

S. HRG. 112-731

# *Senate Hearings*

*Before the Committee on Appropriations*

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Department of the Interior,  
Environment, and  
Related Agencies  
Appropriations

*Fiscal Year* 2013

112<sup>th</sup> CONGRESS, SECOND SESSION

H.R. 6091

DEPARTMENT OF AGRICULTURE  
DEPARTMENT OF THE INTERIOR  
ENVIRONMENTAL PROTECTION AGENCY  
NONDEPARTMENTAL WITNESSES

Department of the Interior, Environment, and Related Agencies Appropriations, 2013  
(H.R. 6091)

**DEPARTMENT OF THE INTERIOR, ENVIRONMENT,  
AND RELATED AGENCIES APPROPRIATIONS  
FOR FISCAL YEAR 2013**

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**HEARINGS**

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

**H.R. 6091**

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENT OF THE IN-  
TERIOR, ENVIRONMENT, AND RELATED AGENCIES FOR THE FISCAL  
YEAR ENDING SEPTEMBER 30, 2013, AND FOR OTHER PURPOSES

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**Department of Agriculture  
Department of the Interior  
Environmental Protection Agency  
Nondepartmental Witnesses**

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# CONTENTS

WEDNESDAY, FEBRUARY 29, 2012

	Page
Department of the Interior: Office of the Secretary .....	1

WEDNESDAY, MARCH 14, 2012

Department of the Interior: Bureau of Land Management .....	77
Department of the Interior: Bureau of Ocean Energy Management .....	86
Department of the Interior: Bureau of Safety and Environmental Enforcement .....	91

WEDNESDAY, APRIL 18, 2012

Department of Agriculture: United States Forest Service .....	125
---	-----

WEDNESDAY, MAY 16, 2012

Environmental Protection Agency .....	175
Nondepartmental Witnesses .....	235



**DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2013**

**WEDNESDAY, FEBRUARY 29, 2012**

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

The subcommittee met at 9:35 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Jack Reed (chairman) presiding.

Present: Senators Reed, Leahy, Tim Johnson, Tester, Landrieu, Murkowski, Alexander, Cochran, Collins, and Hoeven.

**DEPARTMENT OF THE INTERIOR**

**OFFICE OF THE SECRETARY**

**STATEMENT OF HON. KEN SALAZAR, SECRETARY**

**ACCOMPANIED BY:**

**DAVID J. HAYES, DEPUTY SECRETARY**

**PAMELA K. HAZE, DEPUTY ASSISTANT SECRETARY FOR BUDGET, FINANCE, PERFORMANCE, AND ACQUISITION**

**OPENING STATEMENT OF SENATOR JACK REED**

Senator REED. Let me call the hearing to order and on behalf of the members of the subcommittee I'd like to welcome the Secretary of the Interior. Mr. Secretary, thank you very much for taking time to be with us this morning and to talk about the fiscal year 2013 budget for the Department of the Interior.

I would also like to take a moment to thank you for all the time that you spent in our States during the past year visiting our shared priorities. I very much appreciated your trip to Rhode Island last summer and your support to create the John H. Chafee Blackstone River Valley National Historic Park.

I am also grateful for your participation, you and your staff, along with Senator Murkowski, for our very interesting and informative trip to Alaska. And I would also like to thank Senator Murkowski not only for her gracious hospitality in Alaska, but for her extraordinary efforts last year on a bipartisan basis to bring forward an Interior bill which I think was a good one. Thank you very much, Senator Murkowski, for your great work and for the work of your staff.

Mr. Secretary, I also want to thank you for your intense interest in all these issues and for your accessibility and collaboration with

us throughout the process last year, and we look forward to the same collaboration going forward this year.

Turning to the budget, it appears that the administration is seeking \$10.4 billion for Interior programs under the jurisdiction of this subcommittee. That is an increase of \$139 million, or about 1 percent more than the equivalent fiscal year 2012 enacted level.

Within that amount, funding for the operations of our national parks, refuges, and other public lands is essentially flat at \$4.56 billion. Tribal programs are also flat-funded at approximately \$2.53 billion.

The budget request does include a few new investments, including a \$115 million increase for the Interior Department's Land and Water Conservation (LWCF) programs, for a total of \$332 million. That amount is a 53-percent increase more than the fiscal year 2012 level and includes a new emphasis on landscape-scale projects in Montana, Wyoming, and Florida.

I look forward to discussing how this proposal fits in with other land acquisition priorities particularly since I notice that there are no projects in some of our States, Rhode Island included, with respect to land acquisition. And it is very important, I think you recognize this, for urban parks and refuges and also for the whole country that we have an active acquisition process going forward.

The budget request also includes \$222 million for the Bureau of Safety and Environmental Enforcement (BSEE), a 13-percent increase for inspections and enforcement. I understand the Department intends this funding increase to continue the transformation of its offshore energy program.

The request also proposes substantial increases in science, including a 3-percent increase in the U.S. Geological Survey's (USGS) budget for a total of \$1.102 billion. Within that amount is \$18.5 million for hydraulic fracturing research to support a multi-agency research effort to address environmental questions related to energy development.

Of course, as is often the case during these fiscally difficult times, the administration's budget request also contains reductions to other important programs, including a 19-percent cut to land management agency construction programs and an additional 14-percent cut to the construction of tribal schools. And finally, it requires yet another round of belt-tightening by the Department's Bureaus to produce \$80 million in administrative savings.

As we discuss the details of this request, it is very important to note that, for decades, resources provided to the Department through the Interior, Environment, and Related Agencies appropriations bill have created jobs by enabling oil and gas development, supporting outdoor recreation, and building facilities, roads, and trails on our public lands.

The Department now has the opportunity to spur economic growth through new sectors like renewable energy, and that fact makes it even more important that the right resources and policies are in place to permit these projects to proceed quickly and responsibly.

In particular, I would like to have a conversation about the role of the Bureau of Ocean Energy Management (BOEM) in permitting new offshore wind projects, which have the ability to create hun-



dreds of new assembly and manufacturing jobs all across our coastal areas, but in particular at Quonset Point, Rhode Island. I think some of my colleagues also have some interest in those projects.

We have worked in Rhode Island and in adjacent States, but particularly Rhode Island, to develop an ocean special area management plan (SAMP), first in the Nation effort to streamline the planning process for the siting of these facilities. And despite all this work, I am concerned that BOEM's environmental assessment and planning process for Rhode Island is falling behind schedule, that we are not keeping pace with other areas of development.

And finally, I would also expect to discuss how the Department's budget request will support and expand other types of energy development. The subcommittee has been very involved in the reorganization of offshore oil and gas programs, and I am anxious to hear a progress report from the Secretary regarding how the Department's three new Bureaus are addressing their management challenges.

I anticipate that we will also discuss the changes the Department is proposing to its onshore energy development budget, including a proposal for a new inspection fee for oil and gas development on Bureau of Land Management (BLM) lands, and I look forward to a good conversation on all of these important issues.

And now, Mr. Secretary and colleagues, I would like to turn to the ranking member for any of her comments.

Senator Murkowski.

#### STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Mr. Chairman, and welcome to the panel.

We had the opportunity yesterday to have Secretary Salazar, Assistant Secretary Hayes, and Ms. Haze before the Energy Committee. So I had a chance to do some warm-up questions then, but it is good to welcome you back to this subcommittee.

And Mr. Chairman, you mentioned the trip that we took to Alaska this summer. I, too, want to thank the Secretary and thank you and your staff. Peter Kiefhaber, who is no longer with the subcommittee, but did a great job with us as we worked that Interior package last year. So thank you not only for the time that you took to look at some issues that are very important to my State and to the country, but also for the good work of your staff as we built that bill last year.

This morning, Mr. Chairman, I think we recognize that this is just the first of several of our subcommittee hearings that we will engage in an oversight role we exercise during these hearings. It is especially critical in this challenging fiscal climate where we are forced to make some very difficult decisions, difficult choices between many worthy programs that are funded by this bill and by others.

It is imperative that we work with the executive branch to improve the efficiency and the quality of the programs that are administered by all of the agencies that are under our jurisdiction. I think we all recognize that in this time we are all having to figure out how we do more with less.

As you have indicated, Mr. Chairman, the Department's budget request is essentially flat at \$10.4 billion. But before I describe some of the concerns that I might have, I want to applaud you, Mr. Secretary, for including the full amount of contract support costs for the Bureau of Indian Affairs (BIA) request.

These funds are absolutely, absolutely critical for the delivery of so many programs to Native Alaskans. As you know, this is a top priority for me, and I hope that we can encourage Indian Health Services to adopt your approach in future requests. So I thank you for that.

There are a number of concerns that I have with the Department's budget proposal for fiscal year 2013. Similar to last year, it does propose to increase by 39 percent the amount for LWCF programs while at the same time we are cutting the construction accounts for all of the land management agencies and BIA.

I think it is somewhat shortsighted to continue underfunding essential construction and maintenance programs while at the same time we are increasing the operational demands on the Department by expanding the amount of land under its jurisdiction. That was something that I had noted yesterday.

I do find it curious that at the same time that the budget proposes to dramatically expand Federal land acquisition that it eliminates the National Wildlife Refuge Fund, which compensates States and localities for the loss of tax revenue due to Federal ownership.

And while the budget proposes to extend mandatory Payments in Lieu of Taxes (PILT) that expire this fiscal year by just 1 additional year, it doesn't provide for offsets. I think that before we commit funds to additional land acquisitions that we should make sure that we have got a definitive way to honor our existing commitments to States and counties that already have a large Federal land base which is not subject to property taxes.

I was in Ketchikan on Friday. It is the southernmost community in southeastern Alaska, sits in the middle of the Tongass National Forest. I was reminded that in Ketchikan, only 1/30th of 1 percent of the Ketchikan borough is taxable, is subject to any taxation, 1/30th of 1 percent.

So when we cut back on PILT, when we cut back on Secure Rural Schools program funding, there is no way to expand their tax base. They are sitting in the middle of a national forest. So it was a good reminder to me of the importance of some of these mandatory payments.

Also, a number of troubling proposals in the request for new fees that would raise the cost of domestic energy production, mining, and livestock grazing. I am concerned with what I would describe as a budget gimmick, and this relates to the Coastal Impact Assistance Program (CIAP).

There is an offset of current discretionary programs by rescinding the \$200 million within CIAP. This was established by the Energy Policy Act of 2005 in recognition of the direct impacts that are caused by Federal offshore Outer Continental Shelf (OCS) development on our OCS-producing States.

