Initiative

Overall, the EPA budget request is an increase over FY 2015. So, I am disappointed to see that EPA has proposed to cut the Great Lakes Restoration Initiative by $50 million.

McCollum Q1: Is the Administration backing off of its commitment to the Great Lakes?

Answer: No. The Great Lakes Restoration Initiative continues to be a priority of the Administration, with almost $2 billion invested in restoring the Great Lakes over the last six years. Because EPA oversees and coordinates funding under GLRI, sufficient funding and flexibility is maintained to allow rapid deployment of resources in a coordinated manner to: clean up and delist Areas of Concern; reduce phosphorus contributions from agricultural lands that contribute to harmful algal blooms and reduce untreated runoff from urban lands that contribute to other water quality impairments; and prevent the establishment of invasive species. In 2015, building on the reduction in cumulative unliquidated obligations in 2014, the EPA and its federal partners will continue efforts to reduce prior year funding balances.

McCollum Q2: How would this cut affect the progress that is being made in the Great Lakes region?

Answer: While some proposed Great Lakes Restoration Initiative activities may be impacted, we expect to continue to make good progress advancing Great Lakes restoration at the requested level. EPA will focus on priority clean-ups and restoration actions such as: (1) Area of Concern delisting, (2) invasive species prevention and (3) nutrient load reduction. We are seeing good results from these investments, including, for example, the delisting of three Areas of Concern and the completion of management actions at six Areas of Concern since the Great Lakes Restoration Initiative's inception.

The EPA has also taken concrete steps to accelerate the expenditures of GLRI funds, such as: (1) looking at potential recipients' past expenditure rates before issuing new awards; (2) increasing monitoring of award recipients; (3) taking steps to hold recipients to their workplan commitments. Building on the reduction in cumulative unliquidated obligations in 2014, the EPA and its federal partners will continue efforts to reduce prior year funding balances.

Oil Spill Response

Last month, a pipeline ruptured and leaked 40,000 gallons of Bakken crude oil into the Yellowstone River in Montana. Within days benzene was detected in the drinking water of nearby residents and petroleum has been detected in fish downstream of the spill.
Ten days ago, there was a derailment and explosive fire involving a CSX train carrying Bakken crude in West Virginia. Amazingly, there were no fatalities but if this train had derailed in a

more populated community, the results could have been dire. The United States is now the largest producer of oil and gas in the world.

McCollum Q3: How is the federal government coordinating across federal agencies and with local communities to respond to accidents like these?

Answer: The U.S. National Response Team (NRT) is an organization of 15 Federal departments and agencies responsible for coordinating emergency preparedness and response to oil and hazardous substance pollution incidents. The Environment Protection Agency (EPA) and the U.S. Coast Guard (USCG) serve as Chair and Vice Chair respectively.[1] Recent spills involving the transport and delivery of Bakken, Dilbit, and other crude oils have demonstrated the need for additional knowledge and information about these crude oils. As the chair of the National Response Team (NRT), the EPA has coordinated several cross-agency actions, including:

- Facilitated calls with states in coordination with other federal agencies to discuss how states are preparing for crude-by-rail incident;
- Developed a Crude Oil Awareness training program for EPA On-Scene Coordinators (OSCs) which include case studies from the rail incidents in Quebec and Alabama;
- Integrated crude oil scenarios in the National Exercise Program including the annual Spills of National Significance exercise series, which the EPA Deputy Administrator participated in this year, and
- Conducted a dialogue between federal agencies, leadership from 49 state environmental, transportation, and homeland security agencies, and EPA staff to identify current capabilities and needs throughout the nation and identify opportunities for federal support.

Finally, over the past year, the EPA has participated in or provided briefings to the National Response Team, various Regional Response Teams, rail industry partners, environmental associations, the National Governors Association, and many others to identify outreach opportunities, key messaging points, and a Q&A to help ensure more consistent messaging across the federal government.

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[1] About NRT: http://www.nrt.org/Production/NRT/NRTWeb.nsf/AllPagesByTitle/P-AboutNRT?Opendocument

EPA is requesting a $5 million increase for oil accident prevention and preparedness activities.

McCollum Q4: Why is this increase important and what will EPA be able to do without the additional funding?

Answer: The EPA conducts oil spill prevention, preparedness, compliance assistance and enforcement activities associated with more than 600,000 non-transportation-related oil storage facilities that the EPA regulates through its spill prevention program. The EPA's regulated universe includes approximately 4,500 Facility Response Plan (FRP) facilities and approximately 640,000 Spill Prevention, Control and Countermeasure (SPCC) facilities. The EPA wants to find and require facilities to correct problems before accidents occur. Approximately 20,000 spills are reported each year to the federal government. On average, one spill greater than 100,000 gallons occurs every month from EPA-regulated oil storage facilities and the inland oil transportation network. With the proposed investment, the EPA will strengthen the effectiveness of the program nationwide.

An increase of $5.17 million to the Inland Oil Spill programs will support the agency's ability to conduct SPCC and FRP inspections and exercises at high-risk facilities; provide guidance, training and outreach on SPCC and FRP statutory program requirements; and initiate the development of a national FRP database requirements for electronic submission of FRPs.

To identify and require facilities to correct problems before accidents occur, the largest portion of this increase will be used to focus on completing high-risk inspections at FRP-regulated facilities. These inspections require more extensive resources due to the complex nature of the facilities. The largest oil storage facilities and refineries must prepare and submit FRPs to EPA, to identify response resources and ensure their availability in the event of a worst case discharge. The agency also plans to initiate development for electronic submission of FRPs. A FRP database will streamline the process for assisting facilities with compliance and help equip inspectors for more efficient inspection processes.

Additionally, funds will support the agency regulatory inspector training program, supplement existing inspection resources, and support the agency's rent account which is allocated across the agency's appropriations that fund payroll. Agency inspectors must fulfill the basic training needs and participate in more advanced or specialized training to qualify to respond to oil discharges. Recent spills involving the transportation and delivery of crude oils such as Bakken and Dilbit have demonstrated the agency's critical need for advanced technical knowledge and additional information about these crude oils.

State Revolving Funds

The budget request proposes cutting the Clean Water State Revolving Fund by $333 million and shifting part of that cut to the Drinking Water State Revolving Fund.

EPA estimates the total water infrastructure need across both the drinking and waste water sectors is $633 billion over the next 20 years.

McCollum Q5: Why did EPA choose to shift funds between the SRFs instead of requesting an increase?

> **Answer:** The Administration strongly supports both the Clean Water and Drinking Water SRFs and the FY 2016 request recognizes that both programs report significant water infrastructure needs. The DWSRF increase supports the documented needs for drinking water infrastructure, needs for smaller communities, and its lower revolving levels nationally compared to the CWSRF. Additionally, the budget provides $50 million in technical assistance, training, and other efforts to enhance the capacity of communities and states to plan and finance drinking water and wastewater infrastructure improvements.

McCollum Q6: Why did EPA not shift the entire Clean Water SRF cut to the Drinking Water fund?

> **Answer:** The Administration strongly supports both the Clean Water and Drinking Water SRFs and the FY 2016 request recognizes that both programs report significant water infrastructure needs. The DWSRF increase supports the documented needs for drinking water infrastructure, needs for smaller communities, and its lower revolving levels nationally compared to the CWSRF. Additionally, the budget provides $50 million in technical assistance, training, and other efforts to enhance the capacity of communities and states to plan and finance drinking water and wastewater infrastructure improvements.

FRIDAY, FEBRUARY 27, 2015.

BUREAU OF INDIAN AFFAIRS

BUREAU OF INDIAN EDUCATION

WITNESSES

HON. KEVIN WASHBURN, ASSISTANT SECRETARY, INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR
CHARLES "MONTY" ROESSEL, DIRECTOR, BUREAU OF INDIAN EDUCATION, DEPARTMENT OF THE INTERIOR
MICHAEL BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR
MELISSA EMREY-ARRAS, DIRECTOR, EDUCATION, WORKFORCE, AND INCOME SECURITY, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. CALVERT. The Committee will come to order.

We have a number of appropriation hearings going on at once, and so we will have other members coming in at various times. I know Defense has a hearing, we just left, to come over here.

OPENING REMARKS OF CHAIRMAN CALVERT

Good morning, and welcome to today's hearing on the fiscal year 2016 budget proposal for Indian Affairs. This is an area within the subcommittee's jurisdiction which is a nonpartisan funding priority, and together we have been making a concerted push over the past several years to make incremental improvements in the lives of American Indians and Alaska Natives, particularly in healthcare, education, and law enforcement.

This has been a partnership. I want to thank several of our key partners for being here today to testify. Our first panel includes Kevin Washburn, Assistant Secretary of the Interior for Indian Affairs; Michael Black, Director of the Bureau of Indian Affairs; and Charles "Monty" Roessel, Director of the Bureau of Indian Education. Gentlemen, thank you for being here today.

For the past few years, at this subcommittee's request, the Government Accountability Office has been another key partner on Indian education matters. What started in 2012 with a seemingly simple question of comparing per-student funding, inside and outside the BIE system, has grown into something much more complex. The GAO is currently in the middle of a study on BIE facilities condition and management, and I have asked them here today to be on the second panel and to give us an update on their progress.

Before we begin, I will just make a few comments about the fiscal year 2016 budget proposal for Indian Affairs. This Administration has put its partners on this subcommittee in a tight spot, by raising expectations throughout Indian Country that we will struggle to meet. The President's budget disregards the spending caps

that he signed into law. That is how he is able to propose a $323 million increase for Indian Affairs and a $461 million increase for the Indian Health Service without an offset. But current law requires discretionary spending to stay relatively flat in fiscal year 2016 in comparison to 2015. So this subcommittee's challenge will be to find the money from within, to pay for the "have-to do's" and make progress on the "should-do's," all without cutting the popular "nice-to-do's" by so much that we cannot pass a bill.

Mr. CALVERT. Before we turn to our first panel, let me first ask our distinguished ranking member, Ms. McCollum, for any opening remarks she may wish to make.

OPENING REMARKS OF MS. MCCOLLUM

Ms. MCCOLLUM. Thank you, Mr. Chair, and welcome to the panel. I appreciate all of you being here to discuss the fiscal year 2016 budget request for the Bureau of Indian Affairs and the Bureau of Indian Education.

While Native American programs in this budget request are a trust responsibility of the Department of the Interior, I believe that they are a moral responsibility for each one of us, and I am pleased to see the increases proposed in this budget to help advance the social and economic well-being of Native Americans. I especially want to commend you on the additional funds aimed at improving Indian education.

Mr. Washburn, last August you and Secretary Jewell visited, as we affectionately call it, the Bug School on the Leech Lake Reservation in Minnesota. You and the Secretary saw firsthand the deplorable conditions that these students and faculty have to put up with every day, and that is why I am very pleased to see the proposed $58.7 million increase in the Indian Education School construction and appreciate the mention of the Bug School in Secretary Jewell's testimony on Wednesday. It meant a lot to those children.

There is a lot to like in this budget. It brings broadband to all BIE schools over 3 years. It funds contract support costs fully. It increases Native American scholarship, expands social services including Indian and child welfare programs, increases energy development in Indian Country, and enhances tribal law and order.

Now, my enthusiasm for these increases is tempered by the fiscal and political climate in which we are operating. On Wednesday, our chairman, Chairman Calvert, told Secretary Jewell, and I think he wisely did so representing the views within his caucus, that many of the budget increases that the Secretary was proposing were unattainable in the current budget situation.

Now, I believe President Obama has offered a plan to eliminate sequestration and get us out of this fiscal straitjacket that the Budget Control Act puts us in. Now members on the other side of the aisle may not support the President's plan, but I do believe, as the chairman said, that it is incumbent on all of us to address these problems.

I for one do not want to have to say that we cannot have these needed increases for Indian Affairs or that we can only do them with radical cuts to other important programs in the Interior, and

Environment appropriations bill. This is not a process I will be able to support.

But I want to be clear: This is not an extravagant budget. Like many other parts of the Interior budget, when adjusted for inflation, we are currently spending on Indian Affairs less than we did in 2005. In fact, even with the proposed increases in Indian construction, we would be spending just half of what we spent on construction in 2005. I have always appreciated and I am very proud of the bipartisan manner in which this subcommittee has worked together to address Native American needs and programs, and we work together to strive for solutions that enhance and protect Indian self-government and self-determination.

So Assistant Secretary Washburn, I think you would agree, money alone will not solve this problem in Indian Country but I believe that you understand that there need to be significant reforms in the delivery of service to Native Americans.

So I appreciate you and the other witnesses being here today. I look forward to your insights on these important matters. I look forward to your testimony, and Mr. Chairman, I look forward to us working together to find solutions.

Mr. CALVERT. Absolutely. Thank you.

Mr. Washburn, you are recognized.

OPENING REMARKS OF KEVIN WASHBURN, ASSISTANT SECRETARY—INDIAN AFFAIRS

Mr. WASHBURN. Thank you, Chairman, Ranking Member, former Chairman, Mr. Cole, and other members. I want to thank you for your support.

I have to begin by thanking you really seriously. In recent years, this committee, on many issues, has been out in front of the Administration on leadership and support for Indian Country, and the roughly 8,000 employees of the Bureau of Indian Affairs and the Bureau of Indian Education and my own staff thank you for your support of our work. It has meant a lot to us and it has meant a lot to everyone in Indian Country.

I want to tell you, this year the President's request matches your own leadership in Indian Country. The President's budget request totals $2.9 billion for Indian Affairs programs. That is $323.5 million more than the current enacted level. I thank you for your past support and hope that you will continue your strong bipartisan support for Indian Country.

You and I know that many of the programs, in fact a majority of the programs, are actually run by tribes out in Indian Country. About 68 percent of this budget will effectively go directly to tribes so they can run our programs because they do a lot better running our programs than we do in many respects.

Our Federal appropriations have sometimes run on a time principle which is slow. It is what some of my friends in Indian Country have started calling Federal time. We are often late in doing our jobs, and let me own a lot of that on our end because after the money gets apportioned to us, we are sometimes slow getting it out the door. My Deputy Assistant Secretary, Tommy Thompson, is working really hard so we can get the money out faster. Part of that is on Congress, though. This year we did not get a fiscal year

budget until the middle of December. When that happens, when we have a continuing resolution and then we get a budget, we have to do everything twice, and sometimes three times. It really helps us if you will have a budget, even if is not everything you want, ready to go October 1 and we do it once because that makes life a lot easier for all those people who have to push money out every time there is a change in the budget. So I encourage you and urge you to try to help us get a budget out once. It will be good for Indian Country.

Let me give you some good news about this year's request. And I would like to help this subcommittee out of that tight spot that you mentioned, Mr. Chairman, when you gave your opening remarks. The President's budget supports a real all-of-government approach to Indian Country and so I want to talk first about what is not in the Indian Affairs budget. Let me tell you how this came about. Indian country proposed to get a lot of new funding that helps us but it is in other parts of the Federal budget.

President Obama set up a White House Native American Affairs Council and appointed Sally Jewell as the Chair of that council. One of the first things she did was to say to OMB we need to be breaking down silos in the Federal government. One of the best places we can do that is with budgeting. So for the first time in history, this year as we prepared our budget, OMB brought multiple agencies together and started talking about the President's priorities in Indian Country and asked how can we all work together to meet them. For example, one of the things we got out of that and something that helps my budget very much, or helps the problems I am trying to address very much, is teacher housing. There is $10 million in the HUD budget for teacher housing in the president's proposal which will not come to this subcommittee but nevertheless will help us meet these goals.

Some of you were at the State of the Union address. I think I saw you on TV. One of the things the President's request for community colleges does is support tribal colleges. The President has asked Congress to provide for tuition for 2 years for community colleges which will include tribal colleges, so that is a huge boost for tribal colleges. That funding comes out of—well, Mr. Cole, I am sorry to put that on you but I think that comes out of your subcommittee's budget. But we are trying to spread this around. We are trying to take care of these priorities by looking beyond just the Indian Affairs budget.

One other big avenue in that respect is the Department of Education. Arne Duncan is proposing to change some eligibility rules for their early childhood education programs. It used to be that only states could apply for the money in those programs, and he is changing those eligibility rules so tribes can apply for those programs too, and you all know how important early childhood education is. I know you personally know that. So tribes will have more access to that kind of funding so it is not just in our early childhood development program line but there will also be Department of Education money.

Those are all things that are not in our budget but are nevertheless very, very helpful. The funding requests are not in your spe-

cific committee assignments with the exception of Tom over there. We put a lot on his plate.

Our budget request for the Bureau of Indian Education, which is really our highest priority this year, would increase our budget to about a billion dollars. A lot of this is for school construction but it is for a lot of other things as well. We are working diligently to make the Bureau of Indian Education more effective. The Secretary more than a year ago started an education study group and made me the Chair. Mr. Roessel has been on that group as have several other people including one formerly from the Department of Defense which recently upgraded their schools and someone from the Department of Education. We have a really good team working on how we can improve education. There are a lot of increases in the BIE budget proposal but we are also trying to clean up the house at the Bureau of Indian Education so it works better. I will not go through line by line but there is a huge increase requested to support better performing BIE, to ensure that we can spend funding properly, and can make things better for Indians on the ground.

I think you all know the importance of contract support costs so let me just quickly mention the Appropriations Committees' report language which alluded to mandatory funding for contract supporting. We are working with our authorizing committees to try to get that off of the Appropriations Committees' plate and into a different pot so that it makes it easier for tribes to count on that funding. I know that is a big lift. I know it needs your support. I know it is not in your portfolio but it needs your support.

We have a bunch of specific things in the budget that are very, very important. For example, the budget includes a $4.5 million increase to establish an Indian Energy Service Center. We have heard for a long time that we need to help tribes with permitting which cuts across several interior agency lines, and so that $4.5 million request is really important to support not just us but also the Bureau of Land Management and other agencies that have so much work to do in Indian Country.

I do not want to go on and on and on and filibuster this thing so I am going to stop here. I have Director Mike Black and Director Monty Roessel with me, and I will be asking them to help me answer your questions because we want to make sure you get good answers today. Thank you.

[The statement of Kevin Washburn follows:]

STATEMENT
OF
KEVIN K.WASHBURN
ASSISTANT SECRETARY – INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES

February 27, 2015

Good morning Chairman Calvert, Ranking Member McCollum, and members of the Subcommittee. Thank you for the opportunity to provide a statement on behalf of the Department of the Interior on the President's Budget Request for Fiscal Year 2016 presented to Congress on February 2, 2014. The FY 2016 budget request for Indian Affairs programs within the Department totals $2.9 billion, which is $323.5 million more than the FY 2015 enacted level.

As the Assistant Secretary for Indian Affairs, I have the responsibility to oversee the Bureau of Indian Affairs and the Bureau of Indian Education, along with other programs within the immediate Office of the Assistant Secretary for Indian Affairs. The Office of the Assistant Secretary for Indian Affairs, BIA, and BIE programs expend over 90 percent of appropriated funds at the local level. Of this amount, over 68 percent of the appropriations are provided directly to Tribes and tribal organizations through grants, contracts, and compacts for Tribes to operate government programs and schools. In sum, tribal self-determination and self-governance programs have eclipsed direct services provided by the BIA and BIE. Indian Affairs' programs and funding serve 566 federally recognized tribes and more than two million American Indian and Alaska Native people.

The 2016 President's budget supports an all-of-government approach to addressing Federal responsibilities and tribal needs. Coordination of this work across the Federal government is being carried out through the White House Council on Native American Affairs, established by Executive Order on June 26, 2013, by President Obama, and chaired by the Secretary of the Interior. The Council has worked diligently to break down silos in Federal agencies and increase coordination on programs and budgets. As a result of this all-of-government approach, the Administration's support for Tribal Nations goes well beyond the budget of Indian Affairs at Interior, or the Indian Health Service at the Department of Health and Human Services. Together, the IA and IHS represent less than one-half of the Administration's overall budget request for tribal programs.

The President's budget seeks increases across more than 20 Federal departments and agencies serving Indian Country. In total, the budget proposes $20.8 billion, a $1.5 billion or 8% increase over the 2015 enacted level, across a wide range of Federal programs that serve Tribes including education, social services, justice, health, infrastructure, and stewardship of land, water, and other natural resources. These increases support improved access to Federal programs and resources,

particularly focused on youth through the Administration's newly established Generation Indigenous initiative. Investments like these will provide real and sustainable improvements in Indian Country.

Our funding priorities are guided, in part, by careful coordination with Tribes through a regional-to-national planning process through the Tribal Interior Budget Council. In addition, input from Tribal leaders gained from the annual White House Tribal Nations Conference has helped guide the Administration's priorities and decision-making processes. These and other sources of Tribal input have informed legislative and programmatic initiatives and funding priorities in the 2016 budget, including full funding and a mandatory proposal for contract support costs.

The Indian Affairs budget provides significant increases across a wide range of Federal programs that serve Tribes and supports improved access to Federal program and resources. Indian Affairs plays a unique and important role in carrying out the Federal trust responsibility and in serving Tribes. The budget capitalizes on the central role of Indian Affairs in coordinating with other agencies by proposing to create a one-stop shop approach for facilitating tribal access to Federal funds and programs across the U.S. government.

Creating Opportunities for Native Youth

The 2016 budget includes key investments to support the launch of Generation Indigenous, an initiative focused on addressing barriers to success for Native American youth. This initiative takes an integrative, comprehensive, and culturally appropriate approach to help improve lives and opportunities for Native American youth. Multiple Federal agencies, including the Departments of the Interior, Education, Housing and Urban Development, Health and Human Services, Agriculture, Labor, and Justice, are working collaboratively with Tribes to implement education reforms and address issues facing youth.

In today's global economy, a high quality education is no longer just a pathway to opportunity—it is a prerequisite to success. President Obama set out a vision for a 21st century education system, grounded in both high academic standards and tribal values and traditions. The Indian Affairs' budget proposes a $1.0 billion investment in Indian education to support a comprehensive transformation of the Bureau of Indian Education. The proposal recognizes the progress in self-governance in Indian education reflected in the fact Tribal Nations have contracted to run more than two-thirds of Federal Indian schools. The multi-year transformation process will improve the BIE's ability to support Tribes in educating their youth and help them provide a world-class and culturally appropriate education across Indian Country. The budget invests in improving educational opportunities and quality from the earliest years through college. The budget request supports this transformation with increased investments totaling $93.9 million to improve outcomes in the classroom; provide improved instructional services and teacher quality; promote enhanced language and cultural programs; enhance broadband and digital access; and provide funds to Tribes to encourage creative solutions to school transformations. The budget includes an education construction increase of $58.7 million to replace the Little Singer Community and Cove Day schools in Arizona and to plan for future schools to be replaced. The increase also includes $11.9 million to address major facility repair

needs. To foster public private-partnerships that will support improving student experiences at BIE-funded schools, the 2016 budget proposes appropriations language enabling the Secretary to activate the National Foundation for American Indian Education. The proposed bill language will initiate a foundation focused on fundraising to create opportunities for Indian students in and out of the classroom.

Budget increases across other Federal agencies through the Generation Indigenous initiative will support educational outcomes and provide wrap-around services in the areas of behavioral and mental health, substance abuse, and job training.

The President's budget also requests an additional $3.0 million to support youth participation in BIA natural resources programs that focus on the protection, enhancement, and conservation of natural resources through science, education, and cultural learning. Tribal youth will benefit from the mentoring and positive role models provided by tribal personnel who work on the ground to manage and protect vital trust resources. Programs aimed at tribal youth will pay future dividends by opening future job opportunities, instilling respect for resources, and developing an appreciation of the importance of natural resources to tribal cultures and livelihoods. The request will support approximately 60 new tribal youth projects and training programs throughout Indian Country and supplement existing training programs within the forestry, water, and agriculture programs. In addition, the BIE budget includes a $4.6 million increase for scholarships for post-secondary education, with a focus on recipients seeking degrees in the fields of science, technology, engineering, and mathematics. Making advanced education opportunities available for tribal members is a high priority for Tribes, who see education as the path to economic development and a better quality of life for their communities through an educated and skilled tribal member workforce.

Supporting Indian Families and Protecting Indian Country

President Obama knows our youth must be well served in the classroom, but it is also important to support Indian families and ensure public safety in their communities. Children need a safe environment when they go home from school. That is why the President's budget request is committed to promoting prosperous tribal communities and addressing problems of poverty, violence, and substance abuse. As part of the President's commitment to protect and promote the development of prosperous tribal communities, BIA will continue the Tiwahe initiative. The initiative promotes a comprehensive and integrated approach to supporting family stability and strengthening tribal communities by addressing interrelated issues associated with child welfare, domestic violence, substance abuse, poverty, and incarceration. Tiwahe means "family" in the Lakota language. The Tiwahe initiative directly supports the Generation Indigenous initiative, which is focused on addressing barriers to success for Native youth, by leveraging BIA programs in concert with other Federal programs that support family and community stability and cultural awareness.

Child abuse and neglect continue to be serious and persistent problems among Indian populations in the United States. The impact of child maltreatment in many Indian communities has been devastating. It has disrupted extended family support networks and broken up families

through placements outside the community. Children living in poverty are far more likely to be exposed to violence and psychological trauma, both at home and in the surrounding community. Many Indian communities face high rates of poverty, substance abuse, suicide, and violent crime. The U.S. Census Bureau recently reported that between the years 2007-2011, 23.9 percent of the American Indian and Alaska Native population lived in poverty—a figure that exceeded the national poverty rate of 14.3 percent.

Solutions lie in addressing the interrelated problems of poverty, violence, and substance abuse faced by many communities through a comprehensive, culturally appropriate approach to help improve the lives and opportunities of Indian families. This requires coordination of social service programs, taking steps to maintain family cohesiveness, preparing family wage earners for work opportunities, and providing rehabilitative alternatives to incarceration for family members with substance abuse issues. The proposed increase of $6.0 million for social services programs will support the Tiwahe initiative by providing culturally appropriate services with the goal of empowering individuals and families through health promotion, family stability, and strengthening tribal communities as a whole. The budget also includes $4.0 million for Law Enforcement Special Initiatives and $5.0 million for tribal courts to implement a comprehensive strategy for providing alternatives to incarceration and increases in treatment opportunities across Indian Country. The BIA will work with the Departments of Justice and Health and Human Services to provide comprehensive suicide prevention training to police officers and work with tribal courts to identify and make mental health services and support more widely available.

To promote public safety and community resilience in Indian communities, the 2016 law enforcement budget builds on recent successes in reducing violent crime and expands efforts to lower repeat incarceration in Indian Country, which is a Department priority goal. In 2016, a pilot program to lower rates of repeat incarceration will be expanded from three sites to five, with the goal of reducing recidivism by at least three percent within these communities by September 30, 2017. To achieve this goal, BIA will implement comprehensive alternatives to incarceration strategies that seek to address underlying causes of repeat offenses—including substance abuse and social service needs—by utilizing alternative courts, increased treatment opportunities, probation programs, and interagency and intergovernmental partnerships with tribal, Federal, and State stakeholders.

The Violence Against Women Reauthorization Act expands the jurisdiction of tribal law enforcement and justice systems to domestic violence altercations in Indian Country. The BIA Office of Justice Services is providing technical assistance to Tribes to change tribal legal codes to reflect provisions contained in the reauthorization of the Violence Against Women Act that provide stronger protections and safety for vulnerable populations. The BIA is also implementing training for direct service law enforcement program staff in the areas of law enforcement, social services, victim services, and courts and is making this training available to Tribes operating these programs under self-determination contracts and compacts.

Tribal Nation-Building

Programs run by Tribes through contracts with the Federal government support tribal nation-building and self-determination. The 2016 President's budget request for contract support costs

is $277.0 million, an increase of $26.0 million above the 2015 enacted level.

Based on the most recent analysis, the requested amount will fully fund estimated 2016 contract support costs. The budget also includes—for the first time—a new proposal to fully fund BIA and Indian Health Service contract support costs as mandatory funding, beginning in 2017. The BIA and IHS will continue to work together with Tribes and consult on policies to address long-term programmatic and funding goals to advance tribal self-determination.

Tribal leaders and communities need access to quality data and information as they make decisions concerning their communities, economic development, land and resource management, and other decisions. The ability to access and analyze data to support such decisions is critical to understanding the benefits and impacts of policy and program decisions. The collection and analysis of data by the Federal government is also critical to ensuring Federal agencies and programs are delivering effective services to Tribes to meet tribal needs and deliver on Federal responsibilities. The budget includes a total increase of $12.0 million to help address long-standing concerns Tribes have expressed with the quality of data in Indian Country. This funding will enable Interior to work with Tribes to improve Federal data quality and availability, work with the U.S. Census Bureau to address data gaps for Indian Country, and create an Office of Indian Affairs Program Evaluation and Data to support effective, data-driven, tribal policymaking and program implementation.

To deliver on an all-of-government approach to Indian Country, the BIA budget proposes an increase of $4.0 million to establish a One-Stop Tribal Support Center to make it easier for Tribes to find and access the hundreds of services available to Tribes across the Federal government. The One-Stop Tribal Support Center will include an online portal and services to support Tribes in accessing Federal resources at the regional and local levels. The Center will make it easier for Tribes to find services and receive consistent information across Federal programs. Initially, the Center will focus on programs that serve Native American youth, in support of the Generation Indigenous initiative and to pilot this new approach to serving needs in Indian Country.