Alaska, for instance, would lose \$16 million of the remaining \$45 million that it is entitled to under the program for environmental

mitigation and infrastructure improvements. This is an unacceptable situation in my opinion, particularly in light of the fact that we have yet to enact legislation that would provide for State revenue sharing for OCS-producing States so that the projects that are currently supported by CIAP would continue to have a funding source.

On a positive note, and as I said yesterday, you can't have conversations like this without—and being critical in areas without recognizing where we truly have made significant gains, and I thanked you for the contract support. But I would also like to thank you, Mr. Secretary, and the Department for the approval of Shell's Arctic spill prevention plan on the 17th of this month. I am very, very hopeful that after a number of false starts on this exploration of both the Beaufort and the Chukchi Seas that we can actually begin this summer.

And again, Mr. Hayes, I thank you for your very personal efforts. You have been engaged at a level at the Secretary's request that I think has helped to facilitate this process.

I am also very optimistic that language that was included in last year's Interior, Environment, and Related Agencies appropriation bill that transfers the authority over air quality issues in Arctic OCS from the Environmental Protection Agency to the Department of the Interior will finally provide some much-needed regulatory certainty for the environmentally safe and timely development of our resource.

So I thank you for your assistance in many of these areas. Look forward to furthering our conversation today.

And I thank you, Mr. Chairman.

Senator REED. Thank you, Senator Murkowski.

Mr. Secretary, while we anticipate your testimony, I would like to give my colleagues present here an opportunity to make a brief statement before you begin.

Senator Collins.

#### STATEMENT OF SENATOR SUSAN COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

First, Mr. Chairman, let me say how much I look forward to working with you and the ranking member this year in crafting this important appropriations bill. And of course, it is always a pleasure to welcome back to the subcommittee our former colleague Secretary Salazar. I told Secretary Salazar this morning that he was my favorite Cabinet member, to which my colleague Senator Alexander quickly replied that I tell all the Cabinet members that.

Senator COLLINS. But truly, we do have a special relationship from having served together. I also want to thank the Secretary for traveling to Maine last August to see the exciting new deepwater offshore wind technology that is being developed there.

While I have looked forward to learning more about the broad range of activities included in the Department's budget request, I am particularly interested in discussing the BOEM's efforts with regard to leasing and permitting deepwater offshore wind, an issue that I know is of great interest to the chairman of this subcommittee as well. Specifically, I look forward to discussing

BOEM's efforts in Maine, including the Renewable Energy Task Force and Statoil's unsolicited lease application.

I know that you share my interest in streamlining the development of our offshore wind resources permitting so that we do not lose the global race in the development of this abundant, renewable energy source.

In addition to advancing our goal to responsibly develop our energy resources, partnerships are paramount for striking the right balance in meeting our shared conservation goals. On that foundation, our open spaces, recreation, and working lands can continue to coexist for the benefit of future generations.

One of the most important Federal programs to assist in the preservation of recreational and environmental resources is the LWCF. Secretary Salazar, you have been such a leader in this area, and I know you well recall how hard we worked together in this area to increase funding during your time in the Senate. I appreciate the administration's continued commitment to LWCF, which has funded the acquisition of key parcels within Maine's treasured Acadia National Park and strategic forest legacy projects.

In addition, I am pleased to see partnerships highlighted in the America's Great Outdoors Initiative, including two community-led signature projects in Maine, the Keeping Maine's Forests and the Penobscot River Restoration Project. The Penobscot River Restoration Project is the largest river restoration project ever undertaken in the eastern part of the United States. It has been a true private-public partnership.

I look forward to working together, particularly considering the challenging budget constraints, to ensure that the Department continues to provide technical assistance and seed money to help match the considerable private funding that has been raised to complete these flagship projects.

These are just some of the issues I hope to touch on today, and I thank you, Mr. Chairman, for the opportunity to give an opening statement.

SENATOR REED. Thank you, Senator Collins.

Are there any other colleagues that wish to give an opening statement? Senator Tester.

#### STATEMENT OF SENATOR JON TESTER

Senator TESTER. I will be brief. I want to thank you, Chairman Reed and Ranking Member Murkowski, for holding this hearing.

And I want to thank Secretary Salazar, flanked by the two "Hayzes" here today. I appreciate the work you have done.

I just want to look back. I think we had an incredibly successful year last year with wolf delisting, with the *Cobell* settlement, with the *Crow* water settlement. And I think that the ground-up strategy that you folks have used for land management, I think, is critically, critically important, and I applaud you on that.

As we flesh out this budget, I think we need to continue to work to make things as good as we can for your Department and for the Federal lands around the country.

So thank you very, very much.

Senator REED. Thank you very much, Senator Tester.

And I am going to try to abide by the early bird rule with one exception. Senator Leahy has asked that he be recognized in the proper democratic order when he arrives, and I will do that and wanted to let my democratic colleagues know that.

And with no—

Senator ALEXANDER. Wait. Could I make a brief statement?

Senator REED. Absolutely. Senator Alexander, please.

STATEMENT OF SENATOR LAMAR ALEXANDER

SENATOR ALEXANDER. Mr. Chairman, I want to join in the welcome of Secretary Salazar, who is well known and well loved here in our—in the Senate and thank him for his travels, including to the Great Smoky Mountain National Park, where he appeared with, among others, Dolly Parton, rendering everybody else who was present unimportant.

But, one, I want to remind the Secretary and this subcommittee of the disparity in funding of our great national parks. The Great Smokies is the only park, only big park, that was actually given to the United States. It wasn't carved out of Federal land. And as a result of that, we don't collect a fee on people who come into the Great Smoky Mountain Park. So we have about one-half as much money to spend and two or three times as many visitors as even the big western parks in the Great Smokies.

Last year, \$35 million for Yellowstone National Park, \$29 million for Yosemite National Park, 19 million Federal dollars for the Smokies. And the people in the area have worked hard to—and of course, at Yellowstone National Park and Yosemite National Park, you have the fees on top of that. And at Smokies, you don't.

Now we make up for that with a lot of volunteer work on the trails and efficient management. But I would hope, Mr. Secretary, you would look for ways to recognize the Smokies doing so much for itself, and you and I have talked about the joint curatorial collection facility there that would benefit five national park properties, which is competing for construction funds, which I know are diminishing, but a place to put important papers from the area, including President Andrew Johnson's papers.

And we hope it has a priority and maybe a little equity since the park is not as well funded as others, even though it has two or three times as many visitors as other parks.

The second thing I will be asking you about are fish hatcheries, which supply—one of which supplies the whole country. And I learned a long time ago that there are probably more people with hunting and fishing licenses in Tennessee than who vote. And so, this is serious business for us, and I will be asking you if you will give me some assurance you will not close the two fish hatcheries in Tennessee until we find a funding solution.

We are working with the Corps of Engineers (COE), the Tennessee Valley Authority (TVA), to try to find a solution to this. We understand you will have to reduce some Federal funding. But if they close before we find a solution, that will be very, very disappointing.

So I welcome you, and I look forward to my opportunity to ask questions at a later time.

Senator REED. Thank you very much, Senator Alexander.

Senator ALEXANDER. Thank you, Mr. Chairman.

Senator REED. Mr. Secretary before you begin, I want to again recognize Deputy Secretary Hayes and Deputy Assistant Secretary Haze.

#### SUMMARY STATEMENT OF KEN SALAZAR

Secretary SALAZAR. Thank you very much, Chairman Reed, and thank you for the recognition of my colleagues, members of the subcommittee, Deputy Secretary David J. Hayes and Pamela K. Haze, Deputy Assistant Secretary for Budget, Finance, Performance, and Acquisition.

Ranking Member Murkowski, Senator Susan Collins, Senator Alexander, Senator Johnson, and Senator Tester, as I appear before you this morning—and I hope I am your favorite Secretary, Senator Collins—I can only tell you that when I look at the five of you, six of you, you are some of my favorite Senators.

Secretary SALAZAR. I think if the rest of the U.S. Senate were like the six of you who are here today, I think we could solve every problem in the world. So I just wish there were more of you, both Democrats and Republicans.

Let me also just acknowledge the great work of your staff. Rachael, congratulations on your appointment. We will miss Peter, but we know you will carry on and do a great job, and the great bipartisan relationship that you also have on the subcommittee reflects back on the staff. It has been great working with you as well and the staff on both sides.

Let me say in this position as Secretary, I am very, very honored to be able to be the custodian of America's natural resources and the custodian of America's heritage. From the Crown of the Continent in Montana to the Great Smoky Mountains, to Mount Rushmore and the Dakota Grasslands to Acadia and the Penobscot River, to Mount Denali and the North Slope down to the Blackstone National Heritage Area, you reflect much of my job in the work you all do on behalf of your States. I very much have enjoyed visits to your States and spending time with you, working on solving problems because I think all of you and I are committed to doing that.

#### FISCAL YEAR 2013 BUDGET

Let me just spend a few minutes talking about the budget proposed for fiscal year 2013. It is a squeeze budget. It is a tough choices and painful cuts budget. Senator Reed made the statement that it is a basically a flat budget, but there are also some very significant cuts to make the budget balance.

It is a budget that cuts Government and asks us to do more with less. That is what the President has directed us, and as we all deal with these tough fiscal times, that is just a reality we have to face. It is a budget that supports huge job creation in energy, both in conventional energy, oil and gas, as well as renewable energy, where we have all made some major strides.

It is a budget that supports conservation and tourism and the major dollars that are brought into each of your States from the conservation and outdoor recreation program, including all those hunters and anglers, bikers and hikers, and wildlife watchers. It is

a budget that also does as much as we possibly can to honor the principle of our responsibility on the trust relationship with Native Americans.

Now look at this budget in context. It is 3-percent less than where we were in fiscal year 2011. That is 3-percent less than. As Senator Reed remarked, it is about flat with where we were in fiscal year 2012. I want to spend a few minutes on some of the key points of this budget.

#### CUTS AND EFFICIENCIES

The first are cuts and efficiencies in Government. This budget, as it has been presented, will result in a reduction of the Federal workforce at Interior by 591 full-time equivalents (FTE). We continue to look at how we do the job assigned to us by this Congress over the years and to do it in the right way with, frankly, fewer people. We are asking a lot of our people.

We also move forward with some program terminations and downsizing. Some of these cuts are painful cuts and they end up reflecting a \$517 million cut.

In administrative efficiencies, we have taken a hard look at how we are doing information technology, procurement, and other functions of the Department, and there is a total of \$207 million of administrative efficiencies that are also set forth in this budget. Cuts and efficiency in Government, we are going to be doing more. We are going to be doing it with less.

#### OIL AND GAS PRODUCTION

On jobs, with respect to energy, it is one of the hottest issues here in the Capitol these days. We continue to move forward with onshore oil and gas production, as well as offshore oil and gas production. The President has directed us and we are implementing the program to move forward with the program that produces America's domestic energy.

#### ENERGY

The budget reflects \$662 million for conventional energy resources. We are moving forward with a number of initiatives in the Gulf of Mexico. As Senator Murkowski said, we may be moving forward with some programs also in the Beaufort and the Chukchi Seas in Alaska and onshore in Alaska in places like the National Petroleum Reserve-Alaska, which had basically not been developed, and we are moving forward there as well. We have an aggressive program for oil and gas development, both onshore as well as offshore.

#### RENEWABLE ENERGY

The renewable energy effort contemplates \$86 million, which is really only about 1/10th of what we are putting in the conventional energy area, but still there. Our high priorities are to move forward with both offshore wind energy, as well as onshore solar, geothermal, and wind energy. By the end of this year, we expect to be at more than 10,000 megawatts permitted onshore in the United States of America. The 2005 energy bill that I worked with you all

on had a goal of less than that, and we actually will be surpassing the goals that were set forth in the act.

#### TOURISM

Let me finally just say outdoor recreation and tourism, it is important for all of you to note that wherever I have gone around the country, including with Senator Collins as we stood there at L.L. Bean, we spoke about the importance of tourism and conservation and job creation. Independent studies have indicated tourism and conservation, outdoor recreation, and historic preservation bring in about 8 million jobs to this country every year.

A report from McKinsey International indicates we can grow the economy from where it is today with an additional 2.1 to 3.3 million jobs over the next 10 years by investments in conservation and outdoor recreation. Hence, the request we have for LWCF and other investments in conservation.

#### INDIAN COUNTRY

Let me finally just say on tribal homelands, I am proud of the work we have done there. I think Assistant Secretary Larry Echo Hawk and his team have led the effort to make some of the most dramatic changes. Senator Tester spoke about some of the achievements just in the State of Montana. That has swept the country, and the Deputy Secretary, David Hayes, has been involved in many of those initiatives.

It is a new beginning in our relationship with Indian country. The 566 tribes of the United States recognize that. We recognize we have a lot more work to do. But when you look at programs like the beginning of the Navajo water supply pipeline that will bring for the first time potable water to the 70,000 Navajos on the reservation, we are making significant progress there. I am very proud of the work that we have done there.

#### PREPARED STATEMENT

In conclusion, Mr. Chairman, and distinguished friends and members of this subcommittee, this is a tight budget. It is a squeeze budget. There are painful cuts included.

I don't like many of them, frankly. I would rather be doing a lot more if we had that luxury. But it is a budget that is balanced, and it invests in job creation through energy, conservation—not just in this subcommittee, but also in other committees on the water side. We are doing a lot with water, tribal homelands, and I appreciate all the great work that all of you did in getting a fiscal year 2012 budget that allowed us to move forward with the plans for 2012.

So thank you all very much.

[The statement follows:]

#### PREPARED STATEMENT OF KEN SALAZAR

Mr. Chairman and members of the subcommittee, I am pleased to be here today to present the details of the fiscal year 2013 budget request for the Department of the Interior. I want to thank the members of this subcommittee for your efforts to enact a fiscal year 2012 appropriation. The fiscal year 2012 appropriations process was challenging for the Congress and the agencies—it required a coming together of diverse philosophies and views. We appreciate the support of this subcommittee for our priorities including the America's Great Outdoors Initiative, which enhances



our efforts to be responsible stewards of the Nation's lands and resources, expanded responsible development of domestic energy sources with reforms in the oil and gas programs, high levels of youth hiring and education in all of our programs, and support for improved living and economic conditions for American Indians and Alaska Natives. Last, I appreciate the ongoing support of this subcommittee and your strong interest in our programs. Although we may not always share the same views, we have been able to accomplish a lot in these last 3 years.

The fiscal year 2013 budget builds on this strong foundation with \$11.5 billion requested in the President's budget for the Department of the Interior. This includes \$10.5 billion for programs under the jurisdiction of the Interior, Environment, and Related Agencies Subcommittee and included in the Interior bill. The budget for current appropriations is \$140.3 million or 1 percent more than the fiscal year 2012 level. The request includes reductions and savings of \$516.8 million. We made difficult choices in this budget, sacrificing in many areas, deferring projects, and programming savings for efficiencies in order to maintain funding for key priorities and investments that will contribute to strengthening the economic vitality and well-being of the Nation.

As the President has detailed in his "Blueprint for an America Built to Last", the budget proposes investments in an economy that works for everyone. Our budget request supports responsible domestic energy development, advances an America's Great Outdoors Initiative to maintain our legacy and stimulate new opportunities, applies science to address the most formidable natural resource challenges, and invests in self-determination and economic development to strengthen tribal nations. This subcommittee has been an active partner in advancing these priorities. I look forward to our continued collaboration during the fiscal year 2013 appropriations process.

#### INTRODUCTION

The mission of the Department of the Interior is to protect and manage the responsible use of America's natural resources, support our cultural heritage, and honor the Nation's trust responsibilities to American Indians and Alaska Natives.

Interior's people and programs impact all Americans. According to a Department study, in 2010, Interior programs and activities supported more than 2 million jobs and approximately \$363 billion in economic activity. The Department is the steward of 20 percent of the Nation's lands. Interior manages the resources of the national parks, national wildlife refuges, and public lands and assists States, tribes, and others in the management of natural and cultural resources.

Interior manages many of the Nation's natural resources, including those that are essential for America's industry—oil and gas, coal, and minerals such as gold and uranium. On public lands and the Outer Continental Shelf (OCS), Interior provides access for renewable and conventional energy development and manages the protection and restoration of surface mined lands. The Department of the Interior oversees the responsible development of 24 percent of America's domestic oil and gas supplies, while striving to ensure safety and environmental protection and the effective collection of revenue from this development. We estimate that energy and minerals development on Federal lands supported 1.3 million jobs and \$246 billion in economic activity in 2010.

The Department is also the largest supplier and manager of water in the 17 Western States, promotes and assists others to conserve water and extend water supplies, and provides hydropower resources used to power much of the Country. The Department estimates that the use of water, timber, and other resources produced from Federal lands supported about 370,000 jobs and \$48 billion in economic activity.

Interior works to ensure that America's spectacular landscapes, unique natural life, and cultural resources and icons endure for future generations, tells and preserves the American story, and maintains the special places that enable the shared American experience. In 2012, visitors made 476 million visits to Interior-managed lands and supported an estimated \$47 billion in economic activity.

Interior manages and delivers water, arbitrates long-standing conflicts in water allocation and use, and actively promotes water conservation. As one of the Nation's primary natural and cultural resource stewards, the Department makes decisions regarding potential development on the public lands and offshore coastal areas that can greatly impact the Nation's energy future and economic strength. Factored into this balance is the Department's unique responsibility to American Indians and Alaska Natives. The Department supports cutting-edge research in the earth sciences—geology, hydrology, and biology—to inform resource management decisions at Interior and organizations across the world and in earthquake, volcano, and other

hazards to protect communities across the Nation. Maintaining and building the capacity to carry out these responsibilities on behalf of the American people is Interior's primary focus.

#### POWERING AMERICA'S ECONOMY

Stewardship of America's lands and natural resources is at the heart of the national spirit and the economy—from the responsible management and development of natural resources and increasingly, the economic power of outdoor recreation.

In 2011, the Department of the Interior generated a total of \$13.2 billion in receipts benefiting the U.S. Treasury—from a combination of fees, royalties, rents and bonuses from mineral, timber, and other natural resource development. The Department estimates that conventional and renewable energy produced on Interior lands and waters results in about \$230 billion in economic benefits each year. In 2011, of the total receipts generated by the Interior, \$11.3 billion was collected from energy production on public lands, tribal lands, and Federal offshore areas—a \$2 billion increase more than the previous year—with receipts disbursed and revenues shared among Federal, State, and tribal governments.

Since 2008, oil production from the Federal OCS has increased by 30 percent, from 450 million barrels to more than 589 million barrels in 2010. Balancing the need for safety and environmental enforcement, Interior currently manages 35 million acres of the OCS under active lease. A recently proposed 5-year oil and gas leasing program would make more than 75 percent of undiscovered technically recoverable oil and gas estimated on the OCS available for development.

Onshore, the Bureau of Land Management (BLM) held 32 onshore oil and gas lease sales in 2011. BLM offered 1,755 parcels of land covering nearly 4.4 million acres. Nearly three-quarters or 1,296 of those parcels of land offered were leased, generating about \$256 million in revenue for American taxpayers. This was a 20-percent increase in lease sale revenue more than 2010, following a strong year in which leasing reform helped to lower protests and increase revenue from onshore oil and gas lease sales on public lands. BLM recently has seen a 50-percent jump in industry proposals to lease for oil and gas exploration. Oil and gas companies nominated nearly 4.5 million acres of public minerals for leasing in 2011, up from just under 3 million acres the year before. Industry nominations are the first step in the BLM leasing process. After evaluating the parcels, BLM may offer them at auction. Successful bidders can then apply to drill for oil and gas.

Interior is moving aggressively to put the President's energy strategy, "Blueprint for a Secure Energy Future", into action and expand secure energy supplies for the Nation—a strategy that includes the responsible development of renewable energy sources on the public lands. At the start of this administration, there were no solar energy facilities sited on the public lands, and wind energy development was relatively limited compared to development on private lands. Since March 2009, 29 onshore projects that increased approved capacity for production and transmission of power have been approved including the first ever utility-scale solar project, five wind projects, and eight geothermal projects. The Cape Wind Energy Project, approved for construction and operation, is the first ever offshore commercial wind operation. The 2013 budget reflects an expansion of these accomplishments with the goal of permitting 11,000 megawatts by the end of 2013.

The President's "Blueprint for a Secure Energy Future" recognizes the economic potential of renewable energy development. The economic benefits could be particularly significant in America's remote and rural places near public lands. The Department's 2010 estimates identified nearly \$5.5 billion in economic impacts associated with renewable energy activities, a growing economic sector that supports high-paying jobs.