The BIA budget also includes $4.5 million to establish an Indian Energy Service Center to facilitate energy development in Indian Country. It is imperative that tribal efforts to permit energy development on reservation lands are met expeditiously. Income from energy is one of the larger sources of revenue generated from trust lands, with royalty income climbing to $1.1 billion in 2014. Delays in energy development can result in delayed profits to Indian mineral rights owners. The Indian Energy Service Center will expedite leasing, permitting, and reporting for conventional and renewable energy on Indian lands, and—importantly—provide resources to ensure development occurs safely, the environment is protected, and risk is managed appropriately by technical assistance to support assessment of the social and environmental impacts of energy development. The Center will be composed of staff from BIA, the Office of Natural Resources Revenue, Bureau of Land Management, and Office of the Special Trustee for American Indians—all of which have responsibilities related to tribal energy development. Working with the Department of Energy's Tribal Energy Program, the Center will provide a full suite of energy development-related services to Tribes nationwide and meet current demands for services. The Center will coordinate and enhance BIA's ability to process

leases, BLM's responsibility for Applications for Permit to Drill approval and monitoring, ONRR's responsibilities for royalty accounting, and will institute streamlined processes, standardized procedures, and best practices for all types of energy at various locations and bureaus.

Sustainable Stewardship of Trust Resources

The BIA's trust programs assist Tribes in the management, development, and protection of Indian trust land and natural resources on 55 million surface acres and 57 million acres of subsurface mineral estates.

Taking land into trust is one of the most important functions Interior undertakes on behalf of Tribes. Homelands are essential to the health, safety, social, cultural, and economic welfare of tribal governments. The Administration set an ambitious goal of placing more than 500,000 acres of land into trust by the end of 2016. To that end, BIA processed more than 1,835 land-into-trust applications, accepting more than 281,755 acres in trust on behalf of Tribes since 2009. In 2014, Interior acquired 41,685 acres of land in trust on behalf of Tribes and individuals and approved 290 fee-to-trust applications. The BIA intends to meet or exceed the 500,000-acre goal in 2016.

In December 2014, BIA announced a final rule that will allow the Department to accept land into trust for federally recognized Alaska Tribes. Previously, Interior regulations allowed tribal nations in the continental United States to seek to place lands into trust, but did not allow the same for federally recognized Alaska Tribes. Taking land into trust for a tribal nation makes the land eligible for certain Federal programs that can further tribal sovereignty and economic development related to agriculture, energy, infrastructure, and health and housing programs. The new rule confirms the Secretary's pre-existing statutory authority to consider applications to take land into trust in Alaska and confirms this authority will be exercised.

The BIA budget includes a total increase of $6.9 million for Trust Real Estate Services activities to bolster the stewardship of trust resources. The expanded capacity will address the probate backlog, land title and records processing, geospatial support needs, and database management. To foster utilization of tribal lands, BIA published a proposed new rule on June 17, 2014, to update BIA regulations—which were last revised more than 30 years ago—that govern rights-of-way across Indian land. The revised regulations are designed to result in faster timelines for BIA approval and ensure consistency with recently promulgated BIA leasing regulations. In addition, the proposed regulations would make the process more efficient and transparent, increase flexibility in compensation and valuations, and support landowner decisions on land use.

Supporting Climate Resilience in Indian Country

Tribes throughout the U.S. are already experiencing the impacts of a changing climate including drought, intensifying wildfires, changes in plants and animals important to subsistence and cultural practices, impacts to treaty and trust resources, and coastal erosion and sea level rise. In November 2014, the State, Local, and Tribal Leaders Task Force—established under Executive Order 13653 Preparing the United States for the Impacts of Climate Change-- formally released

recommendations to the White House. These recommendations called on the Federal government to partner with Tribes in planning, preparing, and responding to the impacts of climate change.

Responding to these recommendations, which included input from hundreds of tribal leaders, the budget provides a total of $50.4 million, a $40.4 million increase over 2015, across nine BIA trust resource programs to support tribal communities in preparing for and responding to the impacts of climate change. Funds will provide support for Tribes to develop and access science, tools, training, and planning; and to implement actions that build resilience into resource management, infrastructure, and community development activities. Funding will also support Alaska Native Villages in the arctic and other critically vulnerable communities in evaluating options for the long-term resilience of their communities.

Tribal lands, particularly in the West, on the Coasts, and in Alaska, are on the frontline of climate change, yet many of these communities face immense challenges in planning and responding to the far-reaching impacts of climate change on infrastructure, economic development, food security, natural and cultural resources, and local culture. Some communities are already experiencing increasingly devastating storms, droughts, floods, sea-level rise, and threats to subsistence resources. Strengthening access to information and resources, including technical and financial assistance to address the combined and cumulative effects, are among the highest priorities for supporting climate change adaptation and resilience. Examples of projects that may be funded include training, studies, scenario planning, natural resource and infrastructure projects, public awareness and outreach efforts, capacity building, and other projects. Criteria for tribal funding will be developed and prioritized in consultation with the Tribes and the interagency White House Council on Native American Affairs subgroup on environment and climate change.

Indian Water Rights

The 2016 budget request for Indian water settlements continues to demonstrate the Administration's strong commitment to resolve tribal water rights claims and ensure Tribes have access to water to meet domestic, economic, cultural, and ecological needs. Many of the projects supported in these agreements bring clean and potable water to tribal communities, while other projects repair crumbling irrigation and water delivery infrastructure on which tribal economies depend. These investments improve the health and well-being of tribal members and preserve existing economies and, over the long-term, bring the potential for jobs and economic development.

The FY 2016 budget request for technical and legal support and for tribal water rights settlements totals $244.5 million, an increase of $73.0 million over 2015. This includes a total of $40.8 million for Interior-wide technical and legal support and $203.7 million for settlement implementation. Of the request for settlement implementation, $136.0 million is funded in the Bureau of Reclamation and $67.7 million in BIA. In 2016, Interior will complete the funding requirements for the Taos Pueblo Indian Water Rights Settlement Act.

To strengthen the Department's capacity to meet its trust responsibilities and more effectively partner with Tribes on water issues, the 2016 budget includes a $16.9 million increase across the

budgets of BIA, Reclamation, BLM, the Fish and Wildlife Service, and U.S. Geological Survey. This funding will support a more robust, coordinated, Interior-wide approach to working with and supporting Tribes in resolving water rights claims and supporting sustainable stewardship of tribal water resources. Funds will strengthen the engagement, management, and analytical capabilities of the Secretary's Indian Water Rights Office; increase coordination and expertise among bureaus and offices that work on these issues; and increase support to Tribes.

Conclusion

This FY 2016 budget maintains strong and meaningful relationships with Native communities, strengthens government-to-government relationships with federally recognized tribes, promotes efficient and effective governance, and supports nation-building and self-determination. The 2016 budget request delivers community services, restores tribal homelands, fulfills commitments related to water and other resource rights, executes fiduciary trust responsibilities, supports the stewardship of energy and other natural resources, creates economic opportunity, expands access to education, and assists in supporting community resilience in the face of a changing climate.

Thank you for the opportunity to appear before you today. I am happy to answer any questions the Subcommittee may have.

Kevin K. Washburn
Assistant Secretary – Indian Affairs
U.S. Department of the Interior

Kevin K. Washburn, an enrolled member of the Chickasaw Nation in Oklahoma, was confirmed by the United States Senate as the Assistant Secretary – Indian Affairs for the U.S. Department of the Interior on September 21, 2012, and was sworn into office by Secretary of the Interior Ken Salazar on October 9, 2012.

Mr. Washburn is the 12th Assistant Secretary – Indian Affairs to be confirmed since the position was established by Congress in the late 1970s. In addition to carrying out the Department's trust responsibilities regarding the management of tribal and individual Indian trust lands and assets, the Assistant Secretary is responsible for promoting the self-determination and economic self-sufficiency of the nation's 566 federally recognized American Indian and Alaska Native tribes and their approximately two million enrolled members.

Mr. Washburn came to the Department of the Interior from the University of New Mexico School of Law where he served as Dean, a post he held since June 2009. Prior to that, he served as the Rosentiel Distinguished Professor of Law at the University of Arizona James E. Rogers College of Law from 2008 to 2009, and as an Associate Professor of Law at the University of Minnesota Law School from 2002 to 2008. From 2007 to 2008, Mr. Washburn was the Oneida Indian Nation Visiting Professor at Harvard Law School.

Previously, he served as General Counsel for the National Indian Gaming Commission from 2000 to 2002, and as an Assistant United States Attorney in Albuquerque, N.M., from 1997 to 2000. He was a trial attorney in the Indian Resource Section of the U.S. Department of Justice from 1994 to 1997. From 1993 to 1994, he clerked for the Hon. William C. Canby, Jr., of the U.S. Court of Appeals for the Ninth Circuit in Phoenix. His past awards in federal service include the Environmental Protection Agency's Bronze Medal for Commendable Service (2000) for representing the agency in successful Clean Air Act litigation and Special Commendations for Outstanding Service from the Justice Department (1997, 1998).

Mr. Washburn is a well-known scholar of federal Indian law. Among his other books and articles, he is a co-author and editor of the leading legal treatise in the field of Indian law, Cohen's Handbook of Federal Indian Law (2012 edition).

Mr. Washburn was raised in Oklahoma and earned a Bachelor of Arts degree in Economics with Honors from the University of Oklahoma (1989). He also received a Juris Doctorate from Yale Law School (1993), where he was the editor-in-chief of the Yale Journal on Regulation. He has been a member of the American Law Institute since 2007, and is a member of the State Bars of Minnesota and New Mexico.

Mr. Washburn is married with two children.

Michael S. Black
Director of the Bureau of Indian Affairs
U.S. Department of the Interior

Michael S. Black was named the Director of the Bureau of Indian Affairs on April 26, 2010. Prior to that, he was the Regional Director for the BIA's Great Plains Regional Office in Aberdeen, South Dakota, which oversees 12 agencies that together serve 16 Federally recognized tribes in three states (Nebraska, North Dakota and South Dakota). Mr. Black was named to his position in July 2008 after having served since January 2004 as the Deputy Regional Director for Indian Services in the Bureau's Rocky Mountain Regional Office in Billings, Montana, during which time he also served a period of eight months as the acting Great Plains Regional Director. Mr. Black began his Federal career in 1987 with the BIA's Aberdeen Area Office (now the Great Plains Regional Office) as a General Engineer in the Branch of Facilities Management. He went on to hold regional facility and engineering management positions in the Billings Area Office (now the Rocky Mountain Regional Office) until being named the Deputy Regional Director. Mr. Black is an enrolled member of the Oglala Sioux Tribe in South Dakota.

Charles M. Roessel
Director of the Bureau of Indian Education
U.S. Department of the Interior

Charles M. Roessel was named the Director of the Bureau of Indian Education on December 11, 2013, after serving as the Acting Director for BIE since February 2013.

Prior to his appointment, Mr. Roessel had served since October 2011 as the BIE's Associate Deputy Director for Navajo Schools, where he was responsible for overseeing 66 BIE-funded schools on the Navajo Nation reservation in Arizona, New Mexico and Utah. He became the Associate Deputy Director after having served since 2007 as the superintendent of the Rough Rock Community School, a BIE-funded, tribally operated K-12 boarding school near Chinle, AZ on the Navajo Nation reservation.

From 2010 to 2011, Mr. Roessel had served as chair of the Department of the Interior's No Child Left Behind Negotiated Rulemaking Committee and on the Sovereignty in Navajo Education Reauthorization Task Force with the Navajo Education Department of Diné Education.

As the Director of the BIE, Mr. Roessel oversees three Associate Deputy Directors who are responsible for education line offices serving 183 BIE-funded elementary and secondary day and boarding schools and peripheral dormitories located on 64 reservations in 23 states. These facilities provide schooling for more than 40,000 American Indian and Alaska Native students from the country's federally recognized tribes.

Mr. Roessel has been a prominent figure in Indian education for many years. The Rough Rock Community School, at which he served for more than a dozen years from 1998 to 2011, had been the first American Indian-operated, and the first Navajo-operated, school when it opened in 1966 within what was then the Bureau of Indian Affairs school system. Today that system is administered by the BIE, established in 2006.

During his tenure as superintendent at Rough Rock, Mr. Roessel helped to oversee a major school replacement and improvement project funded under the American Recovery and Reinvestment Act of 2009 and carried out by the Indian Affairs Office of Facilities, Environmental and Cultural Resources. The official opening of the replacement school and facilities was held on August 15, 2011.

Mr. Roessel started at Rough Rock in August 1998 as the Director of Community Services developing programs for teacher recruitment and student enrollment in addition to coaching baseball and teaching photography to students. In July 2000, he became the school's executive director, where he served until he was named the superintendent in 2007.

Prior to working for the Rough Rock Community School, Mr. Roessel served from September 1997 to December 2000 as Director of the Navajo Nation Round Rock Chapter AmeriCorps

program where he developed partnerships to improve education and housing within the Round Rock Chapter community.

Mr. Roessel also has worked as a photographer, writer and editor for various publications and projects including vice-president and editor of the *Navajo Nation Today* newspaper (1990-1992), which he also co-owned; managing editor of the *Navajo Times Today* (1985-1987); a photojournalist with the *Greeley (CO) Tribune* (1985) and a photographer/writer with the Navajo View of Navajo Life Project (1984).

In addition, he has worked since 1987 as an author and photographer on various projects, and has written extensively about Navajo life and culture. He also served on the Visual Task Force board for the first annual gathering of minority journalists associations, including the Native American Journalists Association, known as the UNITY conference.

Mr. Roessel holds a Bachelor of Science degree in Photo-Communication/Industrial Arts from the University of Northern Colorado-Greeley (1984), a Master of Arts degree in Journalism from Prescott (AZ) College (1995) and a Doctorate of Education degree in Educational Administration and Supervision from Arizona State University in Tempe (2007).

Mr. CALVERT. Thank you for your testimony.

INDIAN AFFAIRS ORGANIZATION

With regard to the 183 elementary and secondary schools in the Bureau of Indian Education system so we can direct today's questions accordingly, please differentiate and clarify for us the various roles and responsibilities of the Assistant Secretary's office, the BIA and the BIE.

Mr. WASHBURN. Okay, Mr. Chairman. I could answer that question in about 3 hours, but what I have done is——

Mr. CALVERT. How about 3 minutes?

Mr. WASHBURN. Fair enough. That is a big part of the problem, frankly. We have given you this 2–1/2-inch budget justification that hopefully is more than a doorstop. There is an org chart in this book that partially answers that question. The problem with fully answering that question is that Indian Affairs really evolving right now because we have published a blueprint for Indian education that will change these things dramatically, and hopefully align accountability a little bit more clearly with powers and responsibilities in Indian Country.

So we are working really hard on that. On a weekly basis we have been having big meetings of our team that is trying to implement the blueprint. There are a lot of subcommittees to that team too. I think some of those changes are going to require reprogramming requests coming over to the Committee. It is difficult to change anything in the Federal government. It takes a lot of "mother, may I's" and many people can veto it, so it has been, I have to say, one of the most challenging things I have ever seen in my life trying to get this done. We are trying to realign the Bureau of Indian Education, the roles and responsibilities there, as well as within the BIA to be more supportive of education. It has been really challenging but it is very much an evolving process right now.

BOND FINANCING FOR BIG SCHOOL CONSTRUCTION

Mr. CALVERT. While we are on the subject of education, we were out recently in Navajo country and Hopi country, and we saw the condition of some of the schools and obviously throughout Indian Country. It is one of the big issues that is obviously in need at addressing. Ms. McCollum has a school that desperately needs to be replaced. But this list is a lot longer than just those schools. And we had a discussion about thinking outside the box about how—we had a similar situation a number of years ago with Department of Defense schools' condition, and we came up with an interesting way to finance this. As you know, most schools in America are not paid for on an annual budget process. They are paid through bond financing over a 30-year period, and how we can potentially set up a financing mechanism where we do not have to account for the full dollar amount but be able to expand a number of schools that we are attempting to renovate and replace, and get maybe some expert outside financial help to come up with a model maybe looking at the Department of Defense and get a resolution to a large number of these schools quickly rather than just having to come back

here hat in hand year after year chipping away at this iceberg. Have you put any thought into that?

Mr. WASHBURN. Mr. Chairman, yes, a little bit, and you raised that with us, and we have been looking into it. We talked to the folks at the Department of Defense that assisted with that. You know, they did a big makeover of their schools to the tune of, I believe in excess of $1 billion and perhaps in excess of $2 billion. They looked at some similar financing arrangements. When we talked to the person on our staff who worked on the reconstruction of defense schools, she said, there are 17 different reasons why alternative financing models do not work. We are still looking at it, and we have raised it with OMB as well. We do want to be creative here, but we have a different problem than what state schools have because we do not have a tax base for floating bonds and that sort of thing. We want to commend you for your creative thinking around these things and we need to be doing creative thinking too. So if you keep putting those things on our plates, we will keep considering them.

Mr. CALVERT. I am going to look into this more because I think you have got to find a way to yes on something like this. There has got to be a better way than the way you are doing it now. That is not working. It will be 100 years before we take care of the necessities that you have on the brick-and-mortar side. I mean, that does not address the other issues you have in education but certainly the brick-and-mortar issue has to be resolved. From a business guy's point of view, I would think that would be a relatively simple thing to do, focus in on it, and understand how you do it and try to get people to yes to get this thing fixed because as Mr. Simpson said, some of these schools are just beyond an embarrassment.

Mr. WASHBURN. They are, Chairman. On the Defense side, they largely ponied up the money to do it and they did it over multiple years. That is kind of what we have in mind that it is probably a 5- to 6- to 7-year plan for reconstructing our worst schools, and then we definitely need more attention to maintaining those schools, the preventive maintenance-type stuff.

Mr. CALVERT. Well, I have some other questions but I am going to turn it over to Ms. McCollum right now and we will get to the panel. Ms. McCollum.

SCHOOL REPLACEMENT PRIORITY LIST

Ms. MCCOLLUM. Thank you, Mr. Chair. Kind of following up on that, you just mentioned the increase for replacement school construction. Is that sufficient to finish up the priority list developed over a decade ago in 2004?

Mr. WASHBURN. Yes, ma'am, it is, and it would also allow us to plan for those schools that will be on the next priority list so that we can be out of the gates with construction for the next fiscal year.

Ms. MCCOLLUM. Well, I was pleased to see that, so that we have both lines moving forward, so I was happy to see that.

What is the timetable for developing a new school priority list? It is something we are being asked all around Indian Country because we would like to know if we are going to have time to con-

sider incorporating that preliminary funding into the bill that we are going to be working on here in this committee.

I had a great conversation with Secretary Jewell and we talked about how you brought people in from DoD, from the Department of Interior Parks Service to help develop this list, so when do we expect to see it? Will we have a clear, understandable list of criteria that everybody can, rally around? I am not being pie in the sky here, but is this going to be clear?

Mr. WASHBURN. Well, the criteria was developed according to a negotiated rulemaking that we were required to do by Congress. We had a team put together a formula. The team was representative of members from Indian Country including Director Roessel in a former job. The formula was developed by a committee in all the best ways because it is widely representative.

We are currently trying to make sure we have got good data to plug into that formula, and actually we are making great progress there. We certainly intend to have that list out this year. We probably will have it out this summer. I hate to make promises about anything that is not entirely within my control but we are working diligently to try to get that list out.

I am responsible for holding that up because I did not want to put a new list out until we had made a commitment to all the schools that were on the 2004 list and got that done because I thought that that was really important before we start developing new expectations.

JOHNSON-O'MALLEY STUDENT COUNT

Ms. MCCOLLUM. All right. Well, as everybody here has been pushing, as you said, we need to get off of federal time on doing this.

On the topic of schools and counts, count we have been waiting for is the Johnson-O'Malley. Since I have been on the committee, the Johnson-O'Malley, is pending, it is coming, it is coming. So my question is, what is the time frame for that new count? But then I have a question about the counting itself.

The Census Bureau is changing the way in which it collects its information, and I wonder if we had better census information for Indian Country, it would give you folks here at the table a much clearer picture and help us plan better for all your needs and services. So what has been your interaction with the Census Bureau, and whether it is Johnson-O'Malley or when I had the honor of being with Ms. Pingree at Beatrice Rafferty or whether we are in Hopi or Navajo Country? I mean, the principals there are saying that what you are projecting for enrollment, they know is wrong. So how do we get our counts straight?

Mr. WASHBURN. Well, let me say this, and I am going to ask Director Roessel to address the Johnson-O'Malley question, but let me talk more broadly about the census question.

Tribes don't fully trust the process that the Census Bureau uses. I think that the Census Bureau is the expert on these things and we have to work with the Census Bureau but we——

Ms. MCCOLLUM. But the new form does not ask the question, are you Native American.

Mr. WASHBURN. Well, that is interesting, and we need to talk to them more about that. We have to work with Census because they truly are the experts. You all require us to be experts in nearly everything under the sun in Indian Country. Consequently, we do nothing well in Indian Country. If you ask us to be an expert in everything, we cannot be, and we will do nothing well if we are spread too thin. This is one of our great frustrations, and so we have to work with other experts in the Federal government like the Census.

Let me turn it over to Director Roessel to talk about the JOM count.

Mr. ROESSEL. Thank you. We just completed the JOM count for 2014. We are in the process of going out for consultation to tribes on JOM issues and a notice for the consultation has been published in the Federal Register. We are looking at two different things. One is, we have the count to talk about it: we have some discrepancies there. A lot of new contractors have submitted a count and some tribes or school districts did not submit a count. Trying to figure out why they did that and why they did not do that, is one of the issues that we are faced with.

The other issue is how we distribute the JOM funds, That is part of the consultation process. Rather than make that decision ourselves, we want to go out to consultation and hear from the tribes and the schools on what is the best way to distribute those funds once we have them.

In terms of the Census and JOM, one of the issues is that in the census in prior years race was self-identified. With tribes, there is a definition of who is an Indian. So there are two different criteria that are used. And so again, we want to take that question out to consultation and hear from tribes because there are a lot of definitions out there of who is an enrolled member. We are doing the consultations in April so we are moving on it quickly right now.

Ms. MCCOLLUM. Thank you, Mr. Chair.

Mr. CALVERT. Thank you.

Mr. Cole—oh, Mr. Simpson. Excuse me.

Mr. SIMPSON. There is nothing more former than a former chairman.

Mr. CALVERT. Sorry about that.

Mr. SIMPSON. No, no, no problem. I am going to submit several questions for the record dealing with questions from the Shoshone-Bannock Tribe in my district about the 6th grade expansion and grant programs I appreciate your help in making sure that was accomplished. Currently we are concentrating on schools, and if you look over the last several years at this committee, we concentrated on healthcare because that was substantially under par and needed to be brought up. So we have increased funding for that and contract support. Now we are concentrating on schools while maintaining the concentration on healthcare, but that does not cover all the issues that need to be addressed.

I am also concerned about the police protection and so forth on reservations, or the lack thereof and the incredible distance that area that tribes have within reservations and with very few officers and the danger that that causes and the violence against women that occurs on reservations. There are also alcohol problems that

occur just on the border of the reservation when somebody sets up a community there and that causes problems. I still remember from when we were visiting, I think it was the Indian Reservations in South Dakota—and we talked to a police officer there—and they lost a police officer that had been on duty for too many hours and he basically fell off the road. So it is not to suggest that education is the only thing we have got to deal with. There are a lot of other things that we need to deal with also.

SCHOOL REPLACEMENT PRIORITY LIST

But we have been focusing on education, and the article that I mentioned the other day when Secretary Jewell was here about—it was in the Minneapolis paper that while I congratulated the Administration for their education budget, said that at this rate, it will be 30 years to address the needs that exist currently. We cannot wait 30 years. At that rate, we will have kids going to schools now whose kids will be going to schools that have not been fixed yet.

So we have got to find a better way to do this, and what I would want is the Administration and the Department to place before us a plan of how are you going to replace these schools and bring them up to speed. As the ranking member, Ms. McCollum, has said before, and I agree with it, where you send our kids, the conditions of the schools that they go into says a lot about what we think about our kids. It also says a lot to them about what we think about them. So we need to do a much better job, and I think we have to have a shorter time frame in how to address these schools. I am going to be a little bit pie in the sky in that we have got to find a plan to do it and fund it, and I do not have the answer yet. I know the chairman has some ideas, but we need to start debating this, and how do you put together the priority list and how far down does it go. I want to know what the whole realm is, and I am not talking about building castles. I look at it sort of like when a school district goes out for a bond, they put everything out there that they would like and the voters reject it because it is too much, and then they come back and pare it down and say okay, what is necessary and I suspect if you put out a list of schools that need help, every tribe in the country would say we need this done and we need this done right. But how do you put together a priority list and how far down does it go? Because there are needs all across the country.

Mr. WASHBURN. Well, Mr. Chairman, you are absolutely right. It is a real challenge. I want to thank you for all the support of IHS for the last few years because that has made a real difference in Indian Country. We need to make the same kind of difference in Indian education for sure, we just do not have the resources to be fully holistic on everything we need to do.

We need to focus on poor schools, but we also need to be a lot more strategic, and so one of the things we have added to our budget this year is a new line. We have always had the school construction line which we have never funded nearly enough, but it looks at whole campuses. We have added a line for facility construction. So for example, take the Bug School. The elementary school is actually fairly nice. The high school is deplorable, but we

average out that school and consider what the condition of the campus is. We need to have the ability to be more strategic and go in and surgically improve buildings. When there is one bad building that is really bad, we need to be able to do that.

We have over 1,700 school buildings and it is overwhelming. It is really overwhelming. But we have to be strategic. We do think it is a multiyear plan. If you gave us a billion dollars for next year to address all the backlog, we would not be able to spend it responsibly. We do not have the infrastructure to do that. And you know, we have to develop that infrastructure, and I think the GAO has pointed out well the things that we need to do. We know what we need to do. So we will not ask for you money that we cannot responsibly spend, but we do need to have a serious focus on this over the next 5 years, at least, and probably more like 6 or 7.

Mr. SIMPSON. Well, what I would like to see before the committee is a plan to address it in as short of a time frame as we could do it. I realize it is not going to be done in one year but we could actually debate it here in committee and say okay, where are we going to come up with the funds and get it done. That is the only way you are going to do it. It is the same way we did it with healthcare. And then, as I said, there are a lot of different issues that need to be addressed. We cannot ignore safety on the reservations and many other things.

DETENTION CENTERS

Are we using—are we using regional detention centers, to any extent? And I know that it causes challenges because every tribe wants their own. Well, we cannot afford to build one everywhere. So it seems like it makes sense to me to utilize regional detention centers. Are we doing that at all?

Mr. WASHBURN. We are doing that, and we are actually even using private detention facilities to some degree too because it is cost-effective. Let me say, if you look back over the last 10 years, we have rebuilt about 40 schools, and a lot of that was with ARRA money. DOJ and BIA have built about that many detention centers. Do you want to be building detention centers or do you want to be building schools? That is the issue that we face directly, and that is a challenge because you do need detention centers. You saw the one at Hopi. That one needs to be, replaced. However, how cynical do you want to be? Do you want to build schools or detention centers? Do you want to add anything to that, Director Black?

Mr. SIMPSON. Well, let me just say before you do, one of the other issues is the education in those detention centers that we need to address.

Mr. WASHBURN. Thank you, and we actually are working directly on that. We have put directions Black and Roessel together to work on those issues, so we now have the BIE working much more closely with our juvenile detention centers.

Mr. CALVERT. Before I go to our next—Mr. Kilmer, one point that we saw when we were up at the Navajo-Hopi country is that there apparently was a Navajo detention center that was underutilized but they did not want to put the Hopis in the Navajo—from our perspective, that did not make a lot of sense but there may be other reasons.

Mr. Kilmer.

Mr. KILMER. Thank you, Mr. Chairman.

Since we are talking about detention centers, I actually had a question about that. I am concerned that the BIA budget does not request any additional funds for the operation of tribal detention facilities. We have got one that was located in my state operated by the Puyallup Tribe, and you know, despite the fact that the facility was constructed in close coordination with BIA and the Division of Justice Services, the tribe has only been given less than 30 percent of the funding needed to actually operate the facility, and frankly, had they known that it was going to depend on tribal resources to operate it, I am not sure they would have moved forward with it.

So does the BIA believe that there is a need for additional funding for operations of tribal detention facilities? And, you know, after having supported construction, how do we make sure that this does not become a burden to the tribes that are operating them?

Mr. WASHBURN. Congressman Kilmer, I am going to ask Director Black to address your question because that is entirely within the BIA, but thank you for the question.

Mr. BLACK. Yes, thank you very much for that question. I think that is something we have been able to identify over the few years. Speaking specifically to the Puyallup facility, we have been working very closely with the tribe since they began the planning on this facility to identify funds, and quite honestly, you are right. We do have a situation when new facilities have come on board.