#### GROWING THE ECONOMY OUTDOORS

Interior is at the forefront of the administration's comprehensive effort to spur job creation by making the United States the world's top travel and tourism destination. In a recent statement, President Obama cited Department of Commerce figures showing that in 2010, international travel resulted in \$134 billion in U.S. exports. International travel to the United States is the Nation's largest service export industry, with 7 percent of total exports and 24 percent of service exports. The Bureau of Economic Analysis (BEA) estimates that every additional 65 international visitors to the United States can generate enough exports to support an additional travel and tourism-related job. According to the travel industry and BEA, international travel is particularly important as overseas or "long-haul" travelers spend on average \$4,000 on each visit.

President Obama has asked me to co-chair an interagency task force with Commerce Secretary John Bryson to develop a National Travel and Tourism Strategy to expand job creation by promoting domestic and international travel opportunities throughout the United States. A particular focus of the task force will be on strategies for increasing tourism and recreation jobs by promoting visits to the Nation's national treasures. The Department of the Interior manages iconic destinations in the national parks, wildlife refuges, cultural and historic sites, monuments, and other public lands that attract travelers from around the country and the globe. According to a Departmental study, in 2010, 437 million visits were made by American and international travelers to these lands, contributing \$47.9 billion in economic activity and 388,000 jobs. Eco-tourism and outdoor recreation also have an impact on rural economies, particularly in Arizona, California, Colorado, Florida, Nevada, North Carolina, Oregon, Utah, and Wyoming.

Interior is working to maximize the benefit of the outdoors for the millions of Americans at home. Hunting, fishing, and outdoor recreation contribute an estimated \$730 billion to the U.S. economy each year. More than 12 million Americans hunt; more than 30 million Americans fish; and 3 out of 4 Americans engage in some kind of healthy outdoor activity. One in 20 U.S. jobs is in the recreation economy.

Through the America's Great Outdoors Initiative, the administration continues to expand opportunities for recreation—through partnerships with States and others and the promotion of America's parks, refuges, and public lands. The fiscal year 2013 budget requests \$5.1 billion in support of this initiative, a \$145.6 million increase compared to fiscal year 2012. Funding is focused on programs supported through the Land and Water Conservation Fund (LWCF) land management operations, and other grant and technical assistance programs that promote conservation and improve recreational access.

By encouraging innovative partnerships in communities across the Nation, the administration is expanding access to rivers and trails, creating wildlife corridors, and promoting conservation while working to protect historic uses of the land including ranching, farming, and forestry. As part of the America's Great Outdoors Initiative, Interior is supporting 101 signature projects in all States across the Country to make parks accessible for children, create great urban parks and community green spaces, restore rivers, and create recreational blueways to power economic revitalization. Projects were selected in concert with Governors, tribal leaders, private landowners, and other stakeholders, and were evaluated based on the level of local support, the ability of States and communities to leverage resources, and the potential to conserve important lands and promote recreation.

An example of a multi-State partnership project is the Blackstone River Valley Greenway. This project, completed in partnership with Rhode Island and Massachusetts, will create a 50-mile blueway and greenway trail along the Blackstone River and the historic Blackstone Canal, connecting Providence, Rhode Island and Worcester, Massachusetts, and 12 cities and towns in between. Visitors and residents will experience the history of the American industrial revolution, enjoy nature and take advantage of numerous outdoor recreation options, including bicycling, walking, and canoeing. The project will celebrate and preserve what makes the Blackstone River Valley National Heritage Corridor a special place to live, work, and visit.

A key component of nearly all of the 101 projects is to increase access to the outdoors for the public. In Alaska, the Kachemak Bay Water Trail is proposed as a 125-mile designated water route, a key component of which is to maintain access to the bay. For the communities near Kachemak Bay, the water trail is envisioned as a new and sustainable economic driver. The trail would provide a logical route for boaters to explore the bay, promoting outdoor recreation, connecting people along the Bay, and expanding a culture of marine stewardship.

The America's Great Outdoors Initiative is being implemented in partnership with communities and stakeholders across the Country. In January of this year, I accepted the first donation of land in south-central Florida to officially establish the Everglades Headwaters National Wildlife Refuge and Conservation Area—conserving one of the last remaining grassland and longleaf pine savannah landscapes in Eastern North America. The new refuge and conservation area—the 556th unit of the National Wildlife Refuge System—was established with the support of local ranchers, farmers, and landowners who are working cooperatively with Interior and the Fish and Wildlife Service (FWS) to conserve the wildlife values on their lands while retaining their right to raise livestock or crops, an approach championed by the Obama administration.

The Everglades Headwaters National Wildlife Refuge and Conservation Area is one example of the new parks and refuges Interior has recently established to protect key natural and cultural resources for future generations. In addition to 650

miles of new national trails, designation of several national natural and historic landmarks, Interior welcomes the Martin Luther King, Jr. Memorial in Washington, DC; the Paterson Great Falls National Historical Park in New Jersey; the Fort Monroe National Monument in Virginia; the Dakota Grassland Conservation Area in North and South Dakota; New Mexico's first urban national wildlife refuge, the Middle Rio Grande National Wildlife Refuge in Albuquerque; and a signature America's Great Outdoors project in the Crown of the Continent Conservation Area in Montana. Interior launched significant efforts to protect America's enduring icons including upgrading the Statue of Liberty, initiating repairs to earthquake damage at the Washington Monument, and withdrawal of more than 1 million acres in the vicinity of the Grand Canyon from additional uranium and hardrock mining, to protect and preserve the natural beauty of the Grand Canyon.

Interior's fiscal year 2013 budget request for appropriations from the LWCF includes a total of \$450 million for Interior and United States Forest Service (USFS) program. The budget requests \$212 million for Federal land acquisition within national parks, national wildlife refuges, and BLM public land boundaries, including \$83.6 million for a collaborative program to support landscape-scale conservation projects developed in a collaborative process conducted by the USFS and Interior land management bureaus. Investments in ecologically important landscapes will be coordinated with State and local efforts to maximize ecosystem benefits, support at-risk species, and create wildlife corridors. The request includes \$128.4 million for acquisition to facilitate protection of parks, refuges, and BLM designated areas based on bureau mission-specific priorities.

The 2013 Federal land acquisition budget for BLM includes funding to will improve access for hunters and anglers to the public lands. Often these sportsmen and women are frustrated by complicated "checkerboard" land ownership and are unable to access BLM lands that provide recreation opportunities. The budget includes \$2.5 million that will be used to purchase easements to alleviate these challenges and provide improved access for public recreation.

An additional \$120 million is proposed for key grant programs supported by the LWCF, including \$60 million each for the Cooperative Endangered Species Conservation Fund program and State LWCF grants.

#### SPURRING GROWTH AND INNOVATION THROUGH SCIENCE

Investments in research and development promote economic growth and innovation, ensure American competitiveness in a global market, and are critical to achieving the mission of the Department of the Interior. Investments in Interior's research and development will improve management of U.S. strategic energy and mineral supplies, water use and availability, and natural hazard preparedness. Sustainable stewardship of natural resources requires strong investments in research and development in the natural sciences.

Research and development funding is increased by nearly \$60 million in the fiscal year 2013 budget, with research and development funding increases among all of the Interior bureaus, and particularly the United States Geological Survey, FWS, Bureau of Safety and Environmental Enforcement (BSEE), BLM, and Bureau of Reclamation (BOR). With these investments, Interior will support research that addresses critical challenges in energy production and the management of ecosystems, invasive species, public lands, and water.

Recent technology and operational improvements have led to increased use of hydraulic fracturing in developing natural gas resources. To ensure the prudent and sustainable development of this important source of domestic energy, economic development, and job creation, the fiscal year 2013 budget invests in research and development that proactively addresses concerns about the potential impacts of hydraulic fracturing on air, water, ecosystems, and earthquakes. The fiscal year 2013 budget supports a \$45 million interagency research and development initiative by the USGS, the Department of Energy, and the Environmental Protection Agency (EPA) aimed at understanding and minimizing potential environmental, health, and safety impacts of shale gas development and production through hydraulic fracturing.

The Bureau of Ocean Energy Management (BOEM) is working with the University of Texas and a team of arctic researchers on a 5-year comprehensive study of the Hanna Shoal ecosystem in the Chukchi Sea off Alaska's northwest coast. Past studies have identified this area as an important biological ecosystem, which supports a high concentration of marine life. Valuable data on physical and biological processes in the area obtained from this research effort will be combined with the results of previously conducted studies. The resulting information will be used by

industry, as well as by BOEM in decisions regarding energy development in this region, and will be included in future National Environmental Policy Act analyses.

In 2011, USGS used cutting-edge technology to complete the genome sequencing of the fungus that causes the skin infection that is a hallmark of the white-nose syndrome, which is decimating bat populations across the country. This sequencing will support further research that is necessary to develop management strategies to mitigate the spread of the syndrome among bats. Recognizing the impact of this is not limited to wildlife health, USGS and university partners produced a study which determined that bats contribute \$3.7 billion to the agricultural economy by eating pests that are harmful to agricultural and forest commodities. The fiscal year 2013 budget provides \$1.8 million for USGS to conduct further research and development to address this critical issue.

In fiscal year 2013, the budget requests a \$2 million increase in the BLM wild horse and burro program to fund research on contraception/population control. Research may include topics such as studies on herd genetics, animal behavior, and overall rangeland use as it relates to sterilization and other population growth suppression techniques. The goal of the research will be to develop additional methods to minimize wild horse population growth and maintain herd health.

#### DELIVERING SUSTAINABLE GROWTH THROUGH WATER

Although BOR is within the jurisdiction of the Energy and Water Development Subcommittee, it plays a critical role in addressing the Nation's water challenges which are of interest to the subcommittee. BOR maintains 476 dams and 348 reservoirs with the capacity to store 245 million acre-feet of water. BOR manages water for agricultural, municipal and industrial use, and provides flood control and recreation for millions of people. BOR's activities, including recreation, generate estimated economic benefits of more than \$55 billion and support nearly 416,000 jobs.

These facilities deliver water to 1 in every 5 western farmers to irrigate about 10 million acres of land, and provide water to more than 31 million people for municipal and industrial uses and other nonagricultural uses. The water managed by Interior irrigates an estimated 60 percent of the Nation's vegetables each year. BOR facilities also reduce flood damages in communities where they are located and thereby create an economic benefit by sparing these communities the cost of rebuilding or replacing property damaged or destroyed by flood events.