I am going to talk to the past a little bit. DOJ was the one that was funding a lot of these facilities in the past. We had some coordination issues back then as far as ensuring that when these facilities were completed that we had identified the necessary funds to be able to staff them and operate them. We have been able, over the past 4 to 5 years, to work very closely with DOJ to bridge that gap and get a better coordination and identify funding. We have plussed up our detention center operations staffing over the last few years. We were able to get some additional funds in there to work with the different tribes. So it is an issue that we are well aware of and working on and look forward to working with you all.

Mr. KILMER. Thanks. I would like to work with you on that.

ONE-STOP TRIBAL SUPPORT CENTER

The BIA was looking to establish a one-stop tribal support center to serve as a gateway to services, and I appreciate that. I think that makes a lot of sense. I do want to pass on a concern that I have, and that is: it appears that one of the major features of the one-stop center is the development of an online portal, and a lot of the tribes in my district simply do not have access to high-speed broadband, and that is a big trouble in the rural areas. So what happens when important resources like that cannot be accessed by the tribes that are most in need? You know, how do we make sure that they are not missing out on some of these vital services?

Mr. WASHBURN. Well, thank you, Congressman. That is a big part of our budget request. My budget is about $2.9 billion this year, and the entire crosscut across the federal government for In-

dian Country is about $20.8 billion. The programs that I have for Indian Country are about 14 percent of the programs for Indian Country by dollar volume. So what we have learned is that we do not need to be all in a bunch of different silos. So at least for tribes, we need to have one place where they can come and we can be the omnibus. We can make sure tribes know about all the programs.

And I think you are exactly right. I think an online portal needs to be part of the solution but it cannot be the only solution. Tribes need human beings to help them navigate these things. So we need both of those things as a part of the system.

It is going to be enormously challenging, not just because of these digital divide problems but the digital divide problem has plagued us in many areas and so a lot of our schools do not have good access. The Macaw Tribe in the State of Washington has had challenges and we have helped them modestly with funding. We have been looking for funding from the FCC and their E-rate program. We have been getting help from Verizon for computers and online services within schools. We have been turning over every rock we can because we do have to solve the digital divide problem. Thank you.

Mr. KILMER. I sure agree with you.

Thank you, Chairman.

Mr. CALVERT. Mr. Cole.

Mr. COLE. Thank you very much.

Let me start by making you an offer. First of all, I appreciate the budget and I appreciate all the Administration is doing. Thank you for the very generous words for this committee, which, on a bipartisan basis, really has tried to prioritize these things under successive chairmen, no matter who was in the Majority. I think we actually have seen some tangible results from sustained attention, and if we can just keep that, and broaden that focus, hopefully we can do more.

FEDERAL TRIBAL PROGRAMS COORDINATION

Actually, if I can leave this subcommittee's jurisdiction to my own for a minute, we will later have a hearing on Native American programs that span Health and Human Services. I would very much like to work with you and OMB and whatever sort of unitary thing. I know Ms. McCollum has worked for many years to identify where the different streams of revenue are, and why can we not put them into an overall budget for Indian Country. So at least in the areas where I have jurisdiction, we are going to try to do that, and we want to do it obviously in cooperation with you. So if you can just help us figure out where these things are, we can bring them together.

We are going to have, I think, a difficult appropriations process because, with all due respect, the President submitted a budget, on political assumptions in terms of what is going to pass, in terms of taxes, that are a fantasy. They are not going to happen. I mean, we are more likely to be flat-lined. That does not mean you cannot prioritize within that, and it does not mean later there cannot be a larger deal. That is what I would hope for is another Ryan-Murray-type situation.

Mr. Calvert and I just came from Defense Subcommittee where I can tell you there is a lot of pretty worried people around that table about the consequences of sequester. It is not enough simply to write a budget proposal. You have to have a process to negotiate a settlement because it is not going to be what is envisioned in the President's budget.

But again, the amount of money we are talking about in the jurisdiction I have is a comparatively small amount when you look at how vast it is. So if you would help us identify and figure out how to coordinate that, and as a matter of fact, if you want to come over and testify or Secretary Jewell did or you guys put your heads together, we would love to have that so it is not just a block here from this and a block here from that but we had somebody from the Administration's standpoint that talked about a unitary approach. Is that possible to do?

Mr. WASHBURN. Mr. Chairman, absolutely. We have been noting so many places in Federal programs that tribes just are not able to participate in. Some programs serve states or other governments or other groups, so lots of places just need to make sure tribes are eligible to apply as well. We would be delighted to help you with that.

Mr. COLE. Well, let us have that conversation.

VIOLENCE AGAINST WOMEN ACT PROGRAMS

One quick question, if I may. Could you give us an update—I know we have a number of tribes that are working on VAWA that are trying to get themselves where they have the judicial capacity and the law enforcement. How are we doing where the rubber meets the road?

Mr. WASHBURN. We have three tribes that have taken on pilot programs, but come the middle of March or so, every tribe in the country that wants to do it can start doing VAWA prosecutions in theory. They have to put a lot of things in place to do that, so we think that will go at first because it is quite expensive at the tribal level. We have funding this year in our fiscal year 2015 budget, a million dollars, to help train tribal courts so they can handle this so they can, exercise this responsibility. So we are conducting a lot of training to try to make sure that tribal courts have the resources they need to put that into place properly.

Mr. CALVERT. We are going to recess for 10 minutes and return to this panel for Ms. Pingree, and then we will have our second panel.

[Recess.]

Mr. CALVERT. The hearing will reconvene. Ms. Pingree, I will let you catch your breath, and you are recognized for your questions.

Ms. PINGREE. Thank you very much, Mr. Chair. Thank you for being here today and for your answers to the previous questions.

BEATRICE RAFFERTY SCHOOL

I appreciate we have had a lot of focus on Indian education, so I cannot help but ask a question about the Beatrice Rafferty School. I think you all know a lot of the background, and we are extremely excited for the Passamaquoddy Tribe that this money is funded and very grateful to the Committee for the hard work that

they have done and the ranking member for coming up to visit and I think the Secretary was up there once. They have got a lot of really great attention, which they deserve, and hopefully as people have been talking about, there is going to be some real opportunities to clean up the rest of that list.

I am going to try to ask this question as articulately as I can but I will admit, I am slightly confused myself, but here you are, so it is a good chance to ask the question. So the disappointing thing is that since the announcement was made in December, they have not been able to move forward with construction because they have not gotten a sign-off from either the BIA or the BIE, but I know you are going to answer that question to me, who actually gets to manage construction. But that said, from our conversations with the tribe, the representative that was supposed to meet with them has failed to appear in at least two meetings, so they have had a hard time just in the communication and contact, and the challenge is over the number of square feet in the school. So we have got an 11-year-old—this goes back 11 years, and the BIA or the BIE has said the current design is 5,000 square feet too large for the financial allocation. So the Tribe wants to negotiate this or at least have a conversation about it. My understanding is that from the federal government the argument that they do not have sufficient funds for that, but their opinion is this 5,000 square feet, which covers some curriculum areas, jobs for the graduates program, some of their mechanical and electrical rooms is critical to the design and it is 11 years later.

I think they are trying to argue that they could do it for that dollar amount so it is just an arbitrary number, in a sense, on behalf of the BIA. I will pick up the pace here. And I am not negotiating for them but I think their other argument is, if in fact you do not think they can do it for that amount of money, they will use other funds. You know, they will do something to access the rest of the funds but then one of the arguments from the BIA is, "well, you cannot use federal government money to maintain those last 5,000 square feet." It is a 50,000–square-foot building so it is only 10 percent. This is not like they have doubled the size or anything else.

And more than anything else, they want to get a decision because now they are stuck. They should be going into the design phase. They should be starting working on this, and they feel like, A, they cannot even get an answer, and B, I think they want the chance to argue their point a little bit, and more than anything else, I want to see them be able to go forward with the construction, given all the backlog we have. At least there is a school that should be constructed, and let us get it constructed.

So who does make construction decisions, and why has it been so hard for them to get an answer or even my office to help out getting an answer?

Mr. WASHBURN. I am going to ask Director Roessel to handle your question because he is in the weeds on these kinds of questions. Keep in mind that he has 1,700-plus school buildings and 183 different campuses that he is in charge of as well.

The quick answer is, we plan for construction, and we had plans, and if we want to change plans, there is a lengthy process to change those plans. Want to move quickly too. It is hard to change

the plans when that ball has started to roll. But I am going to ask Director Roessel to address your question in more specificity.

Mr. ROESSEL. Thank you for the question. The BIE has the responsibility of approving educational space, and then the Division of Facility Management and Construction approve, the mechanical space, you know, how much for HVAC systems and things like that. Actually, the total amount that is above the square footage in the plans is 9,206 square feet. It is not 5,000. Five thousand is just going to educational programs that you talked about, expanding the gyms, the jobs for Maine program and things like that. Our office has approved 52 percent of that 5,000 space. So we have actually not said no to it but we have been trying to go back and forth.

We have space guidelines, and the purpose of those guidelines is that one point BIE and BIA were accused of building that buildings too large for our Indian school student counts, that there were vacant classrooms and things like that. So these guidelines are to help us say, here is the standard, for this many students. So that is in place and what we are going by. It is not an arbitrary number that we have. These are space guidelines that actually are aligned with the standards out there. We looked at different states that have guidelines and said okay, that state is kind of like our schools and we pick and choose from those states to create these guidelines.

The space that we approve following space guidelines is what we can fund for operations and maintenance. Otherwise we would just build these really big schools that people want but there is no justification.

Nonetheless, we have agreed to, over 52 percent of their request. I think right now that a letter has been drafted and we have worked with the school and the tribe. We met with the tribe. The tribal president came and met with my staff a couple weeks ago. We talked about this. I actually was on the trip with the Secretary so—

Ms. PINGREE. Oh, thank you.

Mr. ROESSEL. I was not able to be there but the staff was there. We are in the process now of notifying the school with our determination. The plan at this point is allow the school, if they wanted to have something larger, they can do it through value engineering or they can do it through an alternate. So if they wanted to have a separate building or separate classroom that is above and beyond the determination, then they can do that and they can build it on top of what is allocated. The plans that we have were built and created based on the square foot amount generated by the space guide lines. Anything above that, you know, has to be negotiated.

My responsibility is just for the educational space. The mechanical space is about 4,000 square feet, and that is something that the Division of Facilities Management and Construction would take care of. So we have now come to that final decision. The school should be notified, we are hoping, in the next few days in terms of that decision being made and they can begin the design process after that.

Ms. PINGREE. So thank you, and I am sure they will be very happy to receive the letter and have, a more concrete answer, and

just to clarify, like I said, I am not negotiating. I do not know everything about the plan so I do not want to get into too much detail here, but did you say that they could do something in addition to that and it would not cause you to turn down their entire plan, if they had some other source of funding for a slightly larger space or there is some other add-on they want to the building as long as it is not trying to come out of the same money?

Mr. ROESSEL. If they are able to, for example, through their negotiations with their contractors get a really good price and build the extra space, they are allowed to do that. But this 9,200 square feet actually comes out to about $2.6 million above and beyond what was allocated and funded.

Ms. PINGREE. Got it, but whatever the thinking was that said they would not be allowed to do it because the maintenance costs in the future would be a problem, that is not accurate?

Mr. ROESSEL. That is a decision that they would have to make and figure out how they would handle the operation and the maintenance but it would not say—we would not say you cannot do anything.

Ms. PINGREE. You would not shut down the whole building process. Okay. Well, that is plenty of time. Thank you very much. I appreciate that.

Mr. CALVERT. It would be helpful, though, to iron out any differences before we appropriate construction dollars on these things. If we had known about this, we could have been willing to bump up the funding and resolve this, and if we do need to do this, we need to do this in fiscal year 2016. So we would like to be made aware—

Ms. PINGREE. Thank you, Mr. Chairman.

Mr. CALVERT. Coming from that industry, I would say the two happiest words a contractor ever hears is "change order." So get your plan set and then build to those plans. Do not modify or change in the middle of a construction job.

Ms. MCCOLLUM. Mr. Chair, on this point, two things come to mind. You know, Ms. Pingree was pointing out that these plans were from 10 years ago. The principal was telling us that they really thought the count for the children was wrong; that she knew she was going to have more kids coming through that door. The other thing is, if we are looking at 10-year-old plans, there have been a lot of changes in cutting-edge technology, such as with HVAC systems. So as you are going through developing your new plans my happy assumption is, you are taking as much of that as you can into account. Am I correct?

Mr. CALVERT. Mr. Simpson, you had a question?

ROAD MAINTENANCE

Mr. SIMPSON. Yeah, I have a real quick question. When we were out in the Hopi-Navajo country, we went out to one of the schools that is going to be replaced. We rode on a bus out to it.

Mr. CALVERT. I have liver damage.

Mr. SIMPSON. Now, the interesting thing about that is, is Ms. McCollum and I are sitting on the bus driving for 20 minutes out there. We got 500 steps on our Fitbit just sitting on the bus——

Ms. MCCOLLUM. One way.

Mr. SIMPSON. Yeah, one way, which tells you how bad the road was. Tell me about your roads program. And I hear this also from the Cheyenne River Sioux and some other tribes. In fact, I hear it from just about every tribe that I meet with, they are concerned about how we fund roads on the reservations.

Mr. WASHBURN. Thank you, Chairman. We have been accused of putting you on a bus that has square wheels. We have been accused of putting you on a box that had no shocks. And that is one of our serious problems and it is a problem all over Indian Country, especially on large, rural reservations, and frankly, Mr. Black and I have gotten an earful about the formula for funding roads, and that is a formula developed in Congress, not by us, and so we know those are serious concerns.

Since Director Black is an engineer, I think I will ask him to answer this question. But let me just say, we have $26.7 million in our proposed budget for road maintenance. There is a whole other bill that affects this area. I think it is called the Grow AMERICA bill, the reauthorization to MAP 21 is an area where there is significant money for roads and so we do not want to take all of it on ourselves because there are other committees and other agencies with important responsibilities, and we do spend some of that money that comes from that bill but we need to be taking an all-government approach to this as well. Mr. Black?

Mr. BLACK. May I just add a couple things to that? We currently, based on 2014 estimates, have about a $280 million backlog in our road maintenance, about 250,000 miles are of roads in Indian country. About 75 percent of our overall inventory is BIA, tribal and county roads, and about 45 percent of those are bus routes, and about 45 percent of those are dirt and gravel roads with the majority of them being bus routes. So it is a problem that we recognize, and under the previous highway reauthorizations, there was some language put in there that does allow a tribe to use up to 25 percent of their highway construction dollars toward road maintenance, but as you know, we are robbing Peter to pay Paul because we have some extensive road construction needs out there as well.

So road repair is something that is high on our radar as far as something that we need to address. It has been an ongoing problem for multiple years. I used to be a regional road engineer so I have dealt with this for 15, 20 years. We have to work closely with the tribes. The authorization of the highway bill is important because while our road maintenance comes out of our Department of Interior funding, the highway bill funds our road construction programs.

Mr. SIMPSON. Does the formula need to be reformed? Is there an issue with the formula?

Mr. WASHBURN. Well——

Mr. SIMPSON. Depending on who you talk to?

Mr. WASHBURN. There is no perfect formula out there. That is right.

Mr. CALVERT. Mr. Joyce, do you have any questions before I excuse this panel?

Mr. JOYCE. Yes. Thank you, Mr. Chairman. I would like to address one question to Director Roessel.

SAFETY AND SECURITY AT BIE SCHOOLS

The Department of Interior has recently conducted an inspection of the Moencopi Day School located on the Hopi Reservation adjacent to Tuba City, Arizona, to determine the quality of safety measures in place at BIE-funded schools to prevent violence against students and staff from internal and external threats. The OIG found Moencopi Day School's safety measures to be inadequate. Specifically, the school did not have a comprehensive emergency plan. In addition, training in violence prevention and emergency preparedness was found to be inadequate. Of the 18 safety measures OIG checked for, Moencopi Day School did not have 12 in place. The OIG issued reports in 2008 and 2010 on this same topic and concluded that schools were not prepared to prevent violence and ensure the safety of students and staff. Moencopi Day School was not among the schools previously visited. This is a serious issue. Can you point to specific provisions within thr FY 2016 budget that will help schools such as Moencopi Day School improve its safety measures and its violence prevention and emergency preparedness training?

Mr. ROESSEL. Thank you for that question.

Mr. JOYCE. I am not trying to put you on the spot, sir. I come here after serving 25 years as a prosecutor, and unfortunately, this is, the three-year anniversary of a school shooting in which three kids get killed and a lot of kids wounded, so it is something near and dear to me. I am not making light of this or trying to put you on the spot. I just want to make sure our kids are safe.

Mr. ROESSEL. No, I understand. It is something that we take very seriously in the operation of our schools and also in the areas where we operate these schools. They are in very remote locations. They are in areas like Moencopi. They are in areas like, Flander, all across this country.

Specifically, what do we have in the budget? I think I would take a different approach. I think it is a collective approach that we are looking at. We need to try to improve the overall accountability of the BIE, and by doing that, it is not focusing just on safety but it is focused on accountability in its totality.

Over the past few years, we have had a drop in employees within our system. We need to turn that around and get people working in these different areas that have the responsibility of overseeing safety measures happening in schools.

I know when I was a superintendent of schools, we used to have the education line officer who was in charge and would come out and ensure that we had our continuity of operations plan, and that we had our fire drills and all of those things. Because there are not the same number of employees there anymore, planning has lapsed, so we are trying to get back to that, ensuring the accountability.

The other thing, too, is defining roles and responsibilities. One of the problems that we have out in Indian Country is that we have everyone doing a lot of different jobs. Defining those roles and responsibilities as part of this blueprint for reform is actually going to help in the areas of safety as well as in the areas of finance, curriculum and instruction. We are really trying to redefine what

those roles and responsibilities are, clarify those roles and responsibilities and then hold people accountable. So a specific point in the budget, I cannot do that, but in its totality, we can do that, and that is what the blueprint for reform is: trying to maintain and create greater accountability measures throughout the entire system.

Mr. JOYCE. And you have adequate funding to do that? Well, there is never enough. In your funding process, you are looking forward to doing that?

Mr. ROESSEL. We are prioritizing, and the implementation plan will help us do this, in phases, and we are positive we will get it done.

Mr. JOYCE. Great. Thank you. I have no further questions.

EMPLOYEE HOUSING

Mr. CALVERT. Thank you. And one last comment. When we were at Moencopi School, we noticed that there were three empty houses. You were there, I think, Kevin, and there was this dispute between the security people and the teachers and so the end result is, the houses are sitting empty for 2 or 3 years. It drove us all crazy thinking wow, what a waste, and hopefully you fixed it since we left and that it is all resolved.

Mr. WASHBURN. Good. Can we leave it there, leave it with your optimistic statement?

We actually have been working on this, and there were two houses. We have tried to arm-wrestle with our law enforcement folks to get those houses and perhaps make them available to teachers. They have said no, we want to keep them and we will fill them. You may recall there was an issue about the cost of those homes. We are trying to do some creative work to figure out how to get the costs down so that law enforcement officers can use those homes. We have one rented, and we are working on a solution for the other one.

You know, the local community had a lot to say about that. They wanted police officers in those homes and so—

Mr. CALVERT. All right. Well, I just hate to see them empty.

Mr. WASHBURN. You and us too.

Ms. MCCOLLUM. Mr. Chair, you mentioned whether the police officers could afford to live in them. The government and county office determines what the rents are going to be, right? Did they actually look at the salaries of the federal employees who have to rent them?

Mr. WASHBURN. Well, that is a question, and I think it is the GSA that is involved.

Ms. MCCOLLUM. Excuse me.

Mr. WASHBURN. And honestly, everybody has got some responsibility. There are some Congressional formulas that we have to follow too—but that is a good question, and we are trying to figure out a way to make those spaces more affordable for those folks, and we are making some progress.

Mr. CALVERT. Thank you for being here today. Your continued efforts to lead in the face of tremendous adversity, the traditionally high turnover rate in all three of your positions is a testament to the challenges you face. We want to see you succeed, and we hope we can continue to be helpful partners so that you will stick around

for a while and see through many of the improvements you are trying to make.

At this time we will excuse you from the table and invite you to take a seat in the front row while I ask the second panel to come up. We will have a brief pause and change signs here.

Now we will shift gears and focus in more detail on the oversight of BIE facilities condition and management. I would like to welcome our witness from the Government Accountability Office, Melissa Emrey-Arras, Director of Education in GAO's Education, Workforce, and Security team. Thank you for being here today, and agreeing to testify prior to finalizing your study so that we can have an opportunity to make any necessary course corrections in the fiscal year 2016 bill.

Exactly 2 years ago to the day, in this room, Chairman Simpson convened a similar BIE oversight hearing in which GAO testified prior to finalizing a study we had asked them to do regarding per-pupil spending. GAO's testimony at that time helped this subcommittee to push this Administration to make Indian education a much higher priority than before. To its credit, clearly, the Administration is stepping up. But I think as we will see today, clearly, we still have a long way to go.

I recognize that we can help close part of that distance with more funding, but not all of it. There are some management and accountability issues and perhaps even some legislative issues that must be addressed before significant funding can follow.

So Ms. Emrey-Arras, welcome and thank you again for being here today. You are recognized for your testimony.

OPENINNG REMARKS OF MS. EMREY-ARRAS

Ms. EMREY-ARRAS. Thank you, Chairman. I want to thank all those here: Chairman Calvert, Ranking Member McCollum and members of the subcommittee.

As you know, GAO has conducted a body of recent work on BIE schools. In prior work, we found that Indian Affairs has been hampered by key management challenges, including a lack of needed expertise, insufficient oversight of school spending, and poor communication with schools.

Today, I will discuss the physical condition of BIE school facilities. The Bureau of Indian Education oversees 185 schools that serve approximately 41,000 students on or near Indian reservations in 23 states. In 2014, Interior's Office of Indian Affairs funded the operations, maintenance, construction and repair of close to 1,800 school buildings worth an estimated $4.2 billion. My remarks will cover preliminary findings from our ongoing study of these schools for your subcommittee. Specifically, I will focus on two areas: (1), what is known about the condition of these schools, and (2), the extent to which Indian Affairs effectively oversees and supports these school facilities.

Unfortunately, Indian Affairs does not effectively track the conditions of these schools, which makes it difficult to accurately determine the number of schools in poor condition. Back in 2003, we reported on inaccurate and incomplete data entry by school officials and limited training regarding how to use the facilities' database.

Our ongoing work suggests that the data are still problematic. For example, officials at one school told us that they did not routinely enter information into the facilities' database because their staff lacked expertise and Indian Affairs had not provided them adequate training. As a result, they said that the existing information in the facilities'database significantly underestimates their repair needs. We believe that inaccurate and incomplete data will continue to hinder Indian Affairs's ability to prioritize school repairs and target funding.

During our ongoing work, we visited schools in three states that reported facing a variety of facility challenges. For example, at one school, the old boilers have been deemed a major health and safety concern by the BIE school safety specialist. You may have seen some of the pictures of the boilers in the testimony. In addition, the school often needs to close down when they fail to provide enough heat. The staff at the same school also showed us exterior doors that did not lock properly and had to be chained during school lockdowns. Many of the entrances also lacked exterior security cameras, which relates to some of the safety concerns we discussed. These challenges were actually highlighted during our visit to the school when they had to perform a lockdown during our visit when a student made a Columbine-type threat.

At another school, we also observed a dormitory for elementary school students with inadequate clearance between the top bunk beds and sprinkler pipes on the ceiling. You may see a photograph of this in the statement. School officials told us that the students had received head injuries from bumping their heads on the pipes, and some students had actually attempted suicide by hanging from them.

Preliminary results from our work indicate that Indian Affairs has key, longstanding management challenges that are impeding its oversight and support for these school facilities. These challenges include limited staff and expertise to address school facility needs. For example, our preliminary analysis shows that about 40 percent of regional facility positions are currently vacant.

We also found inconsistent oversight of school construction projects. For example, at one BIE-operated school we visited, Indian Affairs managed a $3.5 million project to replace school roofs. Yet the replacement roofs have leaked since they were installed in 2010, causing mold and ceiling damage in the classrooms. BIA officials told us late in 2014 that they were not sure what steps, if any, Indian Affairs would take to resolve the leaks or hold the contractors or suppliers accountable.

Mr. CALVERT. Excuse me. On that question, how big a roofing job are we talking about?

Ms. EMREY-ARRAS. It is very large. It covers multiple parts of the school, including the gymnasium and many classrooms.

Mr. CALVERT. But this is one school?

Ms. EMREY-ARRAS. Yes.

Mr. CALVERT. How many square feet in the school approximately? Do you know?

Ms. EMREY-ARRAS. We can get back to you with that answer.

Mr. CALVERT. And was there any warranty within that contract?

Ms. EMREY-ARRAS. They are under warranty, and they have been asking the manufacturer to come and fix it. It is a patch job here and a patch job there, and 6 to 8 weeks later there is another leak. They think it has to do with the way that the seams were constructed so that it is not a permanent fix, so they keep bringing the manufacturer back but nothing happens. So there are real defects in how it was installed.

Mr. CALVERT. Excuse me for interrupting.

Ms. EMREY-ARRAS. Oh, if there are any other questions, please ask. This is all very troubling.

Mr. JOYCE. I have a question. Who represents you?

Ms. EMREY-ARRAS. I am sorry?

Mr. JOYCE. Who represents you? Do you have a legal office or Department of Justice or somebody that represents you to take action on that?

Ms. EMREY-ARRAS. Oh, in terms of what the legal options are——

Mr. JOYCE. Yes.

Ms. EMREY-ARRAS [continuing]. For the Department of Interior? That we would leave to the Interior Department to respond to, but there are potential legal claims that could be made against the supplier or the manufacturer.

Mr. JOYCE. They should. Thank you.

Ms. EMREY-ARRAS. Sure. In addition, we found poor communication with schools. For example, at another school we visited, officials told us that they had submitted a request for a new hot water heater because their elementary school lacked hot water. Yet Indian Affairs officials were unaware of the situation until we brought it to their attention. As a result, students and staff at the school went without hot water for about a year, and it was not fixed until a month after we spoke with Interior officials.

Mr. CALVERT. Excuse me.

Ms. EMREY-ARRAS. Please.

Mr. CALVERT. Is that not illegal?

Ms. EMREY-ARRAS. It is a serious—we find it troubling.

Mr. CALVERT. Okay.

Ms. EMREY-ARRAS. There are concerns about student health without the hot water.

In conclusion, our preliminary findings show that Indian Affairs continues to face challenges overseeing and supporting school facilities. Unless this is addressed, some students will continue to be educated in poor facilities.

We will continue to monitor these issues as we complete our work and consider any recommendations that may be needed.

Thank you. This concludes my statement.

[The statement of Melissa Emrey-Arras follows:]

United States Government Accountability Office

Testimony

Before the Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, House of Representatives

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INDIAN AFFAIRS

Preliminary Results Show Continued Challenges to the Oversight and Support of Education Facilities

Statement of Melissa Emrey-Arras, Director
Education, Workforce, and Income Security

GAO-15-389T

GAO Highlights

Highlights of GAO-15-389T, a testimony before the Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, House of Representatives

February 2015

INDIAN AFFAIRS

Preliminary Results Show Continued Challenges to the Oversight and Support of Education Facilities

Why GAO Did This Study

BIE oversees 185 elementary and secondary schools that serve approximately 41,000 students on or near Indian reservations in 23 states. In 2014, Interior's Office of the Assistant Secretary-Indian Affairs funded the operations, maintenance, construction, and repair of about 1,785 educational and dormitory buildings, which are worth an estimated $4.2 billion. Recent reports have raised concerns about the physical condition of these facilities and their effect on Indian students' educational outcomes. Several studies indicate that better school facilities are associated with better student outcomes.

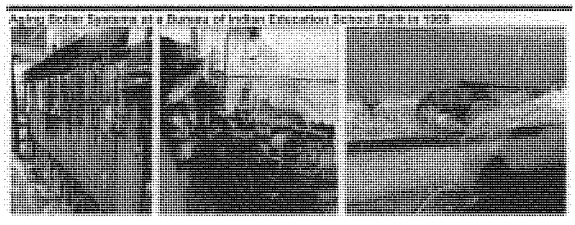
This testimony reports on ongoing GAO work related to the conditions of BIE schools. A full report will be issued later this year. Based on GAO's preliminary findings, this testimony focuses on: (1) what is known about the conditions of selected BIE schools and (2) the extent to which Indian Affairs effectively oversees and supports BIE school facilities.

For this work, GAO is reviewing agency data and documentation, and relevant federal laws and regulations; interviewing agency officials; and has conducted site visits to schools in three states, which were selected based on their geographic diversity and other factors.

View GAO-15-389T. For more information, contact Melissa Emrey-Arras at (617) 788-0534 or emreyarrasm@gao.gov.

What GAO Found

Information on the physical condition of Bureau of Education (BIE) schools is not complete or accurate as a result of longstanding issues with the quality of data collected by the Department of the Interior's (Interior) Office of the Assistant Secretary-Indian Affairs (Indian Affairs). GAO's preliminary results indicate that issues with the quality of data on school conditions—such as inconsistent data entry by schools and inadequate quality controls—make determining the number of schools in poor condition difficult. These issues impede Indian Affairs' ability to effectively track and address school facility problems. While national information is limited, GAO's ongoing work has found that BIE schools in three states faced a variety of facility-related challenges, including problems with the quality of new construction, limited funding, remote locations, and aging buildings and infrastructure (see figure below).



Source: GAO. | GAO-15-389T

Note: School and regional Indian Affairs officials considered the school's boilers to be safe, but a BIE safety specialist reported that their condition was a major health and safety concern.

GAO's ongoing work also indicates that several key challenges at Indian Affairs are impeding effective management of school facilities. Specifically, GAO found declines in staffing levels and gaps in technical expertise among facility personnel in Indian Affairs. Further, GAO found that Indian Affairs did not provide consistent oversight of some school construction projects. At a school GAO visited, Indian Affairs managed a $3.5 million project to replace school roofs. Yet the replacement roofs have leaked since they were installed in 2010, causing mold and ceiling damage in classrooms. Indian Affairs has monitored this situation but has not addressed problems with the roofs. Indian Affairs' facility management is also hindered by poor communication with schools and tribes and confusion about whom to contact to address facility problems. Poor communication has led to some school facility needs not being met. For example, school officials submitted a request for funding to address their school's lack of hot water almost a year before GAO visited the school, but Indian Affairs facility officials were unaware of this until notified by GAO. GAO's preliminary results indicate that these persistent challenges diminish Indian Affairs' capability to oversee and support facilities and provide technical assistance to schools. They also run counter to federal internal control standards and leading practices on workforce planning and construction project accountability.

Chairman Calvert, Ranking Member McCollum, and Members of the Subcommittee:

Thank you for inviting me here today to discuss the preliminary results of work you requested on the physical condition of Bureau of Indian Education (BIE) school facilities. BIE, within the Department of the Interior (Interior), oversees 185 elementary and secondary schools that serve approximately 41,000 students on or near Indian reservations in 23 states.[1] Of these 185 schools, about two-thirds are operated by tribes (tribally-operated), primarily through federal grants, and about one-third are operated directly by BIE (BIE-operated). In 2014, Interior's Office of the Assistant Secretary-Indian Affairs (Indian Affairs) funded the operations, maintenance, construction, and repair of about 1,785 school buildings,[2] worth an estimated $4.2 billion. Recent reports have raised concerns about the physical condition of these school facilities and the effect these conditions may have on the educational outcomes of Indian students who attend them. Furthermore, our 2009 review of several research studies found that better school facilities are generally associated with better student outcomes.[3] In other work, we have reported that students in BIE schools perform consistently below Indian students in public schools on national and state assessments.[4] In addition, these students have relatively low high school graduation rates and experience higher levels of poverty than non-Indian students. For today's testimony, my statement will focus on (1) what is known about the conditions of selected BIE schools, and (2) the extent to which Indian Affairs effectively oversees and supports BIE school facilities.

To develop our preliminary analysis, we reviewed agency data and documentation, including facility management guidance and maintenance and repair reports, as well as relevant federal laws and regulations. We

[1]For our analysis of BIE schools, we counted each school individually, including those schools that were co-located in the same building. Thus, the total number of BIE schools we present may appear differently in Interior documents.

[2]Many schools include not only educational buildings, but also dormitories where students live while completing their education.

[3]GAO, *School Facilities: Physical Conditions in School Districts Receiving Impact Aid for Students Residing on Indian Lands*, GAO-10-32 (Washington, D.C.: October 29, 2009).

[4]GAO, *Indian Affairs: Better Management and Accountability Needed to Improve Indian Education*, GAO-13-774 (Washington, D.C.: September 24, 2013).

also interviewed officials in Indian Affairs, including the Office of the Deputy Assistant Secretary for Management, and in the Bureaus of Indian Education and Indian Affairs. Our work was supported by a licensed engineer, having relevant, related experience in federal facilities construction and management. In addition, we conducted site visits, accompanied by the engineer, to 12 BIE-operated and tribally-operated schools in three states: New Mexico, Oklahoma, and South Dakota. These locations were selected to reflect a mix of BIE-operated and tribally-operated schools, geographic diversity, and variations in school facility conditions. Our site visits were not designed as independent facility inspections. We plan to conduct an additional site visit in the spring of this year to complete our work. We will issue a final report later this year that will provide our complete results on the conditions of BIE school facilities as well as Indian Affairs' accountability for school construction and repair. We shared our preliminary findings with Interior officials and incorporated their comments as appropriate.

We are conducting our ongoing work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.

Background

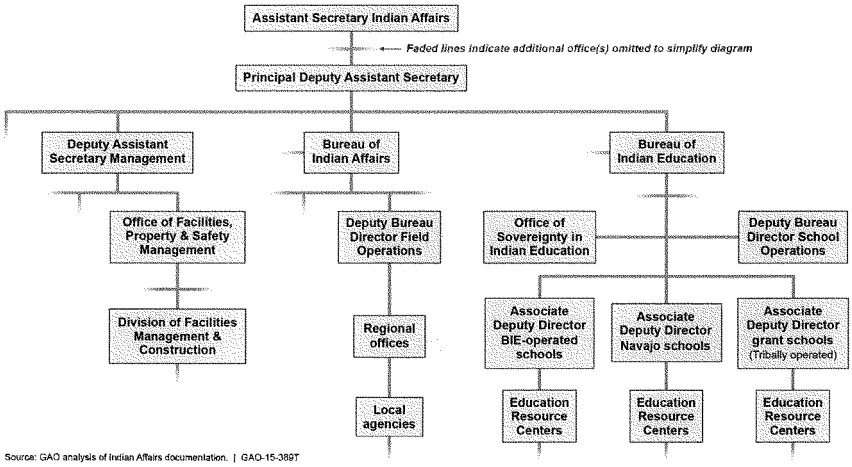
The Department of the Interior's Indian education programs derive from the federal government's trust responsibility to Indian tribes, a responsibility established in federal statutes, treaties, court decisions, and executive actions.[5] It is the policy of the United States to fulfill this trust relationship with and responsibility to the Indian people for educating Indian children by working with tribes to ensure that these programs are of the highest quality, among other things.[6] In accordance with this trust

[5]The federal government recognizes Indian tribes as distinct, independent political communities that possess certain powers of self-government. Federal recognition confers specific legal status on a particular Native American group, establishes a government-to-government relationship between the United States and the tribe, imposes on the federal government a fiduciary trust relationship with the tribe and its members, and imposes specific obligations on the federal government to provide benefits and services to the tribe and its members.

[6]25 U.S.C. § 2000.

responsibility, Indian Affairs is responsible for providing a safe and healthy environment for students to learn. Indian Affairs oversees multiple bureaus and offices that play a key role in managing and overseeing school facilities for Indian students (see fig. 1).[7]

Figure 1: Key Indian Affairs Offices with a Role in Educational Facilities Management



Source: GAO analysis of Indian Affairs documentation. | GAO-15-389T

[7]At the time of our review, Indian Affairs was approaching the second year of implementing an organizational realignment of key functions. In July 2013, the Secretary of the Interior approved a structural realignment of Indian Affairs informed by the findings and recommendations from a 2012 management consulting report, including increased decentralization and better communication. In June 2014, the Secretary of the Interior issued an order specifically restructuring BIE to focus its efforts on providing resources, direction and services to tribes to increase their capacity to directly operate BIE schools, among other things. BIE's restructuring effort has not been fully implemented.

These bureaus and offices have several key responsibilities, including the following:

- **The Office of the Deputy Assistant Secretary of Management** oversees a number of administrative and operational functions to help Interior meet its responsibilities for designing, planning, building, and operating Indian school facilities. Specifically, the Deputy Assistant Secretary oversees the Office of Facilities, Property and Safety Management, which includes the Division of Facilities Management and Construction. This office is responsible for developing policies and providing technical assistance and funding to Bureau of Indian Affairs (BIA) regions and BIE schools to address their facility needs. Professional staff in this division—including engineers, architects, facility managers, and support personnel—are tasked with providing expertise in all facets of the facility management process.

- **The Bureau of Indian Affairs** administers a broad array of social services and other supports to tribes. Regarding school facility management, BIA oversees the day-to-day implementation and administration of school facility projects through its regional field offices. Currently there are 12 regional offices that report to the BIA Deputy Bureau Director of Field Operations. Nine of these regions have facility management responsibilities, which include performing school inspections to ensure compliance with regulations and providing technical assistance to BIE-operated and tribally-operated schools on facility issues.[8]

- **The Bureau of Indian Education** oversees various educational functions, including funding and operating BIE schools. Three Associate Deputy Directors report to the Deputy Director of School Operations and are responsible for overseeing multiple BIE education line offices that work directly with schools to provide technical assistance, including on facility matters.[9] Some line offices have their own facility managers, and many schools—both BIE-operated and

[8]The remaining three regions do not have facility management responsibilities. Two regions receive facility support from another region or a tribally-operated nonprofit, and one region does not have BIE facilities.

[9]Under BIE's restructuring plan, education line offices will be renamed education resource centers, and there will be some facility support centers, according to Indian Affairs officials.

tribally operated—also have their own facility managers or other staff who perform routine maintenance and repairs.

Indian Affairs collects and tracks school condition data related to facility deficiencies, capital improvements, or construction for specific inventory items, such as classrooms, sidewalks, or utility systems. It also includes information on school facility repair needs—commonly referred to as the facilities deferred maintenance backlog—which are entered into an automated information system known as the Facilities Management Information System (FMIS).[10] Responsibility for data entry into FMIS is shared by Indian Affairs staff, school personnel, and an Indian Affairs' contractor who conducts inspections of school facilities.[11]

Indian Affairs uses a multilevel review process to examine the accuracy and completeness of backlog information in FMIS. In this process, each entry that school facility managers propose to add to the backlog list is reviewed and approved by several levels within Indian Affairs, including BIA agencies and regional offices, the Indian Affairs' facility condition assessment contractor, and with final approval by the Division of Facilities Management and Construction. Indian Affairs uses approved backlog information to make funding decisions regarding school facilities. Backlog repair projects are prioritized based on health and safety risks, among other factors. Indian Affairs also has various funding categories, including emergencies and minor improvements. Once funding for school construction and repair is approved, Indian Affairs offers three main project management options. Tribes and/or schools may choose to (1) have Indian Affairs manage the project, (2) manage the project based on a contract received from Indian Affairs, or (3) in the case of tribally-operated schools, manage the project based on a grant received from Indian Affairs.

[10]Officials within Indian Affairs informed us that they are currently transitioning to Maximo, a new Interior-wide information management system, which will allow them to link several internal applications to operate as an integrated facilities management system. In April 2015, this new system is scheduled to replace FMIS.

[11]Indian Affairs has a contract with an engineering company to conduct a facility conditions assessment for each school on a 3-year cycle.

Over the past four decades, we have conducted a body of work on challenges related to Indian education, including longstanding issues regarding Indian Affairs' management of school facilities. Our work on BIE school facilities conducted in 1997 and 2003 highlighted the poor conditions of Indian schools and the need for more reliable national data to assess the condition of school facilities.[12] Interior's Inspector General and others have also reported similar issues, including health and safety hazards at BIE schools.[13]

[12]GAO, *School Facilities: Reported Condition and Costs to Repair Schools Funded by Bureau of Indian Affairs*, GAO/HEHS-98-47, (Washington, D.C.: December 31,1997), and GAO, *Bureau of Indian Affairs Schools: New Facilities Management Information System Promising, but Improved Data Accuracy Needed*, GAO-03-692, (Washington, D.C.: July 31, 2003).

[13]U.S. Department of the Interior, Office of Inspector General, *Inspector General's Statement Summarizing the Major Management and Performance Challenges Facing the U.S. Department of the Interior*, ER-SP-MOI-0008-2014 (Washington, D.C.: October 20, 2014); U.S. Department of the Interior, Office of Inspector General, *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action*, C-IN-BIA-0008-2007 (Washington, D.C.: May 31, 2007); and No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee, *Broken Promises, Broken Schools* (Washington, D.C. December 2011).

Indian Affairs Does Not Effectively Track School Conditions, and Persistent Challenges Affect Facilities at Selected Schools

Indian Affairs' Information on School Conditions Continues to Be Incomplete or Inaccurate, Which Reduces Its Effectiveness in Identifying Problems and Targeting Limited Funds

Our past work and other research pointed to a variety of persistent challenges Indian Affairs has encountered in maintaining complete and accurate data on the condition of BIE school facilities. For example, in 2003 we reported on inaccurate and incomplete data entry by school officials, ineffective agency guidance, limited training in using FMIS, and agency staff not being held accountable for ensuring data integrity.[14] Similarly, in 2011, the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee, which the Secretary of the Interior was required to establish under the No Child Left Behind Act of 2001 (NCLBA), also identified problems with the quality of FMIS data on BIE school facilities.[15] The Committee attributed the problems to a lack of school-level expertise in using FMIS, inadequate training, unreliable access to FMIS, and infrequent data validation of deficiencies by Indian Affairs' contractor, among other issues. Further, the Committee reported that no Indian Affairs staff were tasked with monitoring schools' use of FMIS to ensure that school officials were entering backlog items and, if not, to provide them with technical assistance. As a result, the Committee reported that problems using FMIS at many BIE schools were unresolved, schools did not know where to turn for assistance, and data entry across schools was inconsistent.

[14]GAO-03-692.

[15]See Pub. L. No. 107-110, § 1042, 115 Stat. 1425, 2007 (2002) (codified at 25 U.S.C. § 2005). NCLBA required the committee to prepare a catalog of the condition of BIA-funded schools and various reports to Congress and the Secretary of the Interior on the construction, replacement, renovation, and associated funding needs for these schools. No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee Report (December 2011).

Our ongoing work suggests that issues with the quality of data on school conditions—such as inconsistent data entry by schools and insufficient quality controls—continues to make it difficult to determine the actual number of schools in poor condition, which impedes Indian Affairs' ability to effectively track and address school facility problems. For example, while Indian Affairs has a multilevel review process for examining the accuracy and completeness of backlog entries, we found that it does not routinely monitor whether schools are entering complete data on their facilities. For instance, an Indian Affairs internal control review of FMIS in 2010 identified inadequate controls for determining if and when all identified safety deficiencies are addressed by schools because no Indian Affairs office takes responsibility to ensure that such deficiencies are addressed by schools. According to the 2010 review, without this information Indian Affairs cannot identify and prioritize for funding for these critical deficiencies. Indian Affairs officials told us that this issue continues to be a significant challenge to FMIS data quality. We also found that some schools we visited encountered obstacles to data entry. For example, officials at one BIE-operated school noted that they did not routinely enter information into FMIS because staff lacked expertise and Indian Affairs did not provide them adequate training. As a result, they said existing information on their facilities in FMIS significantly understates their actual repair needs. According to a BIA regional officer, frequent turnover among facility staff, especially at tribally-operated schools, can exacerbate this gap in FMIS expertise. Schools can also face difficulties gaining or maintaining access to FMIS. For example, officials with one tribally operated school told us they encountered persistent problems with connecting and maintaining access to FMIS, sometimes limiting their use of the system to about 5 minutes at a time. Interior's Inspector General has recently found similar challenges with data entry at several other schools, and it continues to monitor this issue. According to Indian Affairs officials, the last centralized training on using FMIS was held in 2012.

While Indian Affairs uses a contractor to address some data quality issues by validating deficiencies on schools' deferred maintenance backlogs and facility inventories, our ongoing work has found that the scope and frequency of their assessments are limited. According to Indian Affairs officials, the contractor is supposed to assess the conditions of schools by performing a visual inspection of each school once over a 3-year cycle, and inspections are grouped by region. One BIA regional official told us that in his region one field inspector was sent to conduct an onsite inspection and noted that a single inspector may not be capable of assessing a school's facilities because they may contain multiple

systems—such as heating/cooling, and fire alarm and suppression systems—that require specialized expertise to assess. Officials also reported that Indian Affairs policy is for the contractor not to assess schools in a particular 3-year cycle if they are about to be replaced or undergoing major construction. At one school we visited, which had not been assessed in 5 years because of ongoing construction, we found problems with both older and newly constructed buildings, such as leaking roofs. Also, Indian Affairs' contractor is responsible for reviewing and updating information on school facility inventories during onsite inspections. However, one school facility manager suggested that the contractor's inspections may be too short for a thorough and accurate inventory of all buildings and systems.

In 2012, Indian Affairs began an effort to identify and correct inaccuracies in schools' backlog and inventory data to respond to the findings and recommendations of the No Child Left Behind Negotiated Rulemaking Committee's 2011 report.[16] Further, Interior is currently moving all school facility data from FMIS to a new Indian Affairs facility information management system based on Maximo, which is required by the agency for all departmental offices.[17] Officials said that through this data cleanup effort, they have identified and eliminated duplicate backlog deficiencies in FMIS, and they noted that Maximo will simplify data entry. However, these officials also noted FMIS constitutes a one-stop shop for managing school facility data, and that Maximo lacks several key functions that exist in FMIS, such as project management and budget execution, among others. They said they plan to add new applications to Maximo to work around some of these limitations. Additionally, one BIA regional official said that Maximo could be cumbersome to use and will require schools to use multiple new systems. Indian Affairs has provided some training on Maximo for schools, but officials indicated that there are currently few active users in part because of frequent turnover among school staff, and requests for facility funding are not yet able to be made in Maximo.

Our preliminary results suggest that Indian Affairs' data cleanup efforts and shift to Maximo will not address key challenges with school facility

[16]No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee Report (December 2011).

[17]Indian Affairs officials said that Maximo should be operational for school use by April 2015.

data, including barriers to data entry at some schools and inadequate data quality controls. As we have previously stated, incorrect and inconsistent data undermines management of the federal government's real property assets. Federal agencies should improve the quality of their data to document performance and support decision making.[18] Further, the National Forum on Education Statistics has stated that quality data are important for making informed decisions about school facilities.[19] We believe that inaccurate and incomplete data will continue to hinder Indian Affairs' ability to identify and prioritize schools' repair and improvement needs and effectively target limited funds. This may also worsen existing conditions at some schools and may lead to greater future costs and degraded environments that negatively affect the education of BIE students.

A Variety of Challenges Adversely Affect the Condition of Schools

During our ongoing work, we visited schools in three states that reported facing a variety of facility-related challenges, including remoteness of their locations, aging buildings and infrastructure, limited funding, and problems with the quality of new construction, which we believe could affect their ability to provide safe, quality educational environments for students.

Remoteness of Locations

Several of the schools we visited during our ongoing review were located in remote, rural areas and a few encountered obstacles in maintaining their own infrastructure, such as water systems or electrical utilities. For example, the facility manager at one school described an antiquated water system that is costly to maintain and repair, does not generate enough water pressure to fill the school's water tower and cannot be used effectively to fight fires. As we have previously reported, BIE schools tend to be located primarily in rural areas and small towns and serve American Indian students living on or near reservations.[20] In particular, we found that because of their isolation, these schools tend to have more extensive

[18]GAO, *Federal Real Property: Better Guidance and More Reliable Data Needed to Improve Management*, GAO-14-757T, (Washington, D.C.: July 29 2014).

[19]U.S. Department of Education, National Center for Education Statistics, The National Forum on Education Statistics, *Forum Guide to Facilities Information Management: A Resource for State and Local Education Agencies* (Washington, D.C.: March 2012).

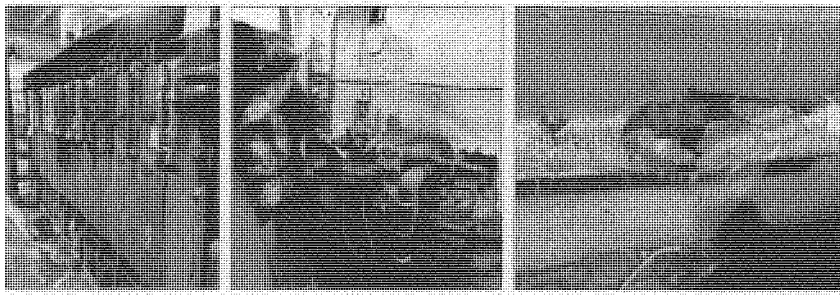
[20]GAO, *Bureau of Indian Education Schools: Improving Interior's Assistance Would Help Some Tribal Groups Implement Academic Accountability Systems*, GAO-08-679, (Washington, D.C.: June 27 2008).

infrastructure needs than most public schools—including their own water and sewer systems, electric utilities, and other important services that are generally provided to public schools by municipalities—and maintaining them can be a considerable drain on schools' resources.[21]

Aging Buildings and Systems

Several schools we visited during our ongoing review faced challenges with aging facilities and related systems. For example, at one school built in 1959 we observed extensive cracks in concrete block walls and supports, which a local BIA agency official said resulted from soft marsh soil and a shifting foundation. According to school officials, two of their boilers are old, unreliable, and costly to maintain, and sometimes it is necessary to close the school when they fail to provide enough heat. According to school officials, these systems also reflect 1950s technology, so the costs to maintain them are high. Staff told us they also have difficulty acquiring parts for these systems and, in some cases, fabricate work-around parts to replace outmoded parts that wear out or break. School and regional BIA officials considered the boilers to be safe, but a BIE school safety specialist reported that the conditions of the school's boilers were a major health and safety concern. (See fig.2.)

Figure 2: Aging Boiler Systems at a BIE-Operated School Built in 1959

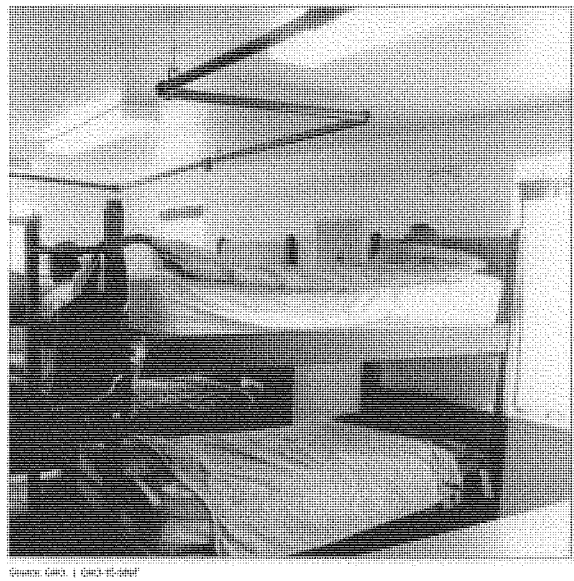


Source: GAO. | GAO-15-389T

[21]GAO, *BIA and DOD Schools: Student Achievement and Other Characteristics Often Differ from Public Schools*, GAO-01-934 (Washington, D.C.: September 28 2001).

At another school, we observed a dormitory for elementary school students built in 1941 with cramped conditions, no space for desks, poor ventilation, and inadequate clearance between top bunks and sprinkler pipes in sleeping areas. School officials noted that students had received head injuries from bumping their heads on the pipes and some students had attempted suicide by hanging from them. (See fig. 3.)

Figure 3: Bedroom in an Elementary Student Dormitory Built in 1941 at a BIE-Operated School



Source: GAO. | GAO-15-389T

In some cases, we found that schools with older buildings did not have adequate systems for ensuring student health and safety. For example, facility staff at one tribally operated school showed us an aging telecommunications relay panel that they said did not allow phone calls

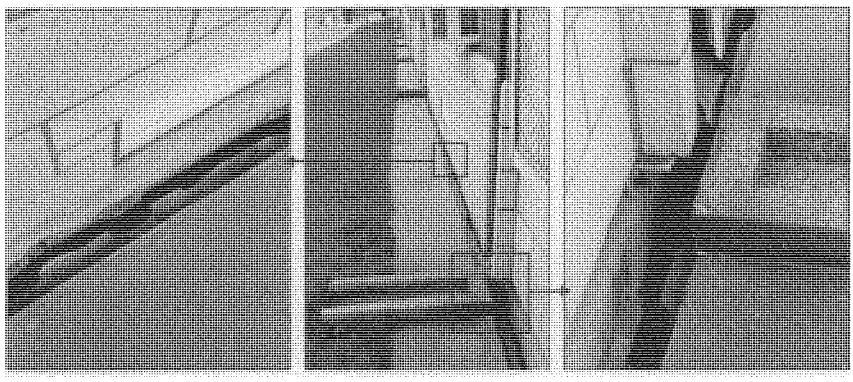
between dormitory floors and other buildings, making communication difficult in the event of a campus-wide emergency, such as a fire or security issue.

At another school, staff showed us exterior doors to campus buildings that did not lock properly, and as a result, needed to be chained during school lock downs. According to officials at the school, about 90 percent of building entrances also lacked exterior security cameras, and some buildings, such as student dormitories, had none. These challenges were highlighted during our visit when the school had to perform a lock down when a student made a Columbine-type threat.

Funding for Facility Operations

During our ongoing work, some school officials told us that they receive less than their current estimated funding needs for facility operations, which include fixed-cost items like fuel and electricity. For example, one school official told us that facility operations were funded at about 50 percent of the school's need. Such shortfalls in operations funds can require a school to draw from its maintenance funds to keep the lights on and buildings warm in the winter, leaving less money for building maintenance. For example, officials with one school told us they may defer maintenance or cut back maintenance staff if they do not have enough funds for their operations and maintenance. Officials with several schools noted using funds for educational purposes on facility operations. Deferring maintenance can lead to bigger problems with school facilities. For example, an official with a BIE education line office pointed out that the poorly maintained rain spouts on one building of a BIE-operated school led to water collecting behind the retaining wall, resulting in separation between the sidewalk and the building. Over time, this water intrusion may undermine the foundation. (See fig. 4.)

Figure 4: Building Damage Caused by Poorly Maintained Rainspouts at BIE-Operated School

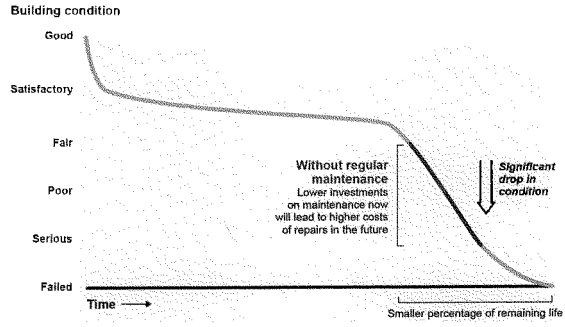


Source: Bureau of Indian Education. | GAO-15-389T

In 2008, we reported that federal agencies' backlogs represent a fiscal exposure that may have a significant effect on future budget resources.[22] Further, the 2011 Negotiated Rulemaking Committee report observed that without enough maintenance funds, schools' maintenance needs go unmet, deferred maintenance grows, the quality of the physical plant deteriorates far more rapidly than it should, and the cost of repairs increases. According to the 2011 report, over decades, shortchanging spending on building maintenance degrades learning environments, shortens the overall life of school buildings, and results in increased costs for the federal government to fix these schools. (See fig. 5.)

[22]See GAO, *Federal Real Property: Government's Fiscal Exposure from Repair and Maintenance Backlogs Is Unclear*, GAO-09-10 (Washington, D.C.: October 16, 2008).

Figure 5: Effects of Deferred Maintenance on Facility Condition and Lifespan



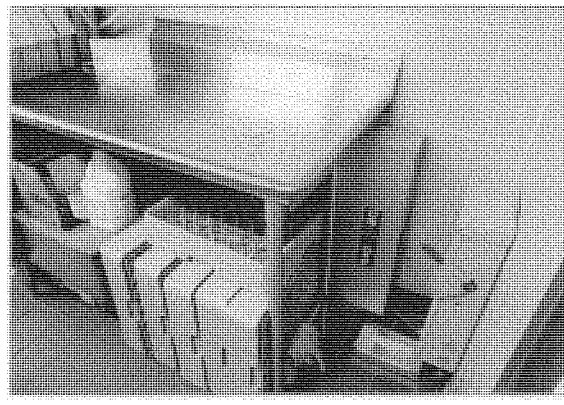
Source: GAO adaptation of an Applied Management Engineering, Inc. graphic. | GAO-15-389T

Problems with the Quality of New School Construction

During our ongoing review, several of the schools we visited reported encountering problems with new construction. For example, officials at three schools said they encountered leaks with roofs installed within the past 11 years. According to officials at one school, despite two replacements, the roof of their gymnasium—completed in 2004—continues to leak. Officials said the company that built the gymnasium has since filed for bankruptcy. Other construction problems at the school included systems inside buildings as well as building materials. For example, in the cafeteria's kitchen at this BIE-operated school, a high voltage electrical panel was installed next to the dishwashing machine, which posed a potential electrocution hazard. School facility staff told us that although the building inspector and project manager for construction approved this configuration before the building opened, safety inspectors later noted that it was a safety hazard.[23] (See fig. 6.)

[23]Since our visit in October 2014, school officials have reported that they have addressed this issue by relocating the panel.