WaterSMART, established in 2010, has assisted communities in improving conservation, increasing water availability, restoring watersheds, resolving long-standing water conflicts, addressing the challenges of climate change, and implementing water rights settlements. The program has provided more than \$85 million in funding to non-Federal partners, including tribes, water districts, and universities, including \$33 million in 2011 for 82 WaterSMART grant projects. In December, Interior released a report on the effectiveness of the WaterSMART program, which demonstrates the importance of this work to the sustainability of resources in the Colorado River Basin.

Another example of Interior's efforts to stretch water resources is the Yuma Desalting Plant in Arizona. BOR recently completed a year-long pilot operation of the plant in collaboration with California, Arizona, and Nevada water agencies. The pilot demonstrated the capability of the plant to augment Lower Colorado River supplies and produced sufficient water for use by about 116,000 people in a year. BOR and the regional water agencies are reviewing the results of this effort to evaluate the potential for long-term and sustained operation of the desalting plant.

#### ENCOURAGING ECONOMIC DEVELOPMENT IN INDIAN COUNTRY AND HONORING TRUST RESPONSIBILITIES

The Department has a unique responsibility to American Indians and Alaska Natives, which is upheld by Interior's support for a robust Government-to-government relationship as demonstrated by a new comprehensive and transparent consultation policy that ensures there is a strong, meaningful role for tribal governments. The Department and the President hosted the third White House Tribal Nations Conference in December 2011, bringing together tribal leaders from across the United States and enabling tribal leaders to interact directly with administration representatives and identify priority actions for American Indians and Alaska Natives.

In 2011, Interior began planning to implement the landmark \$3.4 billion settlement of the *Cobell v. Salazar* lawsuit, and appointed a Secretarial Commission on Trust Administration and Reform to oversee implementation of the settlement agreement. The commission is undertaking a forward looking, comprehensive evaluation of Interior's management of nearly \$4 billion in American Indian and tribal

trust funds—with the goal of making trust administration more transparent, responsive, customer focused, and accountable.

The Department held regional consultations across the Country to set the framework for the *Cobell* land consolidation program. The settlement establishes a \$1.9 billion fund for the voluntary buy-back and consolidation of fractionated land interests to provide individual American Indians with an opportunity to obtain cash payments for divided land interests and consolidate holdings for economic and other uses, a significant benefit for tribal communities. Almost 4 million individually owned interests involving nearly 9 million acres have been identified as part of this effort.

To further encourage and speed up economic development in Indian country, the Department took a significant step forward announcing the sweeping reform of antiquated, “one-size-fits-all” Federal leasing regulations for the 56 million surface acres the Federal Government holds in trust for tribes and individual Indians. The proposed rule identifies specific processes—with enforceable timelines—through which the Bureau of Indian Affairs (BIA) must review leases. The regulation establishes separate, simplified processes for residential, business, and renewable energy development, so that, for example, a lease for a single family home is distinguished from a large solar energy project. The proposed regulation incorporates many changes requested by tribal leaders during extensive consultations this past year to better meet the goals of facilitating and expediting the leasing process for trust lands. During the initial consultation period more than 2,300 comments were received from more than 70 tribes as well as several Federal agencies, including the Departments of Housing and Urban Development, and Agriculture, and the Internal Revenue Service. The BIA regulatory drafting workgroup is expected to review the comments and publish the final rule in 2012.

The Claims Resolution Act of 2010 settled the *Cobell* lawsuit and four settlements that will provide permanent water supplies and economic security for the five New Mexico Pueblos of Taos, the Crow Tribe of Montana, and the White Mountain Apache Tribe of Arizona. The agreements will enable construction and improvement of reservation water systems, irrigation projects, a regional multi-pueblo water system, and codify water-sharing arrangements between Indian and neighboring communities. The primary responsibility for constructing water systems associated with the settlements was given to the BOR and BIA is responsible for the majority of the trust funds.

BOR is requesting \$21.5 million in fiscal year 2013 for the continued implementation of these four settlements and \$25 million for the Navajo-Gallup Water Supply project. In total, the BIA budget includes \$36.3 million for ongoing Indian land and water settlements, which includes \$9.5 million for the seventh and final payment for the Nez Perce/Snake River Water Rights Settlement.

A key responsibility for BIA is ensuring and improving the safety of Indian communities. Some Indian reservations experience violent crime rates that are twice the national average. The high crime rates are a key issue for tribal leaders as they degrade the quality of life for residents, attract organized crime, and are a real disincentive for businesses to consider these communities for economic development. Fiscal year 2011 was the second year of a 2-year pilot at four reservations to conduct expanded community policing, equip and train the law enforcement cadre, partner with the communities to organize youth groups and after school programs, and closely monitor results. The results exceeded expectations with a 35-percent overall decrease in violent crime in the four communities. Information about the four reservations is being analyzed and the program will be expanded in 2013 to an additional two communities. The fiscal year 2013 budget includes \$353.9 million for public safety and justice programs, a program increase of \$8.5 million to support this expansion and other public safety activities.

#### INTERIOR’S BUDGET IN CONTEXT

President Obama has challenged agencies to encourage American innovation, employ and educate young people, rebuild America, and promote economic development. Interior’s fiscal year 2013 budget invests in areas that are responsive to these challenges and more. This budget continues funding for important programs that will protect the Nation’s significant natural resources and cultural heritage, makes strategic investments in energy development, advances partnerships to leverage resources, and seeks improved outcomes for Indian communities. At the same time, this budget recognizes the need for fiscal responsibility. The priority programs that are level funded with fiscal year 2012 and limited strategic investments proposed in fiscal year 2013 are balanced by reductions in lower-priority programs, deferrals, and planning efficiencies.

*Taking Fiscal Responsibility.*—Interior made its fiscal year 2013 budget decisions in the context of the challenging fiscal environment. The fiscal year 2013 budget of \$11.5 billion, including BOR, eliminates and reduces lower-priority programs, defers project start-ups, reduces duplication, streamlines operations, and captures savings. The fiscal year 2013 request is \$97.9 million, essentially level with fiscal year 2012 enacted and \$280.4 million less than 2011.

The fiscal year 2013 budget contains \$516.8 million in program terminations, reductions, and savings from administrative efficiencies. Staffing reductions of 591 full-time equivalents (FTEs) are planned for fiscal year 2013, a reduction of 741 FTEs from fiscal year 2011 levels. These personnel reductions are focused on areas where there are funding reductions. Staffing reductions will be achieved through attrition and buy-outs in order to minimize the need to conduct reductions in force to the greatest extent possible.

This budget is responsible, with strategic investments in a few, targeted areas, and maintains the core functions that are vital to uphold stewardship responsibilities and sustain key initiatives. The budget also continues efforts to shift program costs to industry where appropriate. Permanent funding that becomes available as a result of existing legislation without further action by the Congress results in an additional \$6 billion, for \$17.5 billion in total budget authority for Interior in fiscal year 2013.

*Administrative Savings.*—As part of the administration's Campaign to Cut Waste, the Department will achieve additional administrative efficiencies that result in cumulative savings of \$207 million from fiscal year 2010 to 2013. These reductions are being implemented throughout Interior and result from changes in how the Department manages travel, employee relocation, acquisition of supplies and printing services, and the use of advisory services. The proposed savings in administrative functions will not have an impact on programmatic performance, and to the greatest extent possible savings will be redirected into priority programmatic areas.

The Department's 2013 budget reflects a freeze on Federal salaries for fiscal year 2012 and a 0.5 percent pay increase in 2013. The budget fully funds fixed costs for the civilian pay increase, anticipated changes in the Federal contributions to health benefits, rent increases, changes in workers and unemployment compensation costs, programs financed through the Working Capital Fund, and specific contract requirements for Public Law 93–638 agreements with tribes.

*Cost Recovery.*—Significant portions of Interior's budget are funded by cost recovery, offsetting collections, and discrete fees linked to uses of lands and resources. The budget proposes to increase cost recovery to offset the cost of some resource development activities that provide clear benefits to customers. The proposed fees on oil and gas inspections are consistent with the recommendations of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. The Commission's report stated the oil and gas industry should be "required to pay for its regulators" so that the costs of regulation "would no longer be funded by taxpayers but instead by the industry that is permitted to have access to a publicly owned resource."

The budget includes \$48 million from new inspection fees to be paid by onshore oil and gas producers. Instituting these fees will allow for a \$10 million program increase to be used to strengthen the BLM inspection program, along with a \$38 million decrease in current appropriations for BLM as a whole. Similar fees were proposed in fiscal year 2012, but not adopted due to concerns about impacts on the producers. The fees would be on average, 0.2 percent of the annual income collected by the producers. In addition to the proposed onshore inspection fees, estimated fee collections from the offshore oil and gas inspections instituted in fiscal year 2012 are slightly increased in fiscal year 2013 to \$65 million. This fee-based funding is critical to maintaining the administration's aggressive implementation of a robust offshore safety program.

The fiscal year 2013 budget proposes a new grazing administrative fee of \$1 per animal unit month (AUM) on a 3-year pilot basis. The fee is estimated to generate \$6.5 million in 2013 and will be used to assist BLM in processing grazing permits. During the period of the pilot, BLM would work through the process of promulgating regulations for the continuation of the grazing fee as a cost-recovery fee after the pilot expires.

The fiscal year 2013 budget continues an offsetting collection initiated in 2012, allowing the Office of Surface Mining (OSM) to retain coal mine permit application and renewal fees for the work performed as a service to the coal industry. An estimated \$3.4 million will be collected in 2013.

## MAJOR CHANGES IN THE FISCAL YEAR 2013 REQUEST

The Department's fiscal year 2013 budget request totals \$11.5 billion in current authority including \$10.5 billion for programs funded by the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012. This is \$140.3 million, or 1.4 percent more than the fiscal year 2012 level. The fiscal year 2013 request for BOR including the Central Utah Project Completion Act, funded in the Energy and Water Development Appropriations Act, 2012, is \$1 billion in current appropriations, \$42.4 million or 3.9 percent less than the fiscal year 2012 level.

Interior continues to generate more revenue for the U.S. Treasury than its annual appropriation. In fiscal year 2013, Interior will generate receipts of approximately \$13.9 billion and propose mandatory legislation with a total net savings of roughly \$2.5 billion over 10 years.

*Bureau of Land Management.*—The fiscal year 2013 request is \$1.1 billion, essentially level with the fiscal year 2012 enacted budget. This includes a decrease of \$8.2 million for BLM's two operating accounts, an increase of \$11.2 million for land acquisition, and a reduction of \$3.6 million that eliminates the construction account.

To advance the America's Great Outdoors Initiative, the request includes \$6.3 million in programmatic increases for recreation, cultural resources, and the National Landscape Conservation System for BLM to expand and improve opportunities for recreation, education, and scientific activities while enhancing the conservation and protection of BLM-managed lands and resources.

BLM will continue to promote and facilitate the development of renewable energy on public lands, as part of the New Energy Frontier Initiative. The fiscal year 2013 budget includes a program increase of \$7 million for renewable energy to support wind, solar, and geothermal energy. An additional \$13 million in program increases are requested to maintain and strengthen management of the oil and gas program, along with a requested \$10 million increase in mandatory funding specifically focused on strengthening BLM's oil and gas inspection program. These increases would be more than offset by \$48 million in proposed inspection fees to shift the cost of the oil and gas inspection and enforcement activity from taxpayers to the oil and gas industry.

The other major program increase is \$15 million to implement sage grouse conservation and restoration measures to help prevent the future listing of the species for protection under the Endangered Species Act. BLM will use \$10 million of the requested increase to incorporate the necessary protections into BLM's land use plans to address conservation of the sage grouse. These plans will guide energy development, transportation, and other uses and ensure conservation of sage grouse habitat. The remaining \$5 million funds on-the-ground projects to restore and improve sage grouse habitat and additional inventory, monitoring, and mapping efforts to delineate areas of highest-priority habitat in the range of the sage grouse. Other program increases in the BLM budget include \$1.5 million for the Secretary's Western Oregon Strategy, \$2 million for research and development on population control in the Wild Horse and Burro Management program, and \$4.4 million in the Resource Management Planning program to support high-priority planning efforts.

A \$15.8 million program decrease is proposed in the Rangeland Management program, however, the impact of this funding decrease will be mitigated by a new grazing administrative processing fee of \$1 per AUM that BLM proposes to implement on a pilot basis through appropriations language, estimated to raise \$6.5 million in 2013. The fiscal year 2013 budget reduces programmatic funding for the Alaska Conveyance program by \$12.4 million from the fiscal year 2012 level. Interior will explore opportunities to further streamline the program. A \$3.5 million program reduction is proposed in the Public Domain Forest Management program.

*Bureau of Ocean Energy Management.*—The fiscal year 2013 operating request is \$164.1 million, including \$62.7 million in current appropriations and \$101.4 million in offsetting collections. This is an increase of \$3.3 million more than the fiscal year 2012 enacted level.

The fiscal year 2013 budget includes program increases of \$2 million from the fiscal year 2012 enacted level for activities to promote offshore conventional and renewable energy development that is safe and environmentally responsible. Increased funding will be used to develop baseline characterization and monitoring capabilities in the Gulf of Mexico that are required as a result of the Deepwater Horizon incident, as well as to support renewable energy lease auctions.

*Bureau of Safety and Environmental Enforcement.*—The fiscal year 2013 operating request is \$222.2 million, including \$96.3 million in current appropriations and \$125.9 million in offsetting collections. This is an increase of \$24.8 million more than the fiscal year 2012 enacted level. The \$4.8 million increase for offsetting collections includes an estimated \$3 million increase in inspection fee collections.



The fiscal year 2013 budget includes funds to increase operational safety capabilities, develop the National Offshore Training and Learning Center for inspectors, and conduct research and development activities on critical safety systems associated with offshore oil and gas development.

*Office of Surface Mining.*—The fiscal year 2013 budget request is \$140.7 million, a decrease of \$9.5 million from the fiscal year 2012 enacted level. The reduction reflects decreases in grants to States and tribes to encourage regulatory programs to recover costs from fees charged to the coal industry and finalize the transition of abandoned mine land reclamation from discretionary to mandatory funding.

I signed a Secretarial Order on October 26, 2011, to review certain functions of OSM and BLM for potential consolidation. As part of this effort, I asked the Directors of OSM and BLM and other Interior officials to report by February 15, 2012, on the results of discussions with the BLM's employees, congressional committees, and interested parties, such as tribes, State regulatory officials, industry representatives, and representatives of communities affected by coal mining. Our efforts in consolidation will respect existing law and identify actions that will strengthen these two bureaus.

*United States Geological Survey.*—The USGS budget request is \$1.1 billion, \$34.5 million more than the fiscal year 2012 enacted level. The President's budget supports science, monitoring, and assessment activities that are critical to understanding and managing the ecological, mineral, and energy resources that underlie the prosperity and well-being of the Nation. The fiscal year 2013 budget includes a program increase of \$51 million to fund research and development priorities in disaster response, hydraulic fracturing, coastal and ocean stewardship, and ecosystem restoration. The budget also supports the Secretary's initiatives in responsible energy development and further resolution of water challenges with funding more than the fiscal year 2012 enacted level.

The USGS budget also includes investments in important science programs to help meet societal needs. A program increase of \$13 million more than fiscal year 2012 for the WaterSMART Program will be used to conduct research on predictive models on regional water availability, explore methods of integrating and disseminating data through science platforms, and establish a National Groundwater Monitoring Network.

A program increase of \$8.6 million is requested to improve rapid disaster response to natural disasters. Funding will be used to improve capacity to provide timely and effective science and information products to decisionmakers, in order to minimize the risks hazards pose to human and natural systems. Funding will be invested in capability improvements to the USGS monitoring networks for rapid response to earthquakes, volcanoes, volcanic ash, debris flow, tsunamis, floods, hurricanes, and other potential threats to populations and infrastructure.

The budget includes a program increase of \$13 million to support the hydraulic fracturing research and development effort with the Department of Energy and EPA to understand and minimize potential adverse environmental, health, and safety impacts of shale gas development through hydraulic fracturing. New work will build on existing efforts and address issues such as water quality and quantity, ecosystem impacts, and induced seismicity.

With a program increase of \$16.2 million, USGS will conduct science in support of ecosystem management for priority ecosystems such as the Chesapeake Bay, California Bay-Delta, Columbia River, Everglades, Puget Sound, Great Lakes, Upper Mississippi River, and the Klamath Basin. With an increase of \$2 million, the USGS will address overarching ecosystem issues related to the invasive brown tree snake, white-nose syndrome in bats, and coral reef health. These increases will provide information management and synthesis and land change science support for these ecosystem activities. Included in the total above is \$500,000 identified for research efforts through the Department of the Interior Climate Science Centers to enhance work with tribes to understand the impacts of climate change on tribal lands. Funding increases will also support priorities in sustaining our national environmental capital, including development of the first coordinated multi-departmental effort of its kind to develop a standardized ecosystem services framework.

The fiscal year 2013 budget also provides a program increase of \$6.8 million to sustain and enhance existing activities and for a new initiative on Science for Coastal and Ocean Stewardship that supports priority objectives of the National Ocean Policy in the areas of marine and coastal science, resource and vulnerability assessments, ecosystem-based management, and providing science based tools to inform policy and management. The USGS will work with partners to provide access to comprehensive maps and assessments of seabed and coastal conditions and vulnerability. The increase will improve the integrated science needed to inform development of resources while conserving the Nation's coastal and marine ecosystems.

*Fish and Wildlife Service.*—The fiscal year 2013 budget includes \$1.5 billion, an increase of \$72 million more than the fiscal year 2012 enacted level. In addition, the budget includes a \$200 million cancellation of prior year unobligated balances in the Coastal Impact Assistance program. The budget includes America's Great Outdoors Initiative increases of \$20.9 million in the Resource Management account and \$52.3 million for land acquisition. There is a \$3.9 million increase in the North American Wetlands grants program, a component of the America's Great Outdoors Initiative. State and Tribal Grants are funded at \$61.3 million, level with fiscal year 2012. Funding for the construction account is reduced by \$3.9 million.

The budget proposes a program increase of \$4 million for activities associated with energy development. This enables FWS to participate fully in priority landscape level planning and assist industry and State fish and wildlife agencies as they plan for renewable energy projects and transmission corridor infrastructure. The fiscal year 2013 budget continues the commitment to ecosystem restoration by including \$13.5 million for the Everglades, an increase of \$3 million; \$4.9 million for California's Bay-Delta, level with fiscal year 2012; \$10.2 million for the gulf coast, level with fiscal year 2012; \$10.3 million for the Chesapeake Bay, a program increase of \$145,000; and \$47.8 million for the Great Lakes, a program increase of \$2.9 million. Funding for the Cooperative Landscape Conservation and Adaptive Science activity is \$33.1 million, an increase of \$856,000. This funding supports the operation of 14 Landscape Conservation Cooperatives.

The budget includes \$994.7 million available under permanent appropriations, most of which will be provided in grants to States for fish and wildlife restoration and conservation.

The fiscal year 2013 budget proposes a reduction of \$14 million to eliminate the discretionary contribution to the National Wildlife Refuge Fund payments to counties to offset local tax loss due to Federal land ownership. An estimated \$8 million in mandatory receipts collected and allocated under the program would remain. Payments collected by counties can be used for nonconservation purposes and as such, this Fund does not provide the high-priority conservation benefits delivered by other FWS programs. The budget also proposes the cancellation of \$200 million in prior year balances within the Coastal Impact Assistance Program.

*National Park Service.*—The fiscal year 2013 budget includes \$2.6 billion, \$1 million less than the fiscal year 2012 enacted level. Within the total available for National Park Service in 2013, \$2.4 billion is for programs that support the goals of the America's Great Outdoors Initiative. The budget proposes strategic increases to advance the goals of the initiative, including increases of \$13.5 million for park operations and \$17.5 million for land acquisition and State assistance. The budget proposes reductions of \$7.8 million in the national recreation and preservation account from the National Heritage Areas program, and \$24.2 million from construction. The request for the Historic Preservation Fund is level with fiscal year 2012—grants to States and tribes are continued at the fiscal year 2012 level of \$55.9 million.

Select programmatic increases in the park operations account include \$5 million for Climate Change Adaptive Management tools, \$2 million for U.S. Park Police operations including \$1.4 million in support of the Presidential Inauguration, \$1.2 million for National Capital Area parks in support of the Presidential Inauguration, and \$610,000 for the Challenge Cost Share program. These increases are offset with strategic reductions of \$24.8 million to park operations and service-wide programs.