Figure 6: High Voltage Electrical Panel Installed Next to Cafeteria Dishwasher at a BIE-Operated School, October 2014



Source: GAO | GAO-15-389T

Officials at an elementary school we visited also reported problems with new construction. School officials noted that the heat pumps in their new school facility did not have the capacity to adequately heat the building, leading to cold classrooms and frequent pump failures in the winter months. They also noted that the construction did not include a backup generator, creating a risk of freezing pipes during winter power failures. After our visit, school officials reported that a large concrete fragment fell from the upper wall of a kindergarten classroom in new school building. The classroom was unoccupied at the time.

Systemic Management Challenges Impede Oversight of and Support for School Facilities

Preliminary results from our work indicate that key challenges at Indian Affairs are impeding effective management of BIE school facilities. These challenges include limited staff capacity, inconsistent accountability, and poor communication. These findings are consistent with our prior BIE work, in which we found that Indian Affairs had similar challenges overseeing BIE schools in other areas, such as in financial management and workforce planning.[24] Given Indian Affairs' school facility management challenges, a few schools in one region have developed their own facility management program to ensure their needs were met.

Limited Staff Capacity to Address School Facility Needs

Our ongoing work suggests that the capacity of BIA regional facilities and BIE school staff to address school facility needs is limited due to steady declines in staffing levels, gaps in technical expertise, and limited institutional knowledge. BIA regional officials and school officials we interviewed noted significant challenges with staff capacity. In addition, our prior work and other studies have cited the lack of capacity of Indian Affairs' facility staff as a longstanding agency challenge.[25]

- **BIA Regions.** Staff in certain regions told us that they have experienced declining staffing levels for over a decade, despite key responsibilities in overseeing BIE school construction and repair projects as well as supporting schools with technical assistance. Our preliminary analysis of Indian Affairs data shows that about 40 percent of regional facility positions are currently vacant, including regional facility managers, architects, and engineers who typically serve as project managers for school construction. In one BIA region serving over 15 BIE schools— along with additional Indian Affairs' facilities such as detention centers—the regional facility staff has decreased by about half in the past 15 years, according to the regional facility manager. As of December 2014, two project managers were tasked with overseeing a growing workload of construction projects, among other duties, and only one was a licensed professional, according to the regional facility manager. The regional facility manager also noted gaps in internal staff expertise, such as not having a mechanical engineer on staff to review designs or external engineers'

[24]GAO-13-774 and GAO-15-121.

[25]See GAO-03-692 and National Academy of Public Administration, *A Study of Management and Administration: The Bureau of Indian Affairs* (Washington, D.C.: August 1999).

assessments of systems such as heating and air conditioning. Regional staff said that hiring an in-house boiler inspector would allow them to conduct more frequent inspections and may cost less than hiring contractors to do so. Without staff with particular construction expertise, several Indian Affairs officials said that they have increasingly relied on outside contractors. As we have previously reported, risks to the federal government of extensive reliance on contractors include not building institutional expertise as well as a reduced federal capacity to manage the costs of contractors and to ensure achievement of program outcomes.[26]

- **Schools.** Officials at several schools we visited said they face similar capacity challenges. For example, we visited an elementary school with one full-time employee for facility maintenance, along with one part-time assistant. A decade ago, the school had about six maintenance employees, according to school officials. As a result of the staffing decrease, school officials said that facility maintenance staff may sometimes defer needed maintenance.

Leading facility management practices emphasize the importance of having managers with sufficient technical expertise.[27] Staff capacity is important because the appropriate geographic and organizational deployment of employees can further support organizational goals and strategies and enable an organization to have the right people, with the right skills, doing the right jobs, in the right place, at the right time.[28] However, we have previously reported that limited staff capacity at Indian Affairs impedes its oversight and support of BIE schools and that this runs

[26]See GAO, *Managing Service Contracts: Recent Efforts to Address Associated Risks Can Be Further Enhanced*, GAO-12-87 (Washington, D.C.: Dec. 7, 2011); and GAO, *Pension Benefit Guaranty Corporation: More Strategic Approach to Contracting Still Needed*, GAO-11-588 (Washington, D.C.: June 29, 2011).

[27]National Research Council of the National Academies, *Investments in Federal Facilities: Asset Management Strategies for the 21st Century*, Report No. 0-309-50857-6 (Washington, D.C.: 2004).

[28]GAO, *A Model of Strategic Human Capital Management*, GAO-02-373SP (Washington, D.C.: March 15, 2002). This report describes a human capital model we developed that identifies eight critical success factors for managing human capital strategically. In developing this model, we built upon GAO's *Human Capital: A Self-Assessment Checklist for Agency Leaders*, GAO/OCG-00-14G (Washington, D.C.: September 2000). Among other steps, we also considered lessons learned from GAO reports on public and private organizations that are viewed as leaders in strategic human capital management and managing for results.

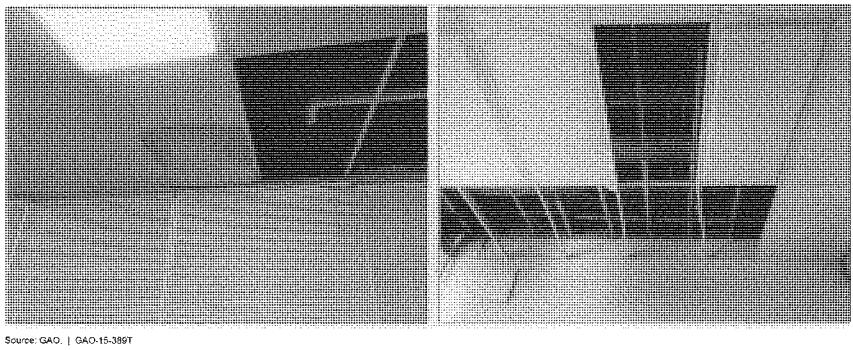
counter to effective human capital practices. [29] Consequently, in 2013 we recommended that Indian Affairs revise its strategic workforce plan. Specifically, we recommended that Indian Affairs revise its strategic workforce plan to ensure that employees providing administrative support to BIE have the requisite knowledge and skills to help BIE achieve its mission and are placed in the appropriate offices. Indian Affairs agreed to implement the recommendation but has not yet done so.

Inconsistent Accountability for School Construction

Our preliminary results suggest that Indian Affairs has not provided consistent oversight of some school construction projects, including projects it managed itself and projects managed by tribes. According to Indian Affairs and school officials we interviewed, some recent construction projects, including new roofs and buildings, have gone relatively well, while others have faced numerous problems. The problems we found with construction projects at some schools suggest that Indian Affairs is not fully or consistently applying management practices to ensure contractors perform as intended. For example, at one BIE-operated school we visited, Indian Affairs managed a project in which a contractor completed a $3.5 million project to replace roofs in 2010, but the roofs have leaked since their installation, according to agency documents. These leaks have led to mold in some classrooms and numerous ceiling tiles having to be removed throughout the school. (See fig.7.) In 2011, this project was elevated to a senior official within Indian Affairs, who was responsible for facilities and construction. He stated that the situation was unacceptable and called for more forceful action by Indian Affairs. Despite numerous subsequent repairs of roofs, school officials and regional BIA officials told us in late 2014 that the leaks continue. They also said that they were not sure what further steps, if any, Indian Affairs would take to resolve the leaks or hold the contractors or suppliers accountable, such as filing legal claims against the contractor or supplier if appropriate.

[29]GAO-13-774.

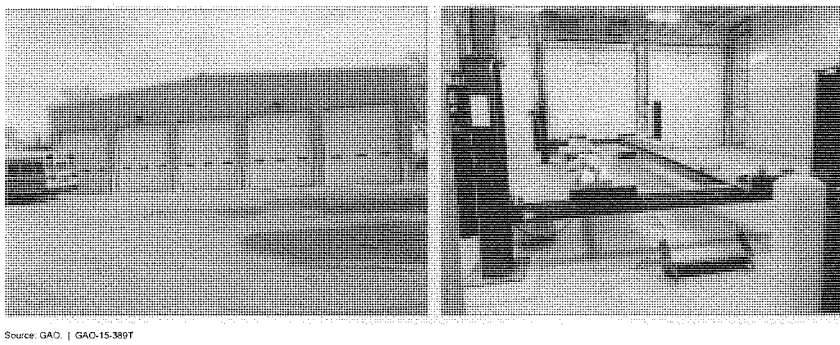
Figure 7: Damaged or Removed Classroom Ceiling Tiles Due to Leaks in Recently-Installed Roofs



Source: GAO. | GAO-15-389T

Indian Affairs and school officials identified another recent construction project that has faced problems. At a tribally-operated school we visited in South Dakota, the school managed a project to construct a $1.5 million building for maintenance and bus storage. According to these officials, although the project was nearly finished at the time of our visit, Indian Affairs, the school, and the contractor still had not resolved various issues, including drainage and heating problems. Further, part of the new building for bus maintenance has one hydraulic lift, but the size of the building does not allow a large school bus to fit on the lift when the exterior door is closed because the bus is too long. Thus, staff using the lift would need to maintain or repair a large bus with the door open, which is not practical in the cold South Dakota winters. (See fig. 8.)

Figure 8: Exterior and Interior of Recently-Constructed Bus Maintenance Building Where Door Does Not Close When a Large School Bus Is On Hydraulic Lift



Source: GAO. | GAO-15-389T

According to Indian Affairs officials, part of the difficulty with this project resulted from the tribally-operated school's use of a contractor responsible for both the design and construction of the project, which limited Indian Affairs' ability to oversee it. Indian Affairs officials said that this arrangement, known as "design-build," may sometimes have potential advantages such as faster project completion, but may also give greater discretion to the contractor responsible for both the design and construction of the building.[30] For example, Indian Affairs initially raised questions about the size of the building to store and maintain buses. However, agency officials noted that the contractor was not required to incorporate Indian Affairs' comments on the building's design or obtain its approval for the project's design, partly because Indian Affairs' policy does not appear to address approval of the design in a "design-build" project. Further, neither the school nor Indian Affairs used particular financial incentives to ensure satisfactory performance by the contractor. Specifically, the school already paid the firm nearly the full amount of the project before final completion according to school officials, leaving it little financial leverage over the contractor.

[30]In a "design-build" arrangement, one team consisting of an architectural and engineering firm and a construction contractor may work together to complete the project.

If problems persist with building construction, one accountability mechanism is to retain a portion of a project payment. However, certain Indian Affairs officials held conflicting views on whether withholding project payments—known in the industry as retainage—is suitable to hold contractors accountable for satisfactory completion of school construction projects. For example, officials with the Division of Facilities Management and Construction told us they usually retain 10 percent of payments until an independent inspection of a construction project has been conducted. However, officials in one BIA region said that the region tends not to use this mechanism for school construction, due partly to past practice. In prior work, we have found that retainage can be a strong motivator to encourage contractor and subcontractor performance.[31] Although the applicability of such project accountability mechanisms may vary in amount and may depend on the particular situation or project, we have found that the federal government can be protected from poor quality construction if it appropriately uses the various tools at its disposal to manage and address problems.[32]

Poor Communication with Schools Regarding Roles and Responsibilities of Different Indian Affairs Offices

Our preliminary results also suggest that unclear lines of communication and confusion among BIE schools about the roles and responsibilities of the various Indian Affairs' offices responsible for facility issues hamper efforts to address school facility needs. For example, the offices involved in facility matters continue to change, due partly to two ongoing re-organizations of BIE, BIA, and the Division of Facilities Management and Construction over the past 2 years. BIE and tribal officials at some schools we visited said they were unclear about what office they should contact about facility problems or to elevate problems that are not addressed.

At one school we visited, a BIE school facility manager submitted a request for funding by February 2014 for a needed repair in the Facilities Management Information System (FMIS) to replace a water heater so that students and staff would have hot water in the elementary school.

[31]GAO, *Federal Construction Subcontracting: Insight into Subcontractor Selection Is Limited, but Agencies Use Oversight Tools to Monitor Performance*, GAO-15-230 (Washington, D.C.: January 29, 2015).

[32]GAO-15-230.

However, the school did not designate this repair as an emergency.[33] Therefore, BIA facility officials told us that they were not aware of this request until we brought it to their attention during our site visit in December 2014. Even after we did so, it took BIE and BIA officials over a month to approve the purchase of a new water heater, which cost about $7,500. As a result, students and staff at the elementary school went without hot water for about a year.

Another communication challenge that our ongoing work has identified for all BIE schools and BIA regions is that BIE last updated its directory in 2011, which contains contact information for BIE and school officials. This may impair communications, especially given significant turnover of BIE and school staff. As a result, we believe that school and BIA officials may not be able to share timely information with one another, which would affect schools' funding levels and priorities for repairs. For example, in one BIA region we visited, officials have experienced difficulty reaching certain schools by email and sometimes rely on sending messages by fax to obtain schools' priorities for repairs. This situation is inconsistent with federal internal control standards that call for effective internal communication throughout an agency.[34]

These preliminary findings are consistent with findings from our past work in 2013, when we testified and reported on communication challenges impeding effective operation of BIE schools.[35] Specifically, at that time we found that several officials at schools and BIE seemed confused about whom to consult or make requests for assistance about school facilities.[36] In addition, we found that unclear communication undermined other aspects of school operations, such as annual testing of students. Thus, at that time we recommended that Indian Affairs develop a communication strategy for BIE to inform its schools and key stakeholders of critical

[33]According to Indian Affairs policies and procedures, emergency requests can receive approval and funding on an expedited basis. Also, they noted that schools can incur expenses to make repairs and address the emergency, and then seek reimbursement for such expenses.

[34]GAO/AIMD-00-21.3.1.

[35]GAO, *Indian Affairs: Management Challenges Continue to Hinder Efforts to Improve Indian Education*, GAO-13-342T (Washington, D.C.: February 27, 2013), and GAO-13-774.

[36]GAO-13-342T and GAO-13-774.

developments that impact instruction in a timely and consistent manner to ensure that BIE school officials receive information that is important for the operation of their schools.[37] In early 2014, BIE developed a draft communication plan, but it has not yet been finalized, and it does not specifically address communication about school facility issues. More recently, Indian Affairs officials indicated to us that it does not plan to finalize its communication strategy until mid-2016 given that the organizational changes resulting from the two re-organizations since 2013 have not been fully implemented. While we recognize that the re-organizations have led to substantial changes in the roles and responsibilities of offices within Indian Affairs, we continue to believe that Indian Affairs needs a strategy to improve communication with BIE schools, especially given schools' confusion about which offices to contact about facilities, and other issues.

One Alternative Program Developed by Schools in Response to Challenges with Indian Affairs

During our ongoing work, we identified an alternative program that some schools developed to ensure their facility needs were met given Indian Affairs' facilities management challenges. Four tribally-operated schools in one region created their own facilities management program because according to program officials, they were dissatisfied with the amount of time it took BIA to complete facilities-related projects, including a building project that officials said took about 7 years to complete. They also said that they were frustrated that their input was not always solicited on proposed improvements to their facilities. Consequently, in 1997, the four schools—in conjunction with their tribal stakeholders—formed the Eastern Oklahoma Tribal Schools Facilities Management Program, a non-profit consortium of tribally-operated schools in Eastern Oklahoma, to meet their facility needs. According to program officials, its operations are financed primarily through administrative fees for project management services added to the schools' backlog items, which are reimbursed by Indian Affairs. Currently, the program is comprised of three professional staff—two architects and a production technician—who maintain in-house technical expertise and manage construction, project design and oversight for the schools. In addition, program officials said that they routinely enter backlog data in FMIS because schools typically do not have the time, technical expertise, or capacity to do it themselves. An official with Indian Affairs' Division of Facility Management and

[37]GAO-13-774.

Construction told us that Eastern Oklahoma Tribal Schools Facilities Management Program reflects a promising approach to managing facilities, but Indian Affairs has not taken steps to disseminate information on this approach among schools. In our ongoing work, we plan to further review this approach and any others to determine how and whether Indian Affairs can leverage any promising practices to help address systematic school facility management challenges.

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In conclusion, the federal government, through the Department of the Interior, has a trust responsibility for the education of Indian students, including building and maintaining school facilities. High quality school facilities are extremely important to ensure that Indian students are educated in a safe environment that is conducive to learning. However, for decades, Indian Affairs has been hampered by fundamental challenges in managing school facilities. In our previous work, we have also found significant weaknesses with Indian Affairs' oversight of BIE schools in general. In addition, our preliminary work shows that Indian Affairs continues to face challenges in ensuring that critical school facility data are collected, staffing levels and technical expertise are strengthened, construction projects are appropriately designed and managed, and roles and responsibilities are clearly defined and communicated. Unless these issues are addressed, some students will continue to be educated in poor facilities that do not support their long-term success. We will continue to monitor these issues as we complete our ongoing work and consider any recommendations that may be needed to address these issues.

Chairman Calvert, Ranking Member McCollum, and Members of the Subcommittee, this concludes my prepared statement. I will be pleased to answer any questions that you may have.

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MELISSA EMREY-ARRAS—U.S. Government Accountability Office (GAO)

Melissa Emrey-Arras is a Director of education issues in GAO's Education, Workforce and Income Security team. She oversees national studies on both K-12 and higher education issues. In November, her team published a report examining oversight of school spending at Bureau of Indian Education (BIE) schools and she is currently leading a review of the conditions of BIE school facilities. Prior to coming to GAO in 2001, Ms. Emrey-Arras worked at a consulting company that assisted state and local government clients. She also worked for a number of years in non-profit agencies serving children and families. Ms. Emrey-Arras received a master's degree in public policy from Harvard's Kennedy School of Government, where she was awarded the Manuel C. Carballo prize for graduate research affecting the poor and disadvantaged. She also has a bachelor's degree from Swarthmore College.

Mr. CALVERT. Thank you. Your written testimony states that you visited 12 BIE schools. Would you please elaborate on the conditions you observed at the schools including any health and safety hazards?

HEALTH AND SAFETY HAZARDS

Ms. EMREY-ARRAS. Sure. We visited 12 schools in three states, and we chose them so that they would represent a range of conditions. However, some of those that were listed in better shape in the database ended up not being so when we actually went to see them. We found many things that concerned us. For example, we found a high-voltage electrical panel that was installed next to a dishwasher at a school cafeteria. This is a situation where you have a lot of water in the area, which creates potential electrocution hazards. That, I believe, was in October. The safety inspector noted it was a hazard. Since our visit, it has been fixed but we found it troubling that it was there to begin with, and this was new construction.

We also observed a school that had an antiquated phone system that did not allow phone calls between dormitory floors and other buildings, making it difficult in case of emergency. So again, here is the safety issue. If there is a fire or a security concern, they would not be able to call from one floor to the next. So those were some of the things that we observed.

Mr. CALVERT. Your statement discusses problems with recent construction of BIE facilities. What were some of the other specific problems you observed?

Ms. EMREY-ARRAS. Unfortunately, there are more examples. We went to a school that later sent us information regarding a large concrete fragment that fell from the wall of a kindergarten classroom. Luckily, the classroom was empty at the time, but it is a concern if you have a new building where things are falling from the walls. We have also heard from multiple schools about reported leaks, again with new roofs that were installed in recent years. There was also an incident with a bus barn. You may have seen pictures of that in my statement where the barn was used—or built—so that they could store and repair school buses. Yet it was constructed in such a way that it could not fit all the buses when they were on the lift. As a result, they need to leave the outside door open if they want to repair a large bus, which is very difficult during the winter and not very practical.

So there were quite a few issues that we encountered during our visits.

FACILITY CONDITION DATA

Mr. CALVERT. Obviously, this is a question. Why does Indian Affairs have such poor quality data on the condition of their schools?

Ms. EMREY-ARRAS. This is a good question, and this is something that has been going on for quite some time. We have reported on this in the past, and it continues to be a problem to this day. Our understanding is that Indian Affairs does not routinely monitor whether schools are entering complete data on their facilities. At that first step of schools getting the information in, it is unclear if it is always correct or complete. I think part of it is that we have

been told that staff have not received training on how to do this, and that the last centralized training on the database was offered in 2012.

Mr. CALVERT. Ms. McCollum.

QUALITY OF CONSTRUCTION

Ms. MCCOLLUM. I have been to the Bug School, so I thought have seen it all, until I saw the high-voltage next to a dishwasher. So wonders never cease.

One of the things that I have noticed in some of the schools that I visited alone and when I have been with my colleagues is the amount of poor construction. I am not a construction person but I look at these buildings, and I would not have allowed this to happen if I was building my home doing things with a contractor. So are we allowing principals and some tribal leaders out there to negotiate what is good construction and not good construction? I know these are isolated areas. We build rural schools all over Minnesota. But our rural schools are not falling down like this. So what happens with the inspection? In your report, you note that we do not even return back 10 percent of the payments until it passes inspection. But quite frankly, I do not understand how some of these schools are passing inspection to begin with in the first place. Now, maybe it is because I come from a union state, I do not know. I know that this would not happen because we use skilled labor. Is it lack of skilled labor? Is it lack of inspections? What is going on?

Ms. EMREY-ARRAS. That is an excellent question. We do know that there is a skills gap in terms of the agency not having enough folks with the right skills to assist with this issue. We will be looking at this more in depth as we go forward with our study to figure out exactly where those additional gaps are.

I think it all comes down to accountability though. These are federal funds, and they are not being used in a way that is benefiting children.

Ms. MCCOLLUM. Well, Mr. Chair, I have got an idea. Let us take some tribal college resources and funds and let's train up Indian Country to be able to go out not only do their own construction but be able to do their own inspections. I think that this needs to be part of our discussion.

Thank you, Mr. Chair.

Mr. CALVERT.

Ms. EMREY-ARRAS. Mr. Simpson.

Mr. SIMPSON. This is actually kind of stunning. I was just telling Congressman Cole that I will guarantee you if it was a building built or a school built or re-roofed anywhere in Idaho, in any community in Idaho, if it started to leak, contractor's rear end is in trouble and a prosecutor would be after them in a heartbeat as well as the school and attorneys. I do not understand why that has not happened here, and it reminded me as you were talking about this, the stories in the old days about the reservations and we were going to provide beef and so people took advantage of it and put spoiled beef on the reservations and somebody is taking advantage here. Whether it is the contractors or the designers of the roof or whatever it is, somehow they have got to be held accountable. Hav-

ing listened to Mr. Washburn and the other witnesses today, these are good people, and they are trying to do a good job. They are not just putting a blind eye to all these issues. They want the best for the tribes and the kids in these schools also. Is there something in the organizational structure that you have looked at that that could bring more accountability into the process?

And what was the BIA's response to your report here? Did they respond? I plan to review it this weekend.

DOI RESPONSE TO GAO REPORT

Ms. EMREY-ARRAS. We provided a statement of facts to the Department of Interior and received comments on those facts, and we incorporated any changes in response. I think there is general confusion among schools as to who to contact about facilities' problems. This is the issue that surfaced in the earlier panel about roles and responsibilities needing to be clarified, and I think that makes it all the more difficult for schools to know who to talk to when there is a problem. So I think that is an issue. We have previously recommended that Indian Affairs develop a communications strategy so that they can avoid some of those communication pitfalls. However, that recommendation has yet to be implemented by the Department so that is one thing that could be done.

Similarly, we have made a recommendation that the Department develop a workforce plan to make sure it has the right number of people with the right skills to do the work. That recommendation is still outstanding as well and has not been implemented.

So those are some immediate steps that could be done to help improve the situation, and we will continue to look at these issues as we move forward.

Mr. SIMPSON. I will tell you, it gives me pause to have confidence in the list that they are going to put together prioritizing needs if we do not have the ability to determine what the need is. I will tell you that as we have traveled on in some of these trips, we have gone to some schools that need some improvements, they need some repairs, and you talk to the local people and they are saying this needs to be torn down and replaced. I look at them and say I understand why you say that, but I have been in some schools that I would not walk in, that I do not feel safe walking in, and this is a dream compared to them. I am not saying this is good.

Ms. EMREY-ARRAS. Right. It is all relative.

Mr. SIMPSON. And so it gives me pause as to whether I am going to have confidence in the prioritized list that they come out with.

Ms. EMREY-ARRAS. We also have questions to the extent that they use data from the facilities database to create that list because our understanding is that there are significant issues with that data.

Mr. CALVERT. Ms. Pingree.

Ms. PINGREE. Thank you, Mr. Chair.

Well, thank you very much for your report, and I am a relatively new member on the Committee so I think everyone here has much more experience in looking at schools and seeing some of these challenges.

But you heard earlier I am from a state that is about to build a new school, and as you kind of mentioned, there are already so

many questions about who to contact, who makes the decision, how does that get done. I can understand that there is a lot of general confusion, and I suppose it is not surprising that happens again when it comes to oversight. So I think the more recommendations that are out there about how to streamline the process, how to make it seem more like what happens in other school systems when there is oversight and inspection, and if a school does not have sufficient expertise in how to make sure they are treated fairly, and if there are situations that schools are not being treated fairly or they are rural or remote, it seems like it is a perfect storm in a way for all kinds of bad conditions. But certainly it seems like there is universal agreement on the committee, you know, across the board and across the country that there should be more investment in school construction and there should be more creative ways to do it, and it just seems like it would be logical to build into that, this kind of data collection oversight. It is going to make the money be more effectively spent and certainly it has got to be disappointing for a community that finally gets a school and then the roof leaks or is it unsafe or anything else happens. So it seems like this is good timing in that way to dig in and make sure these things are looked at.

I am hoping that you will have a lot of recommendations about how the Department restructures or conducts it. Certainly, it seems logical that there should be more training on how people use the database and they should have more of a vested interest I guess in making sure that data is properly collected.

Ms. EMREY-ARRAS. Right.

Ms. PINGREE. But I do not know—I mean, feel free to elaborate on that. I do not have a specific question.

Ms. EMREY-ARRAS. Sure. I would say that clarifying offices' roles and responsibilities is important in addition to implementing our prior recommendation on developing a communications strategy. They may also want to turn their attention to their directory, which has not been updated in several years. I think if people have the right contact information for folks, that can help with the communication process as well. So I think there are some small steps that can make a big difference.

Ms. PINGREE. Thank you.

Mr. CALVERT. Before I go to Mr. Cole, if you can get back to me on that roofing job, it is driving me crazy.

Ms. EMREY-ARRAS. It is not just you.

Mr. CALVERT. I re-roofed a lot of buildings in my lifetime and restaurants and industrial buildings and the rest, and so I have a pretty good idea of what roofs cost, so there is regional differences, and depending on where you put the roof, but if you can get the square footage, how big the building is. The largest roofing contractor in the State of California is one of my best friends. I am going to have him look through and see—the bid because he can tell me how bad this probably is.

Mr. Cole.

Mr. COLE. Will you share that information with the committee? I am sure you will.

I am sorry, first of all, I missed most of your testimony. I apologize. And like Mr. Simpson, I am going to read it, but it is pretty

easy to catch the flavor of your testimony, both your conclusion and in the questions that have been asked.

A couple of questions. When you look at these schools, and obviously you are doing, I suppose, a sort of fiscal—or physical and fiscal look, but are there any governance systems for these schools? I mean, we normally would think of a school board and superintendents and school boards. Tell me how they are governed. Do you see any differences when they are? I know, for instance, our friends, the Choctaws, run their own Jones Academy School. It is an unbelievable school, physically first rate. It is wonderful education and they educate Native American kids from all over, not just Choctaws.

And so my experience has been, I have seen this in healthcare systems, the more the tribe is actually the manager of it—we still have resource questions and taxation questions and all that, but if parents can get their hands around the neck of somebody that is responsible or their tribal legislators have the authority, responsibility, and know they will be held accountable, that tends to make a real difference in how any institution I see is managed. Self-governance actually is usually very, very good.

Ms. EMREY-ARRAS. Well, we can definitely look into that more as we continue on. This is really the midway point for us, and we have more site visits to do as we go forward.

I would say that obviously there are differences in terms of how the schools are run, whether they are tribally operated or BIE operated. That said, in terms of facilities management, Indian Affairs does play a significant role in terms of funding the schools, regardless of how they are operated, whether they are BIE operated or tribally run. Indian Affairs also owns the majority of all school facilities, about two-thirds. The tribes own about a third.

So those are some of the things that we have learned so far. We are going to continue our exploration.

Mr. COLE. We really should look at this, particularly in healthcare areas. It just—and I do not say this to knock anybody here and certainly not Indian Health, but where I have seen tribes actively managing—number one, if they have any revenue, they usually shift some of their own revenue into this because it is for their own people, but even beyond that, it just seems to work better, and I would assume the same thing here, so I think this is a governance issue as well.

QUALITY OF CONTRACTORS AND CONTRACTED WORK

And I do want to pick up on something that Mr. Simpson suggested and ask you to also look. There is culture in contracting too, and the history of private contractors working for the federal government in Indian Country, throughout the entire history of this country has been bad. This is not a new problem. This is not something that is this Administration's fault. Frankly, I want to commend them for trying to get their hands on this and put resources in there and do some innovative things, and this committee very much on a bipartisan basis wants to do that too. But suggestions you could make about, you know, not only this or that—what are the contractor problems? What are the availability of contractors?

Many of these places are going to be built in very remote locations. We saw a detention facility that had been badly sided where literally half the building was breaking off. It was an old facility when we were in Hopi country, and this happens time and time again. So what are the best practices contracting-wise that we can put in, and are you looking at that as opposed to just it is bad here or that but how do we actually go about this? How do we choose contractors? Who is responsible?

Ms. EMREY-ARRAS. I think we will be looking into that, especially given the concerns that we found with some of the contractors that have put in those new roofs. It definitely raises the issue of accountability, on the contractor side or the supplier side.

In terms of promising practices, I want to let you know that as we go forward, we are also going to be looking at some additional models that are being used to come up with other ways of managing facilities. For example, in Oklahoma, I know four schools came together to jointly hire two architects and a technician to help with their schools. So by having the tribes come together, they were able to jointly fund these positions so they were able to cover more schools. And so we will be looking at that as an alternative model and others that schools may be proposing to see if they also offer possibilities for the Department to encourage others to adopt as well.

POSSIBLE LEGAL ACTIONS

Mr. COLE. The last thing I would ask you to look at, or maybe you are looking at it, again, this goes back to a point Mr. Simpson made, you know, there has to be a means, a punitive means, whether it is civil fines or criminal activity where when you have got somebody, somebody really has the authority or responsibility to go after them, and I think sometimes, you know, people with the best intentions may be in Washington, D.C., and not see it. Somebody in local ground may see it and not have the ability to do it. How do you develop that so that they know when they are dealing with, you know, an Indian school in any state. It is like dealing with one of Mr. Simpson's constituent schools that hey, you come in here and mess with our kids, you are going to court, we are going to hold you accountable. If we bankrupt your company, that is what we are going to do. We expect, you know, value for the dollar and we expect these are, you know, kids going here that they are going to—somebody is going to look after them.

Ms. EMREY-ARRAS. Well, we are definitely talking to our lawyers, who are very familiar with options available, and we will be involving them in our review as we go forward to talk about potential remedies.

Mr. COLE. Thank you, and thank you for doing this.

Yield back, Mr. Chairman.

Mr. CALVERT. Thank you.

One point that both Mr. Cole and Mr. Simpson, noticed when we were out there looking at these various properties, that seemed to be a consistent problem was site preparation, not just on the schools and the detention facilities but on the housing. Apparently nobody ever heard of civil engineering before or soil testing and that type of thing, because if you build on a bad site, that could

cause a lot of these problems you are talking about. If you have a shifting foundation, that can cause leaks and the rest. But that is why we need to get to the bottom of this.

Ms. EMREY-ARRAS. And one of those schools, if I may say so, was built on a swamp.

Mr. CALVERT. That is great. That is great. Yeah, we noticed that one of the schools was built next to a flood control channel. It just does not seem like good site planning.

Mr. Kilmer.

HUMAN CAPITAL AND WORKFORCE PLANNING

Mr. KILMER. Thanks, Mr. Chairman.

Thanks for your testimony, as troubling as it is. One of the things that popped out to me in your testimony was the notion that 40 percent of BIA regional facility positions are currently vacant including engineers and architects and facilities managers. I get the financial challenges, but, you know, I guess I echo Ms. McCollum's comment. It seems like there would be some benefit in exploring ways to connect the Bureau's need with postsecondary institutions that are trying to train tribal members or, you know, work study programs, and I would certainly invite you to comment on that.

Moreover, you had recommended that BIA revise its strategic workforce plan to ensure BIA is getting the administrative support that they need to be successful, and unfortunately, that plan has not been revised. To what extent has GAO explored BIA's talent management practices, everything from recruitment to retention to training to see what—to see that what they have got actually meets needs?

Ms. EMREY-ARRAS. Those are really helpful points. To go to your earlier point, we will definitely explore the issue in terms of the links with higher-education institutions to see if there are opportunities there.

In terms of the larger talent management or human capital examination, to my knowledge, we have not done that in recent years. We have touched on it in some of our prior work on management challenges, but we have not done an overall human capital evaluation. If that is something that the subcommittee would be interested in, we would be happy to do additional work.

Mr. KILMER. Thanks. Your report also highlights what seems to be positive developments resulting from a collaborative effort among tribes in Oklahoma to manage their facilities. I know GAO intends to continue reviewing that approach to see what lessons can be learned from it, but do you have a sense of how to compare the funding that BIA provides for those sorts of efforts through fee reimbursements as compared with the funding it makes available for regional offices to hire and to retain quality staff?

Ms. EMREY-ARRAS. Not at this time. It is something we can certainly look into.

Mr. KILMER. Okay. Thank you. Thanks, Mr. Chairman.

Mr. CALVERT. Thank you.

Mr. SIMPSON. Could I ask one quick question?

Mr. CALVERT. Ms. McCollum.

Ms. MCCOLLUM. Thank you, gentlemen.

Mr. CALVERT. Sure.

Ms. MCCOLLUM. One of the other things, because we talked about many BIE schools being remote and problems getting bids. So I have two questions.

One, is it possible to work with the Bureau to come up with a list and see if t is a pattern of really egregious contractors, and then not allow these people to bid on things anymore?

And then my second question is about another obstacle that you point out in your report on page 10. Sometimes it is infrastructure that the school needs, water pressure, water pipes, electricity that is reliable. And I appreciate what Mr. Cole said. We are not to shoot any of the messengers today because quite frankly, people are trying to fix this problem. So we appreciate this, and this is all in the spirit of us doing our part to help. But we need to know who is responsible? Is that a problem? Are you going to thread that together with electric and water and sewer that come into the school?

Ms. EMREY-ARRAS. We have noted, as you point out, that these schools do face additional costs that a lot of public schools do not face. They have to often have their own water and sewer systems. They may need their own fire protection systems given their remote locations. That is something that we have observed and is something that is relatively outside of their control. So I think we will be looking to see how that factors into our findings as we go forward. We will think about how our recommendations would affect that issue as well.

Mr. SIMPSON. I have just one quick question, if I could, Mr. Chairman. You may want to take a pass on this if you do not want to respond. It is a general question, not just about this, but the GAO. We ask you to do studies and to report on things and investigate things my idea of how it works is that we ask you to go look at school construction and BIA or any other subject out t in government, and you make recommendations on certain things, from your findings. T may be a reason that an agency does something that you are unaware of that is perfectly legitimate. What is the reception that you get generally from the agencies that GAO reports on? I look at it as someone to help you, a fresh set of outside eyes to look at something. Or are you seen as they are to bust our rear end? It makes a difference in how it works out.

Ms. EMREY-ARRAS. Right. I do not know if I can speak globally for everyone in terms of what it feels like when they hear that GAO is coming to visit. I would say that some school officials, at least on this study, have been very receptive to our efforts and are very interested in us coming to see their facilities to talk about the concerns they have because they are very concerned about the environments that their students are experiencing, and they want people to know what is going on.

Mr. SIMPSON. What about within the Department?

Ms. EMREY-ARRAS. We have also had a lot of cooperation from the Department, and I would say the majority of our recommendations on this issue have been agreed to by the Department.

Mr. SIMPSON. That is good to hear. Thank you.

Mr. CALVERT. Thank you. Ms. Emery-Arras, thank you for your testimony today, especially for GAO's ongoing work in this area.

We will be happy to invite you back once the study is complete. It will be interesting reading.

Ms. EMREY-ARRAS. I am happy to come back.

Mr. CALVERT. And we certainly want to thank our first panel, Mr. Washburn, Mr. Black and Mr. Roessel.

As I said before, we all want to help you succeed. Our partnership overtures may cause considerable grief but we are sincere. We all have the same goal, and that is to help the children.

So we thank you for your good work, and we are adjourned.

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Fiscal Year 2016 Budget Oversight Hearing: Indian Affairs
February 27, 2015
Questions for the Record

Questions from Mr. Calvert

Education Roles and Responsibilities

Calvert Q1: With regard to the 183 elementary and secondary schools in the Bureau of Indian Education system, and so that we can direct today's questions accordingly, please differentiate and clarify for us the various roles and responsibilities of the Assistant Secretary's office, the BIA, and the BIE.

Answer: The line authority for Indian Affairs programs begins with the Assistant Secretary-Indian Affairs whose primary responsibilities are to advise the Secretary of the Interior on Indian Affairs policy issues, communicate policy to and oversee the programs of the BIA and the BIE, provide leadership in consultations with tribes, and serve as the Department official for intra- and interdepartmental coordination and liaison within the Executive Branch on Indian matters.

Within the Office of the Assistant Secretary, The Deputy Assistant Secretary-Management provides senior leadership, policy, and oversight of budget, acquisition, property, accounting, facility construction, fiscal services, information technology, planning, facilities operations, and human resources down to programs in AS-IA, BIE and BIE.

The Director of the Bureau of Indian Affairs has line authority over all regional and agency field operations that administer Indian Services, Trust Services, and Justice Services, both through direct services and tribal 638 contracting. The Director of the Bureau of Indian Education has line authority over the education resource centers, 183 BIE units, and two post-secondary schools located across Indian country.

Road Maintenance

Recently several of us on the subcommittee had the pleasure of riding in a BIE school bus for 30 minutes each way on a dusty, washboard dirt road.

Calvert Q2: How does your road maintenance budget look for FY16?

Answer: The budget request for BIA road maintenance in FY2016 is $26.7 million. The enacted budget for BIA roads maintenance in FY2015 is $26.4 million. This funding is the primary source of funding for maintenance of all roads and bridges designated as BIA-owned. There are about 29,000 miles of BIA-owned roads and over 900 bridges in Indian country.

There are also 158,000 miles of Tribal roads and roads near tribal lands that are inventoried for the Tribal Transportation Program in the Federal Highway Administration, part of the Department of Transportation. The FY2015 budget for the Department of Transportation authorized $450 million for the Tribal Transportation Program for transportation assets projects that improve access to and within Tribal Lands.

Calvert Q3: How can this subcommittee be surgical in an effort to improve road conditions on reservation school bus routes?

Answer: Since the majority of BIA, Tribal and County roads serve as school bus routes it's difficult to single out school bus routes as a priority for road maintenance. Within Indian country, about half of the roads are surfaced and the other half are earth and gravel. There are different maintenance requirements and schedules for different types of roads. Projects are prioritized by critical health and safety needs. In addition, maintenance funds are also used for emergency maintenance and snow and ice removal.

Contract Support Costs

The budget proposes to fully fund contract support costs in this bill in 2016 and to move the funding to the mandatory side of the ledger for 2017.

Calvert Q4: How does the proposal to move contract support costs to mandatory funding help to solve the Committee's concerns about:

a. The difficulty of accurately estimating contract support costs before the start of each fiscal year; and
b. Inconsistencies in contract support cost policies between Indian Affairs and the Indian Health Service?

Answer: To stabilize long-term funding and address programmatic concerns with CSC, the 2016 budget puts forth a proposal to reclassify these costs to mandatory funding beginning in fiscal year 2017. Beginning the reclassification in 2017 will allow time for tribal consultation in 2016 on operational details. The budget proposes to adjust the discretionary budget caps to reflect the reclassification. The current estimate for projected BIA program growth, above the discretionary cap amount, totals $105 million for fiscal years 2017-2019 and would be treated as a PAYGO cost for the authorizing legislation. New CSC estimates will be provided on a three-year cycle as part of the reauthorization process. If enacted, mandatory funding for contract support costs will help stabilize this vital funding for Tribes and further self-governance and self-determination efforts. Additionally, Indian Affairs will continue to work with and consult with Tribes to strengthen administrative capacity and program management.

The structure of the BIA and IHS mandatory proposals are identical. The funding amounts are different, reflecting programmatic differences between IHS and BIA. Mandatory funding for each agency will be provided in separate accounts.

Calvert Q5: Short of shifting the funding to mandatory spending—which is outside of this Committee's jurisdiction—would it make sense to move Contract Support Costs to a stand-alone, no-year account within discretionary spending so that any future shortfalls aren't paid for by direct services?

Answer: The 2016 request for Contract Support Costs is $277 million, an increase of $26 million above 2015. Based on the most recent analysis, the requested amount for 2016 will fully fund contract support costs. Contract Support Costs are a key component of tribal self-determination and support the ability of Tribes to assume responsibility for operating Federal programs. To stabilize long-term funding and address programmatic concerns with Contract Support Costs, the 2016 budget also proposes legislation to reclassify these costs to permanent funding beginning in fiscal year 2017. If enacted, permanent funding for Contract Support Costs will help stabilize this vital funding for Tribes and further self-governance and self-determination efforts.

The budget does not propose a stand-alone no-year account within discretionary spending although it is a proposal that could be considered in the future.

Maintenance Shortfalls

The subcommittee has been concerned that requested funding may be falling short of bureau-calculated amounts to properly operate and maintain facilities, as indicated by the Bureau's Facilities Maintenance Information System, and that improperly funding maintenance now will lead to higher replacement costs in future years.

Calvert Q6: Is there a difference each year in the calculated need and the amount requested? Is there a difference in FY16?

Answer: Indian Affairs has separate requests in its budget for facilities operations and maintenance of education facilities, justice services, and Indian Affairs administrative offices. In most years, the budget proposal does not fully address the calculated annual maintenance need. However, Indian Affairs carefully prioritizes appropriated funding for operations and maintenance to maximize the utility of the funds and as a result, the deferred maintenance backlog for buildings was lower in 2014 than in 2010. Providing Indian students an environment conducive to learning is a priority of this budget, reflected in the $10 million increase request for school operations and $10 million increase request for routine school maintenance.

Calvert Q7: Explain the industry standards used in the calculation.

Answer: The BIA estimates operations and maintenance needs using the Operations, Maintenance, and Repair Cost estimating guide developed by R.S. Means, a nationally recognized industry leader in this type of cost estimating. R.S. Means updates their cost estimating data annually. The formula uses standard labor and material costs for the maintenance and repair of buildings, grounds, and systems components but uses actual costs for operations such as custodial activities, utilities, telephone/communications, refuse disposal, pest control, program management, and vehicles.

Calvert Q8: Does Indian Affairs propose full maintenance funding in its annual request to the Department?

Answer: Budget formulation is done within the confines of budget targets. Within those targets, each year Indian Affairs prioritizes funding needs based on shifting priorities of the Tribes and Departmental guidance. All requests are the result of a lengthy process, including tribal consultation, to formulate the best use of available resources. This year Indian Affairs identified education operations and maintenance as a funding priority as part of its efforts to improve the educational environment for Indian students in BIE-funded schools.

Calvert Q9: Does the Department propose full maintenance funding in its annual request to OMB?

Answer: Budget formulation is done within the confines of budget targets. Within those targets, each year the Department prioritizes funding needs based evolving needs of the bureaus and offices and OMB guidance. All requests are the result of a lengthy process to formulate the best use of available resources. This year Indian Affairs identified education operations and maintenance as a funding priority as part of its efforts to improve the educational environment for Indian students in BIE-funded schools.

Public Safety and Justice

Calvert Q10: Please describe in detail the improvements you're proposing to make to public safety and justice programs in fiscal year 2016.

Answer: Ensuring public safety and justice is one of the most fundamental of government services provided in tribal communities. Resources requested in this area fund three critical components (law enforcement, corrections, and courts) of a justice system, and fully support the Secretary's commitment to the protection of Indian Country. The FY 2016 request maintains public safety resources in key areas, while targeting funding increases to address needs identified by Tribes on a nationwide basis. Specifically, the 2016 budget maintains a $1.0 million increase from the FY 2015 Omnibus appropriation to provide training to Tribes pursuant to new provisions of the recent Violence Against Women Act reauthorization, and includes increases totaling $9.0 million to Law Enforcement Special initiatives and tribal Courts under BIA's Tiwahe initiative to focus on reducing recidivism and implementing alternatives to incarceration.

A $4.0 million increase will expand BIA's efforts to reduce recidivism from the current three Tiwahe initiative sites to five sites in FY 2016. Tiwahe, the Lakota word for "Family", empowers American Indian individuals and families, and strengthens tribal communities as a whole, through a holistic approach that advocates and supports the family unit in the areas of child and family protection, job training and housing. Tiwahe is a part of Generation Indigenous, an initiative to help improve the lives and opportunities for Native American youth. These services are provided through the joint partnership of the BIA's Office of Indian Services (OIS), Office of Justice Services (OJS), and the Indian Affairs' Office of Indian Energy and Economic Development (IEED). Tiwahe is increasing the focus on family health and wellness and

directing new resources to Tribes to enhance the quality of services provided to children and families. To address public safety needs, the OJS will work with Tribes to implement comprehensive "alternatives to incarceration" strategies that seek to address underlying causes of repeat offenses, including substance abuse and social service needs. The program will encourage utilizing alternative courts, increased treatment opportunities, probation programs, and interagency and intergovernmental partnerships with tribal, Federal, and State stakeholders.

BIA's current Agency Priority Goal states by September 30, 2015, reduce rates of repeat incarceration in three target tribal communities by three percent through a comprehensive "alternatives to incarceration" strategy that seeks to address underlying causes of repeat offenses, including substance abuse and social service needs, through tribal and Federal partnerships. Through the additional resources requested in the FY 2016 budget, BIA will expand the Tiwahe initiative to five sites in FY 2016.

The corresponding $5 million increase under tribal Courts enables the vast majority of resources under this increase to be targeted to ensure the availability of treatment options for participating Tribes. By treating the cause and breaking the cycle of repeat offenders, the BIA seeks to support stronger Indian families and communities in addition to reduced rates of recidivism.

In addition, the $5.0 million increase requested for tribal courts will ensure the judicial branch of targeted tribal public safety systems can function effectively to meet family and community needs under the Tiwahe initiative. Specifically, the increase will provide targeted base funding to tribal courts at each Tiwahe site for:

- Child Case Presenters (dedicated position representing the Tribe and presenting all social service issues to the court);
- Guardians Ad-Litem (dedicated to the best interest of the child);
- Civil Defenders (dedicated to representing the parents); and
- Child Protective Services (CPS) code development and CPS procedural manuals specifically for the court.

The additional funding will also provide targeted on-site training sessions at Tiwahe locations to assist tribal court personnel seeking compliance with many CPS related issues, including ICWA issues. The BIA will also develop quick reference checklists, forms, and eventually bench books designed to assist tribal judges hearing CPS matters.

Detention Centers

We recently visited the Hopi Detention Center, and shortly thereafter, Committee staff visited the San Carlos Detention Center. There is a world of difference in the quality of these two facilities, but they share a common trustee—the federal government.

Calvert Q11: Do you have a detention center replacement priority list, similar to the school priority list you're currently updating?

Answer: Indian Affairs does not have a detention center replacement priority list as new construction of tribal detention centers is currently funded in the Department of Justice budget.

Indian Affairs input is sought by DOJ to assist with prioritizing the grant requests they receive from tribes.

Calvert Q12: What is the FY16 budget proposal for detention center construction?

Answer: The FY 2016 Indian Affairs request includes $4.4 million for high priority facilities improvement and repair projects to address deferred maintenance needs at tribal detention centers. The FY 2016 budget also includes $3.5 million to construct seven new employee housing units at Office of Justice Services locations in Montana, New Mexico, and Utah. These facilities are remotely located and suitable housing is rarely, if ever, available or if available, beyond the means of employees.

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We are hearing from some of the large land-based tribes that the Department of Justice's competitive construction grants for tribes are too small to build the right-sized detention centers needed for larger populations. At one time, the BIA had its own construction program.

Calvert Q13: Is it time to consider moving the program back into the BIA budget in order to address concerns like these?

Answer: Discussions are currently underway between BIA and DOJ to identify potential options and/or strategies to improve the effectiveness the Federal Government's role in the construction of public safety facilities in Indian Country. Options being explored include transfer of all or part of program oversight functions, as well as possibilities to transfer funding between the agencies. At this time, no decisions have been made. The FY 2016 President's Budget requests facility improvement and repair funding in the BIA budget.

Tribal Priorities

The tribal priorities chart included in your budget proposal is very informative. Thank you for including it. I think it will help us to sort through the various items that will come up during our public witness days next month. I am surprised, however, about the top priority—scholarships and adult education—particularly because the Cobell settlement established a $60 million scholarship fund.

Calvert Q14: Please tell us what you know about why scholarships and adult education are such a high priority for the tribes.

Answer: Scholarships and adult education have consistently been listed as high priorities by the Tribal Interior Budget Council (TIBC). TIBC is a forum for Tribes and Federal officials to develop annual budget requests for Indian Affairs programs at the Department of the Interior. In quarterly TIBC meetings and in TIBC's annual prioritization process, scholarships and adult education have consistently been listed as a significant priority. The education of adults represents a significant unmet need in the view of Tribes and consequently the request for support in this area is a consistent priority in the budget process.

With a young, fast growing population, with limited resources, Tribes are faced with an increased demand for higher education scholarships with the cost of college enrollment is increasing dramatically. The average published tuition rate and fees (not counting room and board) at four-year public colleges rose by 72% during the last 10 years. Tribes must decide to either reduce the number of scholarships or the dollar amount per scholarship. In 2013, the Navajo Tribe reported there were 17,000 Navajo students seeking funds that were pursuing a postsecondary education, but the Tribe was only able to fund 6,000 students. In addition, every year approximately 12,000 new Navajo students graduate from high school.

Other Tribes report similar situations. The Crow Tribe reports they have 4,203 members between the ages of 18 and 35. In 2013, they had 243 applications but were only able to fund 103 scholarships. The number of tribal members seeking scholarship assistance is increasing, both through recent high school graduates and older tribal members seeking advanced training or new skills to keep up with changing workforce demands.

Calvert Q15: How does your FY16 budget propose to address this priority?

Answer: To advance this priority, the BIE's FY 2016 budget includes a $4.6 million increase for Scholarships and Adult Education. This funding provides Tribes with resources to facilitate economic development by providing community members with advanced educational opportunities to attain needed skills to meet community objectives. For FY 2016, the increase in funding includes the priority to increase student engagement with Science, Technology, Engineering, and Mathematics (STEM) related initiatives.

This subcommittee has been an advocate for the Family and Child Education (FACE) program for some time now, particularly because of the adult education opportunities it provides. We understand that the BIE has been re-evaluating where it wants to go with the $15.6 million in the base for Early Child and Family Development.

This subcommittee has been an advocate for the Family and Child Education (FACE) program for some time now, particularly because of the adult education opportunities it provides. We understand that the BIE has been re-evaluating where it wants to go with the $15.6 million in the base for Early Child and Family Development.

Calvert Q16: Does this line item help address the tribes' adult education priority, or is there more to their request?

Answer: FACE provides various services to tribal communities, which can be characterized as infant/toddler home visiting services, preschool, and adult education. Adult education is a major focus of the program and encompasses parenting skills, education, and home visitations. The actual early childhood component is limited in the number of children served each year in the school-based portion of FACE.

The adult education component has been emphasized by various interests and observers as a critical component and advocates have actively promoted a requirement that this component be implemented for all FACE recipients. However, the needs of tribal communities should not be centrally implemented without some input by the communities and the Tribes served. Thus, BIE has recently introduced some flexibility in the FACE application to relax the stringent requirement of mandatory adult participation in the FACE adult education component in order for preschool age children to participate in the FACE preschool component. This relaxation of a requirement supports the notion that a tribal school should have some semblance of input and control in the design of a program based on the actual needs of the community and also advances the self-determination for Tribes.

Calvert Q17: Please give us an update on the re-evaluation.

Answer: The Fiscal Year 2014 President's Budget stated:

"BIE will conduct an internal review of the FACE program during SY 2013–2014 to ensure that the FACE program is aligned to national early childhood initiatives and preserves a purpose of preventing achievement gaps before students start school. BIE will also investigate ways to expand early childhood education into more schools and ways to integrate preschool into the BIE's existing K–12 school system. BIE strives to invest in and strengthen early childhood education for the BIE's youngest children and the Tribes' most critical resource."

The initial review was completed in spring 2014 and is under review by the BIE.

Moencopi Day School

Mr. Washburn and Mr. Russell, I appreciate that you and Secretary Jewell were able to join Ms. McCollum, Mr. Simpson, Mr. Cole, and myself recently to visit the Moencopi Day School on the Hopi Reservation. Together we saw why schools like Moencopi need significant repair and eventual replacement with safe, modern schools.

Not long after our visit, the Inspector General issued its critical review of violence prevention at the Moencopi Day School, reporting safety deficiencies that appear to be more a function of management and accountability than the condition of the facility.

I bring this up not to pick on Moencopi or to downplay maintenance and construction, but to make the point that the increased funding proposed in fiscal year 2016 for maintenance and construction will not by itself fix the problems. As the GAO has reported, and as you well know, there remain underlying management and accountability challenges that can and must also be addressed.

Calvert Q18: Please update us on any management and accountability improvements you've made within the past 12 months.

Answer: The safety and security of the BIE-funded school student and employee populations are paramount in our efforts to provide a high quality education to Indian students. Office of

Inspector General (OIG) reports highlighting safety and security issues in BIE-funded schools were issued in 2008 and 2010. As part of an initiative to address safety and security issues in BIE-funded schools, BIE conducted detailed surveys and corrected deficiencies. BIE School Safety Specialists continue to conduct on-site school visits to address critical needs. Additionally, safety projects such as school safety audits, school resource officers, and school security services continue.

Many schools have updated their plans and are currently implementing them to provide a safe learning environment for both students and staff. Unfortunately, at some schools emergency planning has stalled because of a lack of available support at the Education Line Offices. The DOI issued Secretarial Order 3334 that restructures BIE to respond to concerns raised in GAO report 13-774. Once restructuring is complete later this year, all school operations will be co-located to improve accountability in the areas of safety as well as finance, curriculum, and instruction. Changes would also improve direct services to schools and Tribes.

The Department is also seeking to improve accountability by building capacity of tribal nations to become full partners in the educational process. The 2016 budget includes funding focused on building tribal capacity to manage their school systems so Tribes can partner with BIE to hold local school boards accountable.

Calvert Q19: Should the Bureau of Indian Education become a true stand-alone bureau, with control over BIE personnel and facilities maintenance and construction, if doing so improves accountability but increases costs?

Answer: In order to achieve the Administration's goal of high-achieving schools, the Blueprint for Transformation recommends that the Federal government transition from focusing on directly operating schools on a day-to-day basis and instead transform the BIE into a school improvement organization that builds capacity of tribes to operate great schools. We have determined that to achieve this goal the BIE should have increased control over some personnel, facilities, maintenance and other school operations necessary to ensure this transformation occurs, but it is not necessary to become a stand-alone bureau.

The DOI Seerctarial Order 3334 restructures BIE in a way that responds to concerns raised in GAO report 13-774. We are taking steps to implement the restructuring by the end of the year. Restructuring will:

- Reduce delays that schools experience regarding acquisition of instructional materials by consolidating operations within BIE;
- Incorporate new procedures into Indian Affairs monitoring activities; and
- Ensure that appropriate grant monitoring protocols will be assigned for high-risk funding recipients.

It is our intent to continue to share some standard business processes, such as processing personnel actions and facilities construction, with the Bureau of Indian Affairs as we encourage tribal control. Notwithstanding this, the restructuring will allow the Director of BIE to align and synchronize BIE business operations with educational priorities.

Calvert Q20: Since Moencopi is a grant school operated by the Tribe, is the BIE absolved of responsibility to address the items in the Inspector General report?

Answer: No. The safety and security of the BIE-funded school student and employee populations are paramount in our efforts to provide a high quality education to Indian students and it is a shared responsibility between the BIE and Tribes. Even as BIE transitions to a school improvement organization and Tribes increase oversight and management of their schools, BIE will continue to share this responsibility

GAO Investigation

Calvert Q21: What steps is Indian Affairs taking in FY15 to remedy health and safety hazards at BIE schools? What further steps are proposed in FY16?

Answer: The Indian Affairs Education Construction budget activity includes funding for facility improvement and repair projects which are prioritized based on identified critical health and safety needs. Indian Affairs conducts regular facility condition assessments and annual safety inspections at BIE-funded schools to identify health and safety hazards and establish abatement plans. Some health and safety issues are most effectively remedied by replacing entire schools. The FY2015 budget includes funding for replacement of the Beatrice Rafferty School. The FY 2016 budget proposes funding to replace the last two schools on the 2004 school replacement priority list. The FY2016 budget also proposes funding for the Facility Component Replacement Program which targets school campus locations where individual buildings are replaced to bring the campus to good condition as measured by the Facilities Conditions Index.

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GAO has testified that about 40 percent of regional facility positions are currently vacant, including regional facility managers, architects, and engineers who typically serve as project managers for school construction.

Calvert Q22: For the record, will you please provide this subcommittee with a list of every one of these vacancies?

Answer: Staffing needs for construction programs are dependent on workload. After a period of robust funding for education construction from 2001- 2009, funding for BIE replacement school and replacement facility construction declined substantially until funding for those programs was zero in FY2013 and FY2014. Staffing needs have diminished since 2009. Staffing needs for FY2015 are currently being determined based on the workload generated by increased funding levels provided by Congress in FY2015. Staffing needs for FY2016 will be determined based on that year's appropriation.

Calvert Q23: Does your FY16 budget propose an increase specifically to begin filling these vacancies?