Funding for land acquisition and State assistance totals \$119.4 million and includes a programmatic increase of \$2.5 million for Federal land acquisition. The land acquisition proposal includes \$9 million for matching grants to States and local entities to preserve and protect Civil War battlefield sites outside the National Park System. The budget also requests a programmatic increase of \$15.1 million for the State Assistance Grant program. The \$60 million request for State Grants includes \$20 million for competitive grants that support urban parks and green spaces, blueways, and landscape-level conservation projects in communities that need them the most.

Funding for construction includes a programmatic reduction of \$25.3 million for line-item construction projects, however, the budget proposes funding for the most critical health and safety projects in the National Park System. It also includes programmatic reductions of \$1.5 million from construction program management and planning, \$760,000 from the housing improvement program, \$443,000 from construction planning, \$450,000 from management planning, and \$228,000 from equipment replacement.

*Bureau of Indian Affairs.*—The fiscal year 2013 budget includes \$2.5 billion for BIA programs, a decrease of \$4.6 million from the fiscal year 2012 enacted level. This includes an increase of \$11.7 million for Operation of Indian Programs and a

decrease of \$17.7 million in the construction account. The budget includes an increase of \$3.5 million in Indian Land and Water Claim Settlements and a decrease of \$2.1 million in the Indian Guaranteed Loan program.

In fiscal year 2013, the largest increase, \$8.8 million, is in Contract Support Costs and the Indian Self-Determination Fund, both high priorities for tribes. Public safety and justice activities receive a program increase of \$8.5 million to support additional police officers and detention corrections staff.

The budget proposes program increases of \$7.8 million for the Trust Natural Resources programs and \$7 million for Trust Real Estate Services programs. Funding increases for Trust Land Management programs are proposed to assist tribes in the management, development, and protection of Indian trust land and natural resources. The budget proposes a \$2.5 million program increase to support increasing enrollment at tribal colleges.

The fiscal year 2013 request reflects a reduction of \$19.7 million as the Bureau will undergo a consolidation in 2013 to streamline and improve oversight operations. The BIA will engage in extensive consultation with tribes to identify strategies that will ensure tribal needs and priorities are addressed. Following consultation, BIA will construct an implementation plan for a streamlined, cost-effective organization. The budget also includes \$13.9 million in administrative savings from reductions to fleet, travel, contractors, and awards.

*Departmental Offices and Departmentwide Programs.*—The fiscal year 2013 request for the Office of the Secretary is \$261.6 million, a reduction of \$266,000 from the fiscal year 2012 enacted level. Of this, \$119.6 million is for Office of Natural Resources Revenue including a program increase of \$1.2 million to complete termination of the Royalty-in-Kind program and a program decrease of \$2.3 million for completed information management system upgrades. The budget for the Office of the Secretary includes a program increase of \$1.6 million for minerals receipts modeling development to improve revenue estimation and reporting capabilities and a program increase of \$2 million for facilities rent necessitated by the delay in the Main Interior Building modernization project. Other changes include a general program reduction of \$3.7 million and the transfer of the Indian Arts and Crafts Board from the Office of the Secretary to BIA resulting in a reduction of \$1.3 million.

The Department's fiscal year 2013 request for the Working Capital Fund appropriation is \$70.6 million, an increase of \$8.7 million from the fiscal year 2012 enacted level. Within this request is \$62.1 million to continue deployment of the Financial and Business Management System including implementation of the acquisition and financial assistance functionality as recommended by an independent assessment of the program. The budget proposes an increase of \$3.5 million to improve Interior's stewardship of its cultural and scientific collections and an increase of \$2.5 million to expand collaboration similar to the Service First to improve delivery and operating costs. Proposed reductions include \$5 million to reflect the shift of the Department's Information Technology Transformation initiative from appropriated funds to the Departmental Working Capital fund and \$2.5 million for completion of the Department's Acquisition Improvement Initiative.

Major changes in other Departmental programs include an increase of \$243 million in the Wildland Fire Management program. The net increase is comprised of a program increase of \$195.8 million that fully funds the 10-year suppression average and a program reduction of \$39 million in the Hazardous Fuels Reduction program reflecting a refocusing of the program toward treatments in the wildland-urban interface.

The budget request for the Office of Insular Affairs is \$88 million, a decrease of \$16.4 million from the fiscal year 2012 enacted level. The budget includes \$5 million to mitigate the impacts and costs of Compact migration and \$3 million to implement energy projects identified by the territories' sustainable energy strategies. Funding of \$13.1 million for the Palau Compact is not requested for 2013 as it is expected the Compact will be authorized in 2012.

The Office of the Special Trustee request is \$146 million, \$6.1 million less than the 2012 enacted level. The fiscal year 2013 request includes a program increase of \$3 million for the Office of Trust Review and Audit to conduct compliance audit reviews for Interior bureaus. The budget includes program decreases of \$9.9 million for streamlining, administrative savings, and the completion of certain trust reform activities.

#### MANDATORY PROPOSALS

In fiscal year 2013, Interior will collect \$13.9 billion in receipts and distribute \$6 billion in permanent funding without further appropriation for a variety of purposes, under current law. The budget includes 13 legislative proposals that will be

submitted to the Congress to collect a fair return to the American taxpayer for the sale of Federal resources, to reduce unnecessary spending, and to extend beneficial authorities of law. Together these proposals will save a net total of approximately \$2.5 billion over the next decade.

*Reform Coal Abandoned Mine Land Reclamation.*—The administration proposes to reform the coal Abandoned Mine Lands program to reduce unnecessary spending and ensure the Nation's highest-priority sites are reclaimed. First, the budget proposes to terminate the unrestricted payments to States and tribes that have been certified for completing their coal reclamation work because these payments do not contribute to abandoned coal mine lands reclamation. Second, the budget proposes to reform the distribution process for the remaining funding to competitively allocate available resources to the highest-priority coal abandoned mine lands sites. Through a competitive grant program, a new Abandoned Mine Lands Advisory Council will review and rank the abandoned coal mine lands sites, so OSM can distribute grants to reclaim the highest-priority coal sites each year. These reforms will focus available coal fees to better address the Nation's most dangerous abandoned coal mines while saving taxpayers \$1.1 billion over the next 10 years.

*Create a Hardrock Abandoned Mine Reclamation Fund.*—To address the legacy of abandoned hardrock mines across the United States, the administration will propose legislation to create a parallel Abandoned Mine Lands program for abandoned hardrock sites. Hardrock reclamation would be financed by a new abandoned mine lands fee on the production of hardrock minerals on both public and private lands. BLM would distribute the funds through a competitive grant program to reclaim the highest-priority hardrock abandoned sites on Federal, State, tribal, and private lands. This proposal will hold hardrock mining companies accountable for cleaning up the hazards left by their predecessors while generating \$500 million in savings over 10 years.

*Reform Hardrock Mining on Federal Lands.*—The administration will submit a legislative proposal to provide a fair return to the taxpayer from hardrock production on Federal lands. The legislative proposal would 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. After enactment, mining for these metals on Federal lands would be governed by the new leasing process and subject to annual rental payments and a royalty of not less than 5 percent of gross proceeds. One-half of the receipts would be distributed to the States in which the leases are located and the remaining half would be deposited in the Treasury. Existing mining claims would be exempt from the change to a leasing system but would be subject to increases in the annual maintenance fees under the General Mining Law of 1872. Holders of existing mining claims for these minerals could, however, voluntarily convert claims to leases. ONRR will collect, account for, and disburse the hardrock royalty receipts. The proposal is projected to generate revenues to the U.S. Treasury of \$80 million over 10 years.

*Fee on Nonproducing Oil and Gas Leases.*—The administration will submit a legislative proposal to encourage energy production on lands and waters leased for development. A \$4 per-acre fee on nonproducing Federal leases on lands and waters would provide a financial incentive for oil and gas companies to either get their leases into production or relinquish them so the tracts can be leased to and developed by new parties. The proposed \$4 per-acre fee would apply to all new leases and would be indexed annually. In October 2008, the Government Accountability Office issued a report critical of past efforts by Interior to ensure companies diligently develop their Federal leases. Although the report focused on administrative actions the Department could undertake, this proposal requires legislative action. This proposal is similar to other nonproducing fee proposals considered by the Congress in the last several years. The fee is projected to generate revenues to the U.S. Treasury of \$13 million in fiscal year 2013 and \$783 million over 10 years.

*Net Receipts Sharing for Energy Minerals.*—The administration proposes to make permanent the current arrangement for sharing the cost to administer energy and minerals receipts, beginning in 2014. Under current law, States receiving significant payments from mineral revenue development on Federal lands also share in the costs of administering the Federal mineral leases from which the revenue is generated. In fiscal year 2013, this net receipts sharing deduction from mineral revenue payments to States would be implemented as an offset to the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012, consistent with identical provisions included in the act since 2008. Permanent implementation of net receipts sharing is expected to result in savings of \$44 million in 2014 and \$449 million over 10 years.

*Repeal Oil and Gas Fee Prohibition and Mandatory Permit Funds.*—The administration proposes to repeal portions of section 365 of the Energy Policy Act, beginning in 2014. Section 365 diverted mineral leasing receipts from the U.S. Treasury to a BLM Permit Processing Improvement Fund and also prohibited BLM from establishing cost recovery fees for processing applications for oil and gas permits to drill. The Congress has implemented permit fees through appropriations language for the last several years and the fiscal year 2013 budget proposes to continue this practice. Upon elimination of the fee prohibition, BLM will promulgate regulations to establish fees for applications for permits to drill administratively, with fees starting in 2014. In combination with normal discretionary appropriations, these cost recovery fees will then replace the applications for permits to drill fees currently set annually through appropriations language and the mandatory permit fund, which would also be repealed starting in 2014. Savings from terminating this mandatory funding are estimated at \$18 million in 2014 and \$36 million over 2 years.

*Geothermal Energy Receipts.*—The administration proposes to repeal section 224(b) of the Energy Policy Act of 2005. Prior to passage of this legislation, geothermal revenues were split between the Federal Government and States with 50 percent directed to States, and 50 percent to the Treasury. The Energy Policy Act of 2005 changed this distribution beginning in 2006 to direct 50 percent to States, 25 percent to counties, and for a period of 5 years, 25 percent to a new BLM Geothermal Steam Act Implementation Fund. The allocations to the new BLM geothermal fund were discontinued a year early through a provision in the Interior, Environment, and Related Agencies Appropriations Act, 2010. The repeal of section 224(b) will 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 savings of \$4 million in 2013 and \$50 million over 10 years.