Answer: Any positions filled in FY 2016 can be accommodated within the funding levels requested in the in FY2016 budget.

Calvert Q24: How recently have you revised your strategic workforce plan to determine ensure that you have the right people, with the right skills, doing the right jobs, in the right place, at the right time?

Answer: All Regions are currently reviewing and assessing their facility workforce plans.

Calvert Q25: How many of the 12 regions have an in-house boiler inspector on the organizational chart? How many of those positions are currently vacant?

Answer: Indian Affairs funds boiler inspections through the Education Construction Facilities Improvement and Repair budget line item which is managed at the national level. Indian Affairs distributes funding for contracting boiler inspections to the Regions based on need. Additionally, annual appropriations for minor improvement and repair funds are provided to locations for repair or replacement of pressure vessels at BIE school locations, which include boilers.

Calvert Q26: How many of the 183 schools in the BIE system have a full-time facility maintenance employee on staff? How many have more than three?

Answer: BIE-funded schools are operated by the BIE or under grant by a tribe or tribal organization. BIE can only report on employees at BIE-operated schools. Tribally controlled schools are not required to report employment information to BIE regarding staff at the schools they operate. At the 57 schools operated by BIE there are 242 full time facilities maintenance employees on staff at this time. All BIE-operated schools have three or more facilities maintenance employees on staff.

Calvert Q27: For the tribally-operated schools in the BIE system, does BIE have any say about facility maintenance employees on staff?

Answer: By law, Tribes are given wide latitude for operations at schools they run under grant authority. BIE provides funding for facility maintenance as part of the school operational costs provided to the tribe or tribal organization that operates the school. All staffing, including facility maintenance staffing, is ultimately a Tribal decision.

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Your testimony describes a $1.5 million school bus maintenance facility construction project at a tribally-operated school in South Dakota that turned out to be too small to fit a bus with the garage doors closed. The school managed the project. Indian Affairs raised concerns about the design but they were ignored.

Calvert Q28: Who paid for the construction?

Answer: Indian Affairs paid the Grantee (St. Francis Indian School) to conduct the design, construction, management/inspection for the Facility Management/Bus Storage Building Project.

Calvert Q29: Who owns the facility?

Answer: Indian Affairs owns the facility.

Calvert Q30: Who owns the land on which the facility is located?

Answer: Rosebud Educational Society.

Calvert Q31: Who is responsible for maintenance of the facility?

Answer: Indian Affairs is responsible for the maintenance of facilities in its inventory. When a school is operated under grant by a tribe or tribal organization, BIE provides funding for facility maintenance as part of the school's operational costs to the entity operating the school. The school where this facility is located is operated under grant by the St. Francis Indian School.

Questions from Mr. Simpson

Simpson Q1: Can you explain the One-Stop Tribal Support Center in terms of the services it may offer and locations that make it accessible to tribes?

Answer: The Indian Affairs FY 2016 budget request includes $4 million to develop a national One-Stop Tribal Support Center to make it easier for Tribes to find and access information about the programs, services, and funding opportunities available to Tribes across the Federal government. This effort will be led by the Department of the Interior in its role as chair of the White House Council on Native American Affairs and coordinated across Federal agencies that serve Tribes. The One-Stop Center will advance an "all of government" approach to meeting tribal needs, delivering on Federal responsibilities, advancing government-to-government relationships, and supporting tribal nation building. The effort will include national and interagency coordination, a One-Stop information center and portal, and regional liaisons situated in the field to facilitate streamlined communication and information exchange to help Tribes easily access Federal programs and opportunities. This effort seeks to empower Tribes and tribal organizations to more fully access and leverage Federal resources to support the goals of tribal nations and communities as they make decisions and carry out activities at the local level. Efforts will initially be focused through the Generation Indigenous Initiative on programs that support providing opportunities and removing barriers to success for Native Youth across Indian Country. DOI will consult with Tribes and work through the White House Council on Native American Affairs to develop a model to carry out and institutionalize this way of doing business going forward.

Key activities will include:

- National-level inter-agency coordination and collaboration across Federal programs and with tribal leaders and organizations to identify and analyze how current programs can be simplified and consumer information and access to tribal funding opportunities can be improved.
- Developing and launching a portal that provides Tribes with easily accessible information and resources to access Federal programs.
- Building regional capacity to connect Tribes to government-wide programs.
- Identifying and partnering with Federal agencies and tribal leadership who will help to build bridges between Indian Affairs, other Federal agencies, and Tribes.
- Working with tribal leadership and organizations to raise awareness to make these One Stop Centers highly effectives and visible.
- Targeting outreach to underserved or hard-to-reach Tribes through community partnerships and outreach to rural areas.

During the first year:

- Indian Affairs will support four positions to begin the development of the Tribal Support Center. When fully executed, the Center will also support 12 regional coordinators.
- Tribal Support Center staff will work through the Council with Indian Affairs programs government-wide to develop and implement a plan for mapping Indian Affairs funding assets and information to make them available through the on-line portal and regional liaisons.

- Center staff will collaborate with Regional and Agency offices to develop an outreach scheme for communicating about Indian Affairs services and resources available to Tribes and tribal communities.
- Tribal Support Center staff will work with Information Technology staff to conduct a needs analysis to determine the services and support needed.
- The One-Stop portal will be designed and developed.
- Tribal Support Center staff will convene workgroups to evaluate the skills and tools available at the local level within tribal communities, in order to support the development of a one-stop approach to technical assistance and grant writing training for Tribes and tribal communities.

Simpson Q2: What does this budget do to help fill adequate law enforcement staff? For example, I talked to the Cheyenne River Sioux yesterday and they have 10 police officers which amount to 1 for every 140,000 acres.

Answer: Highlighting the continued importance of law enforcement, the FY 2016 request maintains public safety resources in this key area, while targeting funding increases to begin to address the underlying causes of crime on reservations as identified by Tribes on a nationwide basis. Specifically, the budget includes $194.5 million under Criminal Investigations and Police Services to assist Tribes like Cheyenne River in their efforts to fill police officer positions. In addition, this budget targets priority increases toward reducing recidivism and alternatives to incarceration by adding a total of $9.0 million to Law Enforcement Special initiatives and tribal Courts under BIA's Tiwahe initiative.

All too often we hear from tribal leaders that reservation crime is not committed by individuals that are "criminals," but rather by people who are substance abusers first, and end up committing crimes while under the influence or to feed their addiction. Under the Tiwahe initiative, the BIA will work with Tribes to implement comprehensive "alternatives to incarceration" strategies that seek to address underlying causes of repeat offenses, including substance abuse and social service needs, by utilizing alternative courts, increased treatment opportunities, probation programs, and interagency and intergovernmental partnerships with tribal, Federal, and State stakeholders.

Through the additional resources requested in the FY 2016 budget to treat the causes and break the cycle of repeat offenders, the BIA seeks to support stronger Indian families and communities in addition to reduced rates of recidivism that will lessen the burden on tribal police officers at the end of the Agency Priority Goal measurement period.

BIE and Higher Education Opportunities

First off, I would like to thank you for your efforts with the BIE schools and the commitment this budget shows to improving BIE schools.

Simpson Q3: Looking beyond this budget, because I think we should always be looking forward, how can BIE schools use these expanded resources to increase the amount of students who enroll in higher education?

Answer: In its K-12 schools, BIE adopted and implemented new college and career ready academic standards (Common Core Standards) to reframe what students should know and be able to do for success in college and careers in the 21st century. The BIE also provided professional development for teachers and leaders. Underpinning this is an effort to better prepare students for college and careers which starts in the home and before school age. BIE's FACE program supports pre-school children and their families, and provides training to teach parents how to best encourage their children's academic growth and achievement. BIE also is now eligible and will be applying for U.S. Department of Education competitive grants to expand preschool opportunities in Indian Country.

For students ready for post-secondary education, the budget includes $35.9 million for scholarships and adult education administered by tribes, a $4.6 million increase. Funding for the Bureau owned and operated Haskell Indian Nations University and Southwestern Indian Polytechnic Institute, 28 tribal colleges and universities (TCUs), and two tribal technical colleges is $96.7 million, essentially level with 2015.

Simpson Q4: Is it possible to form a partnership with tribal colleges which are currently designated as land-grant institutions?

Answer: The BIE is currently collaborating with TCUs located near BIE-funded K-12 schools to develop a system-wide college oriented culture in its schools. The collaboration will build partnerships between TCUs and their feeder K-12 schools. The partnerships will engage students in kindergarten through high school and work to instill the belief that obtaining a post-secondary education is within the reach of all students. The implementation of the partnerships will also infuse tribal culture and language by using TCU faculty, students and curricula. In addition, BIE serves as the lead bureau in implementing the DOI's Memorandum of Agreement (MOA) with the American Indian Higher Education Consortium on behalf of the TCUs. The MOA aims to advance the capability of TCUs to attain educational excellence, promote natural resource and science career pathways among students at TCUs and their feeder K-12 schools, and further the DOI's outreach to the communities served by the TCUs.

Simpson Q5: As we have found in the past, BIE schools have struggled with communication at the administrative levels. How does this budget put in place resources to help bridge the administrative gaps that have failed students in BIE schools in the past?

Answer: In December 2014, BIE filled a key communication position, allowing BIE to prioritize communications goals to regularly inform employees, schools and both internal and external stakeholders of critical developments and key information that impact instruction and the operation of their schools and success of their students. Key accomplishments include increasing BIE social media presence with increased followers and daily updates on BIE policies, activities and events; developing an internal newsletter delivered to employees weekly via e-mail; updating the BIE National Directory; creating talking points and other written materials for employees on issues related to BIE policies and reform; conducting weekly conference calls with senior management; and offering a new webinar series that focuses on a range of topics relevant to the broad range of BIE employee roles and responsibilities. BIE will

continue to enhance its communication and outreach efforts based on input and feedback from BIE employees and schools. Additional communication priorities include a revision of the BIE website that improves readability and usability for employees and the public.

Shoshone Bannock 6th Grade

The Tribes' public elementary school on the Fort Hall Reservation serves students from Kindergarten to 5th grade. Previously, the Shoshone-Bannock Jr/Sr. High School, a school administered and funded by the BIE, served students from 7th to 12th grade. Due to the gap in a 6th grade on the Reservation and the resulting inconsistency in academic achievement of students, the School added a 6th grade. However, due to past appropriations prohibitions on BIE grade expansion, BIE would not provide funding for the 6th grade. The FY15 Omnibus included language authorizing limited grade expansions; however, BIE cites a 3-year rule, which provided zero funding in the 2014-15 school year, 1/3 funding in 2015-16, 2/3 in 16-17, and full funding in 2017-18. This 3-year rule has resulted in the Tribes carrying the continued burden of funding the 6th grade at the School instead of BIE.

Simpson Q6: The Subcommittee included language in the FY15 Omnibus to authorize limited grade expansions under certain circumstances. The Shoshone-Bannock Tribes requested and received such a waiver to expand the Shoshone-Bannock Jr./Sr. High School on the Reservation to include the 6th grade and, thus, close the gap in on-reservation educational opportunities.

I want to thank the Department for granting this request, which provides some consistency for the kids on the Reservation.

However, I do have a question about funding for the 6th Grade. The Tribes have funded the 6th Grade for more than 3 years now on its own dime, and it seems to me they should be eligible for full funding. I understand that the 6th Grade is looking at approximately 13 new students in the coming school year, and we understand that it would cost the BIE approximately $70k. I also understand that the Tribes' requested a waiver from the BIE's 3-year rule for funding new grades. Could you please tell me the status of this waiver request and any rationale for not funding the Tribes' 6th grade?

Answer: The funding waiver request was approved by the Assistant Secretary – Indian Affairs. The funding for school year 2014-2015 used a three year average enrollment for the sixth grade including years when it was not part of the BIE school system.

Shoshone-Bannock School Improvement Grant

The Shoshone-Bannock Jr/Sr High School received a federal 3-year Student Improvement Grant (SIG) in August 2012. The funding has allowed the School to make major improvements in student success. The students are directly and indirectly affected by poverty, broken homes, homelessness, substance abuse, suicide, and incarceration. The SIG and the funding it provided has shown to have a positive effect on student outcomes and makes a direct impact at the student's chances for future success.

Unfortunately, the SIG funding is about to expire. The School is going to be faced with a significantly smaller budget and will not be able to provide the level of education that has proven successful over the past three years.

Simpson Q7: The Shoshone-Bannock Jr/Sr. High School was awarded a 3-year Student Improvement Grant from the BIE in 2012. The grant funding has been used to hire teachers and implement educational best practices. As a result, Shoshone-Bannock students' academic achievement is improving. However, the funding is about to expire, and the School does not otherwise have the funding to maintain the current staff levels and reforms implemented with SIG funding. How does the BIE plan to continue to support these proven methods of teaching after their this grant run out? Shouldn't there be long term support to sustain programs that foster academic success? How can you help ensure that the School can continue the programs it developed under its SIG grant?

Answer: Funding for Student Improvement Grants is provided by the U.S. Department of Education (DoEd) and administered through the State Education Agencies (SEA), in this case the Bureau of Indian Education (BIE). Program rules and guidelines are specified by DoEd and implemented by the SEAs. When Shoshone Bannock received a SIG award in 2012, program funding was only available for three years.

Sustainability and long term support for any achievements attained under a SIG grant are important factors during the initial grant application review process. From the beginning, the purpose of the SIG grant must be well understood by and have the support of school staff, the community, and leaders, including tribal leaders and the school board, in order to sustain long-term changes. Engaging a wide representation of the community in the planning process helps ensure long-term viability of the SIG reform process after the SIG award expires.

Several BIE schools which received SIG grants and implemented reforms see positive changes in student achievement after the initial grant period. To prevent going back to the status quo, local leaders with the support from BIE continue to make ongoing adjustments aimed at achieving still higher goals.

Under SIG reauthorization, the proposed requirements state DoEd would allow a SEA to make SIG awards for up to five years. Two years may be used for planning and other pre-implementation activities, and at least three years for full program implementation. Another option under the proposed changes would allow a school to implement the full program for three years and then support activities related to sustaining reforms for two more years.

Simpson Q8: If the BIE does not build on incremental success, how will it ever get to the point of providing the type of quality education that Native children deserve?

Answer: BIE assists schools in applying research-based methods and scaling-up best practices at both BIE operated and tribally controlled schools. BIE also supports greater flexibility for schools, anticipates barriers to success, encourages and promotes innovation, and garners resources, as needed, so that each school can become high-performing, student-centered learning environments with personalized programs and support systems to meet the needs of its students.

Educational Needs of Youth in Juvenile Detention Centers administered/funded by the BIA

The Shoshone-Bannock Tribes built an adult and juvenile detention center with our own funds a few years ago even though the BIA should have built this facility. The BIA provides funding for services at the detention center. The Tribes' goal is to rehabilitate its juvenile detainees. A juvenile's placement in a detention facility is often a last opportunity at rehabilitation to prevent youth from becoming career criminals. The Tribes seek to develop educational programs to help our juveniles turn their lives around in addition to mental and behavioral health programs. However, educational funding for our juveniles is non-existent. We are seeing a 33% increase in youth crime since our juvenile detention facility opened, primarily stemming from gang-related activities. 75% of our juveniles are repeat offenders.

The BIA used to provide funding for juvenile education under a program called Juvenile Detention Education; however, BIA juvenile education funding was only $619,000 in FY11 for all juvenile detention centers in the BIA detention system and then was zeroed out in FY12, FY13, FY14, and FY15. For FY16, the Administration again does not request any funding for juvenile education. There are 24 BIA-funded detention facilities across the country and there is no other federal program that assists our juveniles.

Simpson Q9: What is the BIA's plan to provide for the educational needs of juveniles in detention centers administered or funded by the BIA? Why does the BIA continue to zero out funding for their education?

Answer: The budget line item for Juvenile Detention Education (JDE) was included in the BIA budget from FY 2007 through 2011. In FY 2012 the BIE and OJS reverted to the practice of jointly administering this responsibility through resources included in the existing education and detention/corrections program lines.

The vast majority of Juvenile Detention Centers are tribally run. The exact amount of funding set aside for juvenile education at these facilities is determined by the Tribes and those exact amounts are not readily available to BIA. From a broader budget perspective, the amount of funding from which to draw juvenile education funding has grown. As displayed in the table below, the FY 2016 President's Budget request for programs which juvenile education can be drawn from is $72.8 million above the last year that the JDE program existed as a separate line item. As a result, the Indian Affairs budget is providing substantially more resources which could assist Tribes like Shoshone Bannock in this critical area.

BIA/BIE Budget Amounts Available to Support the Education of Incarcerated Juveniles
(table in thousands)

	FY 2011 ENACTED	FY 2016 REQUEST	$ CHANGE	% CHANGE
Elementary/Secondary Programs*	596,987	648,991	52,004	9%
Detention/Corrections Program	74,492	95,305	20,813	28%
Totals/Average	**671,479**	**744,296**	**72,817**	**11%**

* FY 2016 Excludes Facilities Maintenance program internally transferred in FY 2012.

Current educational programs for incarcerated youth concentrate on the core subjects of math and language arts. Resources directed to this purpose generally support teacher and tutor salaries, instructional materials such as textbooks, computers and education software, and class room supplies. Instruction is most often based on state education standards and where possible, geared to facilitate re-entry to the child's original classroom upon release.

Questions from Mr. Amodei

Real Estate Services – Records of deed

In the FY16 Bureau of Indian Affairs budget justification, the Bureau indicates 88% of deeds are recorded within 48 hours with the eaveat that these deeds are "complete and non-defective deeds." Many tribal governments in my district have expressed displeasure with the Bureau's inability to process requests or provide explanations for discrepancies. Some tribes have outstanding requests which have been pending for more than two years.

Amodei Q1: Can the Bureau explain what processes are being reviewed to enhance performance and reduce wait times of title conveyances and record of deed requests in the Western Region?

Answer: Certification of ownership and recordation transactions for Indian trust land in the Western Region are processed by the Southwest Land Titles and Records Office (LTRO) located in Albuquerque, New Mexico. The Southwest LTRO staff completed training on ownership certification processing on October 10, 2014, to address the 29,889 backlogged transactions logged before October 1, 2014 and the 384 logged after October 1, 2014 and before the training. The office subsequently has implemented strict protocols to ensure timely operations. The LTRO has certified this entire backlog and is staying current as of this date and does not expect a further backlog to accumulate.

Additionally, the BIA Division of Real Estate Services (DRES) and the Division of Land Titles and Records (DLTR) are evaluating how to further improve operations to incorporate the best practices for processing complete non-defective title conveyances and record deed requests. These operational changes will be incorporated in the appropriate handbooks of both programs and training conducted at LTROs and agency offices.

Amodei Q2: In the Bureau's performance metric for wait times, is the time associated with requests for additional information, or denied processing on the basis of improper material submission, legal description discrepancies, or other paperwork issues, included in that metric?

Answer: At the Land Titles and Records Offices (LTRO) a title examiner-recorder verifies that a document and the document data in the titles system of record are complete, accurate, and recordable, including verification of grantor(s) and grantee(s), verification of tract(s), validation of legal land descriptions, verification of ownership interests in tracts, and verification the document was properly executed and approved. If the examiner-recorder verifies the data in the title system is correct when compared to the document, the document is recorded and the recording information is electronically stamped on the document and the document's recording date is entered by the system. If the examiner-recorder identifies a fatal title defect in the document, then the document is not recorded and is returned to the originating office for corrective action. If the examiner-recorder identifies a non-fatal title defect in the document, then the examiner-recorder records the document and completes a title defect record for the document; a defect notice is attached to the document when the document is returned to the originating office for corrective action.

The second internal performance control measure as described above is used to monitor and track the number and percent of complete and non-defective non-probate conveyances recorded and processed within 2 business days at the LTRO. The control relies on the accuracy of data in the title system of record (TAAMS) and does not include a measure of processing time from when the document is returned to the originating office for corrective action to when it is finally returned to the LTRO with the appropriate corrections.

Amodei Q3: If the Bureau does not include those types of denials into their performance metric, what measures can be implemented to better streamline the process so tribes and tribal members are not further delayed by paperwork technicalities?

Answer: In the near term, the BIA Division of Real Estate Services (DRES) and the Division of Land Titles and Records (DLTR) propose to assemble a team consisting of Realty Specialists and Land Titles and Records Offices (LTRO) subject matter experts to investigate, identify, and report on potential backlogs not captured in the current internal control performance metric. This team will work on a detail basis at the agencies where backlogs are reported. Additionally, based on findings in the field, DRES will schedule training sessions with tribal housing authorities and land offices on how to submit complete documentation to prevent title defects and avoid time delays in processing. The programs may also propose a performance metric to track and monitor processing of documents submitted for recording from notice of defect to corrective action and recording to evaluate timeframes for processing and improving service.

Additionally, the Southwest LTRO has two employees encoding conveyances for all three regions that it serves including the Western Region. To ensure the LTROs continue to meet performance timeframes once this effort is completed, three additional support staff will help to manage conveyances processing.

TAAMS

In your written testimony, you stated TAAMS was an important tool in effective real estate transactions. One of the main burdens causing delays in my region has been related to TAAMS, which has been described as cumbersome and out of sync with necessary data and paperwork. It is my understanding the offices in the Western Region have allocated only one staff position to the TAAMS system and that its position is currently vacant. One of the tribes in my district has been waiting on 17 title conveyances for several years. Additionally, that tribe will now have to wait longer because the TAAMS system does not have the correct data paired to their information, and the staff person assigned to that data entry is no longer with the Western Regional Office.

Amodei Q4: What are the Bureau's best practices for ensuring that TAAMS is up-to-date with correct data, and that regional or district staff are properly trained to utilize the system?

Answer: Data is encoded into TAAMS as changes are received. The regional offices base their actions on the data being up-to- date and, therefore, are diligent in updating the database. The Bureau of Indian Affairs (BIA) conducts periodic reviews of the data in TAAMS and takes

corrective action as needed. In addition, BIA has a Data Quality and Integrity contract in place to assist field staff in reviewing all records and data to ensure information is correct. A team of contractors is sent to various locations to work with the realty and title staff to review documents, verify images scanned, and confirm data entered into the TAAMS system to make sure information is recorded correctly. Any discrepancies are noted and corrected by the BIA.

Training on TAAMS for government staff, including the BIA and other agencies, as well as tribal users is available as needed. BIA provides training in a number of disciplines, such as Realty, Title, Forestry, Range, reports, combination training, etc. When training is conducted specifically for a region or a group, the data that is relevant for that location or group is used to make the training most effective. If there is not a sufficient number of staff at one location to warrant training, a centralized location is selected or training is conducted at the contractor facility where users from across the country may participate. The BIA is also developing on-line web-based training which users will be able to access at any time.

Amodei Q5: If an office is struggling to efficiently utilize the TAAMS system, what programs are available to them to receive additional training or support?

Answer: The BIA currently offers in person training for BIA and other agencies, as well as tribal users when needed. BIA is also developing on-line web-based training which will reach new users and users that need refresher training more efficiently and at a lower cost to the government. There will still remain a need for formal classroom training, but utilizing on-line training will be a tremendous step in making TAAMS training more accessible.

Regarding staffing, BIA is in the process of filling vacancies in the realty program. In FY2014 and FY2015, additional funds were provided to regional realty offices, including the Western Region, to provide supplementary support for realty programs.

Regional Oversight Resource Allocation

The FY16 BIA budget request includes a 20 FTE increase in funding for Regional Oversight nationwide. In the Western Region, the office is as much a part of operations as they are oversight. The primary issue contributing to the years of wait times and workload backlogs seems to be an inadequate amount of realty staff serving our region.

Amodei Q6: How will the Bureau take into consideration backlogs, staff levels, staff input, and tribal input when distributing financial allocations, and the 20 FTE should that budget request be fulfilled?

Answer: The Bureau will review workload indicators currently in place (e.g. Realty Tracking Tool, Fee to Trust Sharepoint, TAAMS) and will work with Human Resources staff to do a staffing analysis to determine backlogs and processing needs in the field. In addition, teleconferences with Regional Realty Officers will be conducted twice a month to provide a forum for the Realty Officers to share problems/issues associated with realty activities (e.g. fee to trust, surveys, leasing functions-collection and processing of receivable transactions, rights-of-way). The Bureau currently receives tribal input regarding real estate needs and concerns when

attending various meetings on real property management in the field on a regular basis. If the $2 million requested increase is enacted, the above described factors will be used to determine the funding allocations.

Amodei Q7: The Western Regional Office has been functioning primarily as an operational office and seems less focused on oversight responsibilities. Does the Bureau plan to use any of the additional funds included in the budget request to improve staffing in the Phoenix area realty office or to improve oversight?

Answer: The needs of the Western Region Realty Office will be assessed in line with all the other regional realty programs using the same workload and staffing indicators outlined above. This methodology will allow for the proper distribution of funding to support increased staffing at all locations.

Questions from Ms. McCollum

Special Domestic Violence Jurisdiction

One of the great successes for Indian Country in the last Congress was the reauthorization of the Violence Against Women Act, with the special jurisdiction for tribal courts to prosecute domestic violence against Native women by non-Native partners.

The Department of Justice has been working with three tribal nations in a pilot project for just over a year and early next month the jurisdiction will be in full effect.

McCollum Q1: Please describe what BIA's role has been in the pilot project, and what some of the lessons have been for full implementation.

Answer: The DOI Office of the Solicitor and the BIA Office of Justice Services (OJS) participated in the internal VAWA Federal working group and actively contributed to the group analysis regarding the VAWA pilot project applications. DOI supported the analysis used to approve the pilot project status for the five tribes (Pascua Yaqui Tribe, Confederated Tribes of the Umatilla Indian Reservation, Tulalip Tribes, Assiniboine and Sioux Tribes of the Fort Peck Reservation, and the Sisseton-Wahpeton Oyate).

In some instances, the BIA tribal court assessments supported application discussions by offering a substantive overview of the tribe's judicial system. Some of the general lessons learned from the review process include:

- The need to develop codes regarding specific subject matter such as jury selection and jury pools;
- The need for basic tribal court organizational funding - many tribes expressed concern regarding implementation because the basic infrastructure is not available due to lack of funding;
- The difficulty of obtaining qualified staff in very remote regions - specifically at Fort Peck, hiring a qualified public defender was a problem due to the remoteness of the tribal court (this is not uncommon in Indian Country); and
- The understanding of the VAWA Special Domestic Violence Criminal Jurisdiction (SDVCJ) by tribal councils.

All tribes in the pilot project created tribal specific processes and supported the intertribal nature of the working group by sharing information and lessons learned. Tribes' posted their own tribal specific codes and processes online which was beneficial to all involved. Additionally, the work of the Intertribal Technical-Assistance Working Group on Special Domestic Violence Criminal Jurisdiction (ITWG) was advantageous. The ITWG is a voluntary working group of designated tribal representatives who exchange views, information, and advice, peer-to-peer, about how tribes may best implement SDVCJ, combat domestic violence, recognize victims' rights and safety needs, and safeguard defendants' rights. The working group is one of the most effective tribal working groups established in some time.

The fact that a tribe could participate in the ITWG, before making any decisions on implementing VAWA, provided opportunities for exceptional collaboration, education and training. Tribes participating in the ITWG also had opportunities to engage with DOJ and DOI federal participants, who were available to provide technical advice to the working group as a whole and work with individual tribes to address specific issues or concerns as needed.

McCollum Q2: What will BIA's role be in helping tribes more broadly to implement the new authority recognized under the Violence Against Women Act Reauthorization?

Answer: The BIA-OJS conducts tribal court assessments that are intended to assess the entire needs of a tribal court, not simply the VAWA and/or Tribal Law and Order Act provisions. These tribal court assessments offer a tribe a strategic plan to address needs of the court and prioritize these needs according to what the tribe views as most important.

A solid tribal court organizational infrastructure must be in place before the VAWA SDVCJ provisions and/or the enhanced sentencing provisions of the Tribal Law and Order Act can be effectively implemented. Moreover, in May 2015, the BIA in conjunction with the Pascua Yaqui Tribe will host a VAWA-specific trial advocacy training. BIA will provide funding for tribes experienced in VAWA matters, such as Pascua Yaqui, to train other tribes seeking training. By participating in the ITWG and observing valuable intertribal collaboration, the BIA fully supports tribe-to-tribe training. The BIA expects to provide funding and host at least three additional VAWA-specific trial advocacy trainings this year with the expected venues to be in the Northwest Region (Tulalip Tribes and Umatilla), Great Plains Region(Sisseton-Wahpeton), and Midwest/Eastern Regions (Eastern Band of Cherokee).

Finally, the BIA provided limited funding to the three of the five Pilot Project Tribes, specifically Fort Peck, Sisseton-Wahpeton, and Umatilla. As a result of the findings in the tribal court assessments, funding was provided and targeted for defender and law trained judicial positions. Additionally, funding was provided to assist the tribes in creating VAWA bench books, and code development.

McCollum Q3: Has any funding been requested within the BIA budget to prepare tribal law enforcement and tribal courts to take on these new responsibilities?

Answer: Yes. In FY 2015, the BIA received a $1.0 million increase to provide training to tribes to implement the special domestic violence criminal jurisdiction provisions of VAWA, and this level is maintained in the FY 2016 budget request. The BIA expects to host four VAWA-specific trial advocacy trainings this year facilitated by tribe-to-tribe training. Additionally, we continue to collaborate with other federal partners on more ways to provide VAWA-specific training.

Tribal Law and Order

McCollum Q4: What alternatives to incarceration is BIA helping tribes to provide, particularly for Native youth?

Answer: By increasing the focus on family health and wellness, the Tiwahe initiative is directing new resources to tribes to enhance the quality of services provided to children and families. In the area of public safety, the BIA will work with tribes to implement comprehensive "alternatives to incarceration" strategies which seek to address underlying causes of repeat offenses, including substance abuse and social service needs, by utilizing alternative courts, increased treatment opportunities, probation programs, and interagency and intergovernmental partnerships with tribal, Federal, and State stakeholders. These alternatives will not only be offered to adult offenders but also will be tailored to youth offenders. In addition, any benefit a parent receives from these strategies will have a positive benefit on his/her children.

Examples of alternatives to incarceration obtained from tribes include:

- Probation opportunities – such as ankle bracelet systems with alcohol monitoring capabilities.
- Solution-focused sentencing – guidelines for sentencing individuals with drug/alcohol charges, including providing a model juvenile justice code for implementation.
- Standardized screening/assessment – instrument used to link all tribal human services options to needs of offender on a common data platform and track progress.
- Detention-based treatment – substance abuse and anger management therapy with a reentry focus; inmate has active links to recovery support when returning home.

McCollum Q5: How do you plan to use the additional $5 million requested for Tribal Courts?

Answer: The proposed increase will complement the additional resources and corresponding efforts in Law Enforcement Special Initiatives, ensuring that the judicial branch of targeted tribal public safety systems can function effectively to meet family and community needs under the Tiwahe initiative. Specifically, the increase will provide targeted base funding to tribal courts at each Tiwahe site for:

- Child Case Presenters (dedicated position representing the tribe and presenting all social service issues to the court);
- Guardians Ad-Litem (dedicated to the best interest of the child);
- Civil Defenders (dedicated to representing the parents); and
- Child Protective Services (CPS) code development and CPS procedural manuals specifically for the court.

The additional funding will also provide targeted on-site training sessions at Tiwahe locations to assist tribal court personnel seeking compliance with many CPS related issues, including ICWA issues. The BIA will also develop quick reference checklists, forms, and eventually bench books designed to assist tribal judges hearing CPS matters.

McCollum Q6: What will the $4 million requested for Special Law Enforcement Initiatives be used for?

Answer: The additional funds will enable expansion of BIA's efforts to reduce recidivism at three Tiwahe initiative sites to five sites in FY 2016. Tiwahe, the Lakota word for "Family," empowers American Indian individuals and families, and strengthens tribal communities as a whole, by advocating and supporting the family unit in the areas of child and family protection,

job training, and housing. It also supports Generation Indigenous, an initiative to help improve the lives and opportunities for Native American youth. These services are being provided through the joint partnership of the BIA's Office of Indian Services (OIS), Office of Justice Services (OJS), and the Indian Affairs' Office of Indian Energy and Economic Development (IEED). By increasing the focus on family health and wellness, this initiative is directing new resources to tribes to enhance the quality of services provided to children and families. In the area of public safety, OJS will work with tribes to implement comprehensive "alternatives to incarceration" strategies to address underlying causes of repeat offenses, including substance abuse and social service needs, by utilizing alternative courts, increased treatment opportunities, probation programs, and interagency and intergovernmental partnerships with tribal, Federal, and State stakeholders.

BIA's current Agency Priority Goal states by September 30, 2015, reduce rates of repeat incarceration in three target tribal communities by three percent through a comprehensive "alternatives to incarceration" strategy that seeks to address underlying causes of repeat offenses, including substance abuse and social service needs, through tribal and federal partnerships. Through the additional resources requested in the FY 2016 budget, BIA will expand the Tiwahe initiative to five sites in FY 2016.

The corresponding increase under Tribal Courts enables the vast majority of resources under this increase to be targeted to ensure the availability of treatment/reentry options for participating tribes. By treating the cause and breaking the cycle of repeat offenders, the BIA seeks to support stronger Indian families and communities in addition to reduced rates of recidivism.

One Stop Tribal Support Center

Tribal nations must navigate a complex maze to find and access the services available to them across the many agencies and programs in the Federal Government. The federal government is not doing a very good job of fulfilling our trust responsibilities if tribes cannot find or connect to the resources in place to meet their needs.

McCollum Q7: Please describe how the proposal for a One-Stop Tribal Support Center in the BIA budget will address these concerns.

Answer: The Indian Affairs FY 2016 budget request includes $4 million to develop a national One-Stop Tribal Support Center to make it easier for Tribes to find and access information about the programs, services, and funding opportunities available to Tribes across the Federal government. This effort will be led by the Department of the Interior in its role as chair of the White House Council on Native American Affairs and coordinated across Federal agencies that serve Tribes. The One-Stop Center will advance an "all of government" approach to meeting tribal needs, delivering on Federal responsibilities, advancing government-to-government relationships, and supporting tribal nation building. The effort will include national and interagency coordination, a One-Stop information center and portal, and regional liaisons situated in the field to facilitate streamlined communication and information exchange to help Tribes easily access Federal programs and opportunities. This effort seeks to empower Tribes and tribal organizations to more fully access and leverage Federal resources to support the goals

of tribal nations and communities as they make decisions and carry out activities at the local level. Efforts will initially be focused through the Generation Indigenous Initiative on programs that support providing opportunities and removing barriers to success for Native Youth across Indian Country. DOI will consult with Tribes and work through the White House Council on Native American Affairs to develop a model to carry out and institutionalize this way of doing business going forward.

Key activities will include:

- National-level inter-agency coordination and collaboration across Federal programs and with tribal leaders and organizations to identify and analyze how current programs can be simplified and consumer information and access to tribal funding opportunities can be improved.
- Developing and launching a portal that provides Tribes with easily accessible information and resources to access Federal programs.
- Building regional capacity to connect Tribes to government-wide programs.
- Identifying and partnering with Federal agencies and tribal leadership who will help to build bridges between Indian Affairs, other Federal agencies, and Tribes.
- Working with tribal leadership and organizations to raise awareness to make these One Stop Centers highly effectives and visible.
- Targeting outreach to underserved or hard-to-reach Tribes through community partnerships and outreach to rural areas.

During the first year:

- Indian Affairs will support four positions to begin the development of the Tribal Support Center. When fully executed, the Center will also support 12 regional coordinators.
- Tribal Support Center staff will work through the Council with Indian Affairs programs government-wide to develop and implement a plan for mapping Indian Affairs funding assets and information to make them available through the on-line portal and regional liaisons.
- Center staff will collaborate with Regional and Agency offices to develop an outreach scheme for communicating about Indian Affairs services and resources available to Tribes and tribal communities.
- Tribal Support Center staff will work with Information Technology staff to conduct a needs analysis to determine the services and support needed.
- The One-Stop portal will be designed and developed.
- Tribal Support Center staff will convene workgroups to evaluate the skills and tools available at the local level within tribal communities, to support the development of a one-stop approach to technical assistance and grant writing training for Tribes and tribal communities.

McCollum Q8: How does this propose to integrate services across agencies and departments?

Answer: A major component of the Indian Affairs Tribal Support Center will be an information database to make it easier for Tribes to find and use the hundreds of services available across the Federal government. This one-stop approach will make it easier for Tribes to find services and receive consistent information any time of day and reduce costs by eliminating duplication of

outreach efforts and services by Federal government agencies. Initially, the Center will focus on programs that serve Native American youth, in support of the Generation Indigenous initiative to pilot this new approach to serving needs in Indian Country.

Improved tribal access to the database will be accomplished via the internet and through regional coordinators. If Tribes do not have internet or computer access, the Tribal Support Center staff will team with other Federal agencies to help leverage other Federal initiatives and funding resources to complement the Indian Affairs initiative.

McCollum Q9: Could this service be expanded to individual tribal members accessing services?

Answer: The goal of this initiative is to develop effective resource centers, highly visible in Indian Country, that provide Tribes, tribal communities, and individual tribal members easily accessible, understandable information, assistance, and program linkage to the full range of Federal funding opportunities; infrastructure planning; and community promotion that will enhance tribal community and individual tribal choices, support informed decision-making; and foster a public understanding of the benefits of leveraging Federal resources.

Johnson-O'Malley Count

For years, Indian education leaders have been asking for an updated count of Native American students who are eligible to receive supportive funds through the Johnson-O'Malley (JOM) program. This Subcommittee needs adequate information on the Bureau's progress toward that goal in order to move forward with funding and directions for the Bureau.

McCollum Q10: What is the timeframe for delivering the new count?

Answer: The updated Johnson-O'Malley (JOM) count was electronically delivered to Congress on March 30, 2015.

McCollum Q11: During our hearing, the disparity between the Census and JOM counts of Native American youth was raised, as was the problematic nature of using Census's self-report for JOM purposes. What information/criteria will be used for a new JOM count and how will it be collected to ensure accuracy?

Answer: The Bureau of Indian Education announced tribal consultations in the March 4, 2015 Federal Register. These consultations are scheduled between March 31 and April 10. One of the discussion points will be the criteria that will be used for the JOM count. We presently receive self-reported counts, but they must meet our definition of Indians – a member of a federally recognized Tribe.

McCollum Q12: What consultation has been done within Indian Country regarding the new count? Has Secretary Jewell met with the National Johnson-O'Malley Association or other leaders to explain the delay and how the Department plans to correct prior faulty counts?

Answer: The Bureau of Indian Education has met with the National Johnson-O'Malley Association to discuss the 2014 student count, however, at that time, the count was not completed. Our original timeframe for accepting input from our stakeholders to submit their counts was September 15, 2014. However, due to feedback from Tribes and the National JOM Association, we extended the deadline for student count information to December 31, 2014. To ensure future student count data accuracy, we are consulting with Tribes between March 31 and April 10, 2015. During these consultations, the BIE will be asking for tribal input on how to ensure the count data is accurate.

Tiwahe Initiative

McCollum Q13: How, specifically, is BIA "integrating" various proposals on child welfare, domestic violence, substance abuse, poverty, and incarceration into the Tiwahe Initiative?

Answer: The intent of the Tiwahe Initiative is to build capacity, through integration in the delivery of services to children and families, that will help preserve the family unit and support healthy and productive families. Solutions lie in addressing the interrelated problems of poverty, violence, and substance abuse faced by many communities through a comprehensive, culturally appropriate approach to help improve the lives and opportunities of Indian families. This requires coordination of social service programs, taking steps to maintain family cohesiveness, preparing family wage earners for work opportunities, and providing rehabilitative alternatives to incarceration for family members with substance abuse issues. The proposed increase of $6 million for social services programs in FY 2016 will support the Tiwahe Initiative by providing culturally appropriate services with the goal of empowering individuals and families through health promotion, family stability, and strengthening tribal communities as a whole. The budget also includes $4 million for Law Enforcement Special Initiatives and $5 million for tribal courts to implement a comprehensive strategy for providing alternatives to incarceration and increases in treatment opportunities across Indian Country. The BIA will work with the Departments of Justice and Health and Human Services to provide comprehensive suicide prevention training to police officers and work with tribal courts to identify and make mental health services and support more widely available.

To mitigate risks associated with domestic and family violence in American Indian and Alaskan Native communities, the Bureau of Indian Affairs (BIA) allocated $3 million in Fiscal Year (FY) 2014 to establish an additional 26 tribal and 9 BIA Regional and Agency case worker positions to address family violence in Indian Country. All of the BIA and tribal case worker positions are on or near American Indian and Alaska Native communities with reported high rates of domestic or family violence, teen-suicide, and child abuse and neglect.

The BIA is also working with the Department of Justice, Office of Violence Against Women (OVW), the Office for Victims of Crime, and Department of Health and Human Services, Indian Health Services and Family Violence Prevention Services to coordinate efforts and streamline training and technical assistance to Tribes.

McCollum Q14: Are these simply increased investments in underfunded social services, or is the initiative changing the way that a Native American family in need is able to access supports and services?

Answer: The Tiwahe Initiative is an innovate approach to change the way American Indian and Alaskan Native families access services. Tiwahe will empower American Indian individuals and families, and strengthen tribal communities as a whole, by advocating and supporting the family unit in the areas of child & family protection, job training and housing. These services are being provided through the joint partnership of the BIA's Office of Indian Services (OIS), Office of Justice Services (OJS) and Office of Indian Energy and Economic Development (IEED). Additionally, these offices also coordinate when appropriate with the Bureau of Indian Education (BIE) and the Department of Justice (DOJ).

By increasing the focus on family health and wellness, this initiative is providing Tribes with new resources to enhance the quality of services provided to children and families. The BIA Housing program has expanded services to address the needs of young families and general overcrowding issues, IEED is expanding training opportunities to eligible American Indian Tribes and Alaska Native villages to address the rate of unemployment and poverty – impediments to family economic stability, OJS is reducing recidivism through enhanced cooperation with local human services programs and OIS is reducing the number of incidents of child abuse, neglect and domestic violence by ensuring the coordination of all these services through the Tiwahe staff at each location.

McCollum Q15: How is the BIA funded Tiwahe Initiative linked to the Generation Indigenous initiative, and how will these initiatives together help tribes identify and reach at-risk Native youth and connect them to mental and behavioral health supports?

Answer: The 2016 budget includes key investments to support the launch of Generation Indigenous, an initiative focused on addressing barriers to success for Native American youth. This initiative takes a comprehensive and culturally-appropriate approach to help improve lives and opportunities for Native American youth. As a part of Generation Indigenous, multiple Federal agencies, including the Departments of the Interior, Education, Housing and Urban Development, Health and Human Services, Agriculture, Labor, and Justice, are working collaboratively with Tribes to support educational outcomes and provide wrap around services to help address barriers and provide opportunities for youth, including behavioral and mental health, and substance abuse services

The Tiwahe initiative supports the Generation Indigenous initiative, by promoting an integrated approach to family stability and strengthening tribal communities by addressing interrelated issues associated with child welfare, domestic violence, substance abuse, poverty, and incarceration. The Tiwahe initiative seeks a number of increases in the FY2016 Budget that are coordinated with increases requested across the Federal government as a part of Generation Indigenous.

To support mental and behavioral health, Indian Affairs is proposing an increase of $6.0 million for social services programs that will support the Tiwahe initiative by establishing additional

tribal and BIA social service positions and social services coordinators at designated Tiwahe sites. Tiwahe will utilize a collaborative and multidisciplinary team approach for services, in the areas of child protection and child welfare. Indian Affairs funding will be coordinated with an additional $25 million to the Indian Health Service to address behavioral health issues, a $25 million increase to the Substance Abuse and Mental Health Services Administration for the Tribal Behavioral Health program, and a $132 million increase for the Administration for Children and Families for Tribal Child Care programs.

To address suicide prevention, the BIA will work with the Departments of Justice and Health and Human Services to provide comprehensive suicide prevention training to police officers and work with tribal courts to identify and make mental health services and support more widely available.

The Indian Affairs budget also includes $4.0 million for Law Enforcement Special Initiatives and $5.0 million for tribal courts to implement a comprehensive strategy for providing alternatives to incarceration and increases in treatment opportunities across Indian Country. To promote effective law enforcement and public safety that supports families, the Tiwahe initiative seeks to show how the integration in the delivery of services to children, youth, and families will preserve the family unit and support healthy and productive Indian families. Moreover, it is the intent of the initiative to specifically target American Indian and Alaska Native (AI/AN) children, youth, and families exposed to violence, especially in domestic violence and child endangerment situations. This will be accomplished by bringing together services provided through the BIA agencies of the Office of Indian Services, the Office of Justice Services, and the Bureau of Indian Education (BIE) into a unified partnership.

Questions from Mr. Kilmer

Tribal Climate Resilience

The budget proposes a significant increase in funding for Tribal Climate Resilience. As I mentioned to Secretary Jewell when she testified before this committee, the area I represent has three tribes that directly face threats associated with rising sea levels that has resulted in their need to move to higher ground. So I think this initiative is critically important.

The budget justification focuses on providing tribes with planning, assessing, monitoring and training of the threats that rising sea levels pose to tribal communities.

Kilmer Q1: How can we support tribes—including those with limited resources—take specific actions to protect public safety and preserve sacred sites?

Answer: Tribal communities face significant challenges in addressing both climate impacts and ocean and coastal planning. Tribes are already seeing the impacts and are hampered by limited capacity, resources and detailed vulnerability information, especially for high value but understudied traditional and cultural resources.

The Bureau of Indian Affairs (BIA) provides Tribes a wide range of trust services, coordinates non-trust services, and technical advice through existing programs and services. The Tribes have identified the need for the BIA to coordinate and fund the integration of climate change considerations into all programs and to increase technical support for Tribes. Both elements of the BIA FY16 Tribal Climate Resilience program directly address tribal planning for sea level rise, climate adaptation and, ocean and coastal planning for the protection and safety of tribal communities. Climate adaptation support specifically addresses climate driven analysis and planning and the ocean and coastal support includes non-climate planning and technical support.

The BIA Tribal Climate Resilience program identified in the FY16 budget has three components, direct support for tribal planning (planning, vulnerability assessments, monitoring for indicators), technical support, and capacity building.

There is significant direct support for Tribes for planning to address both climate change and ocean and coastal issues, including sea level rise. Competitive funding for tribal government strategic planning, vulnerability assessments, and monitoring are available.

The most flexible pool of funding for tribal coastal communities is the ocean and coastal planning as ocean and coastal plans can be more focused on a specific risk or resource compared with the crosscutting nature of climate adaptation planning.

The FY16 proposed increases will enable support of detailed, long term vulnerability assessments for resources and risks. Actionable science in the form of vulnerability assessments will enable Tribes and resource managers to accurately identify the risk factors in order to better refine management actions and to set up efficient, targeted monitoring systems to measure the change within the risk profile.

Tribal Higher Education

The budget proposal before us today maintains level funding for post-secondary education programs. This is despite the fact that your budget estimates that the student population will grow and demand continues to increase. We know tribal colleges and universities are extraordinarily strapped for cash, receiving per student funding levels that are still below what Congress authorized nearly 40 years ago—despite the facts that costs have significantly grown to provide a quality question.

Kilmer Q2: Are we doing enough to train students who attend tribal colleges and universities in the skills and practices that they need to be successful and stay competitive in a global marketplace?

Answer: The Indian Affairs budget supports college education of Indian students by owning and operating two Tribal colleges and administering grants to 28 Tribal Colleges and Universities and two Tribal Technical Colleges. TCUs are the cornerstone of post-secondary education in tribal communities where they are located. Current TCU budgets create challenges to hire highly qualified faculty and update technology. Allowing TCUs access to funds through the Department of Education, the Department of Health and Human Services, and the Department of Agriculture, as well as fostering more collaborations and partnerships, can help increase a TCU's capacity to bring innovative and creative practices into their classrooms that facilitate teaching students the skills and practices that they need to be successful and stay competitive in a global marketplace as well as build self-sustaining tribal economies.

The BIE budget also includes funding for post-secondary scholarship programs administered mostly by Tribes. Scholarship funding is a priority of the tribes because community members with advanced skills and education facilitate economic development and other community objectives. The 2016 budget includes an increase of $4.6 million for scholarships and adult education and a $250,000 increase for Special Higher Education Scholarships. Tribes are being encouraged to use a portion of their increase to increase students' engagement with Science, Technology, Engineering, and Mathematics (STEM) related studies.

Indian Forests

The National Indian Forest Resources Management Act directed the Secretary of Interior, in consultation with the affected Indian tribes, to obtain periodic independent assessments of the status of Indian forest resources and their management. The 2013 report found that more than two decades after NIFRMA, the federal government continues to fail to meet its trust obligations to Indian forestry.

Kilmer Q3: How does the BIA anticipate protecting tribal forest land under this budget request?

Answer: Forests are among the most valuable natural resources in Indian Country, serving as a key economic and societal driver on over 103 reservations and surrounding communities across 23 states. More than 18 million of the total 55 million acres of federal Indian trust land is forested. These forests are renewable resources that provide employment, income, foods,

medicines, and fuel while protecting water, soils, and habitats for fish and wildlife which are vital to tribal communities.

The Forestry Program conducts forest land management activities on Indian forest land to develop, maintain, and enhance forest resources in accordance with sustained yield principles and objectives set forth in forest management plans. The Indian Affairs request for the Forestry Program in FY 2016 is $51.9 million. This request will support programs in both the Forestry Program (TPA) and Forestry Projects subactivities. The Forestry Program (TPA) subactivity includes the preparation and administration of forest products sales, and the management and technical oversight of those activities. The sale of forest products is a principle fiduciary trust responsibility and a key source of tribal revenue and employment. Forest products sales support BIA efforts to promote self-sustaining communities and healthy and resilient Indian forest resources. To assist tribes with identifying markets for their forest products, the program partners with the Intertribal Timber Council in marketing and branding research. The harvesting of forest products is required to maintain forest health and protect Indian forests and communities from wildfire, insect epidemics, and disease infestations. The program encompasses all elements of sale preparation, sale administration, and supervision of forest product harvesting contracts. Forestry staff performs program oversight and administrative activities to ensure compliance with applicable laws and regulations. Another component of the Forestry Program (TPA) is assisting tribes in ascertaining and documenting the goals of Indian land owners through Integrated Resource Management Plans (IRMPs).

The Forestry Projects subactivity includes programs such as Forest Development; Forest Management, Inventory and Planning; Woodland Management; and the Timber Harvest Initiative. Forest Development activities include pre-commercial thinning of overstocked forests as well as tree planting - both essential postharvest activities that protect stands from wildfire, insects, and disease. The current forest development backlog of untreated forest includes 226,000 acres of planting and 511,000 acres of thinning. Forest Management, Inventory and Planning activities include geospatial analysis, measurement of trees, determination of tree growth, and documentation of long term trends including those induced by climate change. It also includes the calculation of an annual sustained yield harvest, and the development of environmental compliance documents, forest management plans, and forest histories. Woodland Management activities occur in forested areas where traditional logging operations are considered uneconomical. However, these areas, such as the pinyon-juniper woodlands of the southwest, have important fuelwood, cultural, spiritual, and traditional characteristics important to tribes. Indian woodlands encompass over 10 million acres. The Timber Harvest Initiative program promotes the harvest of forest products on reservations that are unable to meet their annual sustained yield harvest.

The FY2016 budget justification includes an increase of $4.0 million for Forestry Projects which will have a positive impact to the Forestry Program through improved science and data collection. This increase will fund projects which address the impacts of climate change on natural resources within tribal communities. It will allow the tribes to capture vegetation data used in inventory analyses, forest management plans, and integrated resource management plans so treatments can be scheduled to improve landscape resiliency.

Aggressive and systematic treatment of forested landscapes is the only scientifically proven method to protect the health, vigor, and commercial viability of tribal forest land. Density reduction operations, commercial (logging) or non-commercial (thinning), create landscape resiliency in the face of drying climates, reducing the size and intensity of wildland fire while keeping insect and disease populations in check.

Federal Recognition

In May 2014, the Department published in the Federal Register a proposed rule that would make changes to the Department's existing federal recognition regulations and associated criteria, and conducted tribal consultations throughout last summer.

Kilmer Q4: What is the status of the Department's review of public comments received on the proposed rule and when can we expect to see a proposed final rule?

Answer: The extended comment period on the proposed Federal Acknowledgment rule closed on September 30, 2014. Since that time, the Department has been closely reviewing all comments and working toward publication of a final rule. The Department expects to have a final rule published before the end of calendar year 2015.

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

March 25, 2015

The Honorable Ken Calvert
Chairman
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

It was a pleasure to appear before your subcommittee on February 27, 2015 to discuss the preliminary results of the work you requested on the Department of the Interior's Bureau of Indian Education (BIE) school facilities.[1] Enclosed is GAO's response to the questions for the record that you submitted to us after the hearing. Should the Subcommittee have further questions about the preliminary results of our work on BIE school facilities, please contact me at (617) 788-0534 or emreyarrasm@gao.gov.

Sincerely yours,

Melissa Emrey-Arras

Melissa Emrey-Arras, Director
Education, Workforce, and Income
Security Issues

Enclosure

cc: The Honorable Betty McCollum, Ranking Member

[1]GAO, *Indian Affairs: Preliminary Results Show Continued Challenges to the Oversight and Support of Education Facilities*, GAO-15-389T (Washington, D.C.: February 27, 2015).

Enclosure

GAO Response to Questions for the Record
From Chairman Ken Calvert
House of Representatives, Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Following the Subcommittee's February 27, 2015 hearing entitled
"Fiscal Year 2016 Budget Oversight Hearing: Indian Affairs"

1. **Your written testimony states that you visited 12 BIE schools. Would you please elaborate on the conditions you observed at the schools, including any health and safety hazards?**

My testimony provides photographs and descriptions of some of the physical conditions and various problems that we observed during our visits with selected BIE schools during our ongoing work. For example, at one school, a high-voltage electrical panel was installed next to the dishwashing machine of a cafeteria's kitchen, which posed a potential electrocution hazard. Since our visit in October 2014, school officials reported that they have addressed this issue by relocating the panel. This school's dormitory for elementary school students had cramped conditions with inadequate clearance between top bunks and sprinkler pipes in sleeping areas. School officials noted that students had received head injuries from bumping their heads on the pipes and some students had attempted suicide by hanging from them. Additionally, in some cases, schools with older buildings did not have adequate systems for ensuring student health and safety. For example, facility staff at one school showed us an aging telecommunications relay panel that they said did not allow phone calls between dormitory floors and other buildings, making communication difficult in the event of a campus-wide emergency, such as a fire or security issue. Further, at another school, students and staff at the elementary school went without hot water for about a year, which we brought to the attention of BIA facility officials, and the problem was subsequently addressed.

2. **Your statement discusses problems with recent construction of BIE facilities. What were some of the specific problems you observed?**

Several of the schools we visited reported encountering problems with new construction at BIE schools. For example, officials at three schools said they encountered leaks with roofs installed within the past 11 years.[2] In addition, at another school we visited in South Dakota, school officials reported several problems with their new school facility, including heat pumps that do not adequately heat the building in the winter months as well as a lack of a backup generator to prevent freezing pipes during winter power failures. After our visit, school officials reported that a large concrete fragment fell from the upper wall of a kindergarten classroom, which was unoccupied at the time. Further, at a school we visited in South Dakota, the school's newly constructed building for bus maintenance and storage exhibited various problems. For example, the part of the new building for bus maintenance has one hydraulic lift, but the size of the building does not allow a large school bus to fit on the lift when the exterior door is closed

[2]For example, in my statement, I described a school whose replacement roofs cost about $3.5 million and have leaked since their installation in 2010. According to Indian Affairs documents, this project called for replacing about 150,000 square feet of roofing plus repairing an additional 40,000 square feet of roofing.

because the bus is too long. As a result, staff using the lift would need to maintain or repair a large bus with the door open, which is not practical in the cold South Dakota winters.

3. Why does Indian Affairs have such poor quality data on the conditions of BIE schools?

Several factors affect the longstanding challenges with the quality of data on the conditions of BIE schools. For example, in our ongoing work, we found that Indian Affairs does not routinely monitor whether schools are entering complete data on their facilities. In addition, officials at some schools we visited said that they faced obstacles to entering data, including lacking expertise and not receiving adequate training. According to Indian Affairs officials, the last centralized training on its facility database was held in 2012. Further, certain schools have also faced difficulties connecting or maintaining access to the database. Our past work in 2003 and other research found similar challenges with data quality on BIE school facilities.[3] Inaccurate and incomplete data hinder Indian Affairs' ability to identify and prioritize schools' repair and improvement needs and effectively target limited funds accordingly.

4. With respect to BIE facilities, can you please discuss Indian Affairs' major management challenges?

Preliminary results from our ongoing work indicate that systemic management challenges at Indian Affairs are hindering effective oversight of BIE school facilities. These challenges include limited staff capacity to address school facility needs, inconsistent accountability for school construction, and poor communication with schools regarding the roles and responsibilities of different Indian Affairs offices. These findings are consistent with our prior BIE work, in which we found that Indian Affairs had similar challenges overseeing BIE schools in other areas, such as in financial management and workforce planning.[4]

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[3]GAO, *Bureau of Indian Affairs Schools: New Facilities Management Information System Promising, but Improved Data Accuracy Needed*, GAO-03-692, (Washington, D.C.: July 31, 2003); and No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee Report, *Broken Promises, Broken Schools* (Washington, D.C.: December 2011).

[4]GAO, *Indian Affairs: Better Management and Accountability Needed to Improve Indian Education*, GAO-13-774 (Washington, D.C.: September 24, 2013); and GAO, *Indian Affairs: Bureau of Indian Education Needs to Improve Oversight of School Spending*, GAO-15-121 (Washington, D.C.: November 13, 2014).

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