*Deep Gas and Deepwater Incentives.*—The administration proposes to repeal section 344 of the Energy Policy Act of 2005. Section 344 mandated royalty incentives for certain “deep gas” production on the OCS. This change will help ensure Americans receive fair value for federally owned mineral resources. Based on current oil and gas price projections, the budget does not assume savings from this change; however, the proposal could generate savings to the Treasury if future natural gas prices drop below current projections.

*Repeal of Authorities To Accept Royalty Payments in Kind.*—The administration proposes to solidify a recent Departmental reform terminating the Royalty-in-Kind program by repealing all Interior authorities to accept future royalties through this program. This change will help increase confidence that royalty payments will be properly accounted for in the future. The budget does not assume savings from this change because the administration does not anticipate restarting the program; however, if enacted, this proposal would provide additional certainty that a new Royalty-in-Kind program could not be initiated at some point in the future.

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

*Federal Migratory Bird Hunting and Conservation Stamps.*—Federal Migratory Bird Hunting and Conservation Stamps, commonly known as Duck Stamps, were originally created in 1934 as the annual Federal license required for hunting migratory waterfowl. Today, 98 percent of the receipts generated from the sale of these \$15 stamps are used to acquire important migratory bird areas for migration, breeding, and wintering. The price of the Duck Stamp has not increased since 1991, while the cost of land and water has increased significantly. The administration proposes to increase these fees to \$25 per stamp per year, beginning in 2013. Increasing the cost of Duck Stamps will bring the estimate for the migratory bird conservation account to approximately \$58 million. With these increased receipts, the Department anticipates additional acquisition of approximately 7,000 acres in fee and approximately 10,000 acres in conservation easement in 2013. Total acres acquired for 2013 would then be approximately 28,000 acres in fee title and 47,000 acres in perpetual conservation easements.

*Compact of Free Association.*—On September 3, 2010, the United States 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. Under the agreement, Palau committed to undertake economic, legislative, financial, and management reforms. The conclusion of the agreement reaffirms the close partnership between the United States and the Republic of Palau. Permanent and indefinite funding for the Compact expired at the end of 2009. The fiscal year

2013 budget seeks to authorize permanent funding for the Compact as it strengthens the foundations for economic development by developing public infrastructure and improving healthcare and education. Compact funding will also support one or more infrastructure projects designed to support Palau's economic development efforts. The Republic of Palau has a strong track record of supporting the United States and its location is strategically linked to Guam and United States operations in Kwajalein Atoll. The cost for this proposal for 2013–2022 is \$184 million.

*Extension of Payments in Lieu of Taxes.*—Payments in Lieu of Taxes (PILT) payments are currently authorized only through fiscal year 2012. The budget proposes a 1-year extension of mandatory PILT payments at the current authorization levels in fiscal year 2013. These payments support local government services in counties that have significant Federal lands within their boundaries. The administration looks forward to working with the Congress to develop a longer-term strategy for providing sustainable levels of funding for PILT payments, in light of overall constrained budgets and the need for appropriate offsets for new mandatory spending. This extension utilizes the current PILT payment formula that is prescribed by law and based on population, certain receipt sharing payments, and the amount of Federal land within an affected county. The cost for this proposal in fiscal year 2013 is estimated at \$398 million.

#### OFFSETTING COLLECTIONS AND FEES

The budget includes several proposals to increase cost recovery fees, so that industries share some of the cost of regulation.

*Fee Increase for Offshore Oil and Gas Inspections.*—Through appropriations language, the administration proposes to continue the current offshore inspection fee levels authorized by the Congress in fiscal year 2012. These fees are estimated to generate \$65 million in fiscal year 2013, up from \$62 million in fiscal year 2012, from operators with offshore oil and gas drilling facilities that are subject to inspection by BSEE. The increased fees will fund an expanded inspection program, and as enacted for fiscal year 2012, operators will now be charged for the inspection of drilling rigs in addition to production platforms. These inspections are intended to increase production accountability, human safety, and environmental protection.

*New Fee for Onshore Oil and Gas Inspections.*—Through appropriations language, the administration proposes to implement an inspection fee in fiscal year 2013 for onshore oil and gas drilling activities that are subject to inspection by BLM. The proposed inspection fee is expected to generate an estimated \$48 million in fiscal year 2013, \$10 million more than the corresponding \$38 million reduction in requested BLM appropriations, thereby expanding the capacity of BLM's oil and gas inspection program. The fee would support Federal efforts to increase production accountability, human safety, and environmental protection.

*Onshore Oil and Gas Drilling Permit Fee.*—The fiscal year 2013 budget proposes to continue a fee for processing drilling permits through appropriations language, an approach taken by the Congress in the Interior, Environment, and Related Agencies Appropriations Acts. A fee of \$6,500 per drilling permit was authorized in fiscal year 2010, and if continued, would generate an estimated \$32.5 million in offsetting collections in fiscal year 2013.

*Grazing Administrative Fee.*—The fiscal year 2013 budget includes a new grazing administrative fee of \$1 per AUM. BLM proposes to implement the fee through appropriations language on a 3-year pilot basis. The budget estimates the fee will generate \$6.5 million in funds that will assist the BLM in processing grazing permits. During the period of the pilot, BLM would work through the process of promulgating regulations for the continuation of the grazing fee as a cost-recovery fee after the pilot expires.

*Surface Mining and Reclamation Permit Fee.*—The fiscal year 2013 budget continues an offsetting collection initiated in fiscal year 2012, allowing OSM to retain coal mine permit application and renewal fees for the work performed as a service to the coal industry. The fee will help ensure the efficient processing, review, and enforcement of the permits issued, while recovering some of the regulatory operations costs from the industry that benefits from this service. The fee, authorized by section 507 of Surface Mining Control and Reclamation Act, would apply to mining permits on lands where regulatory jurisdiction has not been delegated to the States. The permit fee will generate an estimated \$3.4 million in offsetting collections in fiscal year 2013.

#### CONCLUSION

Thank you for the opportunity to testify on the President's fiscal year 2013 budget request for the Department of the Interior. We have a tremendous opportunity to

invest in America's energy independence and economic growth. This budget balances forward looking investments with fiscal restraint. For America to be at its best, we need lands that are healthy, waters that are clean, and an expanded range of energy options to power our economy. I thank you again for your continued support of the Department's mission. I look forward to working with you to implement this budget. This concludes my written statement. I am happy to answer any questions that you may have.

Senator REED. Thank you very much, Mr. Secretary.

We will take 6-minute rounds, and I fully anticipate at least two rounds. But I am prepared to stay as long as my colleagues are here asking questions.

#### OFFSHORE WIND

Let me begin with a topic that both Senator Collins and I touched upon. That is development of offshore wind power. Mr. Secretary, you started with your Smart from the Start Initiative, a very aggressive approach to thoughtfully and carefully beginning the process of leasing these sites so that we can develop power offshore and create jobs onshore.

My concern is that in Rhode Island we are really falling behind in the timing of the environmental assessment while the Mid-Atlantic region seems to be going forward rapidly. And that is troubling to me in one particular aspect. It seems as if we have done so much preliminary work over the last 5-7 years in terms of the ocean SAMP, where we have, I believe, a much better scientific basis with respect to tidal conditions, fishing practices, and the whole geographic and geological areas, we seem to be not at the front of the line. We seem to be in the back of the line.

So I would ask you, could you commit to help us expedite this timeframe, get the environmental assessment done in the same sort of period that Mid-Atlantic States are, and then move forward to leasing? Can you help us with that?

Secretary SALAZAR. Absolutely, Senator Reed. Because I know many of you, you and Senator Collins in particular, are very interested in Atlantic wind, if I may take just a few minutes to speak about the effort in general?

Senator REED. Of course.

Secretary SALAZAR. I have, from day one as Secretary of the Interior, thought that Atlantic wind was one of the most promising renewable energy programs for the United States of America for the ease of transmission because of the high quality of the wind, because of the topography off the Atlantic.

Our Smart from the Start Initiative is intended to stand up offshore wind in the Atlantic. The President has been very supportive and has been leading the effort in making sure we do everything we can. We have set up task forces in each of the States, and they are moving with us to make sure we are deconflicting the uses of the ocean that we can stand up offshore wind in a real way.

With respect to Rhode Island, just last week I think the Deputy Secretary and BOEM's Director and others announced what we have done in terms of marking those areas, more than 200,000 acres, which are ready offshore to be developed. We are moving forward with the environmental assessment, and we hope to be able to publish that this summer in the State of Rhode Island, and we will do everything we can to get it done.

The State of Maine, the disappointing news from Statoil was that they were perhaps planning on not moving forward with their deepwater application. I have asked my staff to have a meeting with me and Statoil to see whether we can keep up their interest in the deepwater because I think what Maine has done at its center with Senator Collins's leadership has been extraordinary, and I think the future for that project is very bright. I would be delighted to work with Senator Collins on that effort.

Senator REED. Thank you very much, Mr. Secretary.

An ancillary question. As you know, we have two major projects, one in Federal waters and one in State waters off of Block Island. The Department of the Interior and COE and others have to give us approval for a transmission line from the State project, Block Island essentially to the mainland. Would you also commit to helping us expedite from Interior and BOEM's position those approvals?

Secretary SALAZAR. The answer is absolutely yes. I would like David Hayes to speak a little bit to the Rhode Island issue because he has been working very closely with BOEM to make sure we are moving as fast as we can and we are cutting down the permitting time on what we are doing, both in Rhode Island as well as in other States.

Senator REED. Thank you. And I want to thank Deputy Secretary Hayes for his great work in this effort. Thank you.

Mr. HAYES. Thank you, Senator.

I think the Secretary really said it all. We are very eager to move forward with Rhode Island and also with the deepwater work in Maine. With regard to Rhode Island, I will just comment that the SAMP work the State has done and you have encouraged, will absolutely pay dividends in terms of the schedule for getting steel in the water off Rhode Island.

We expect the environmental assessment process to move forward much more quickly because of the groundwork that has been done, the good science done by the State. Certainly, once we get an application in, every applicant is going to be able to do an environmental impact statement more quickly and more solidly because of that terrific work the State has done with your leadership and support.

Senator REED. Thank you very much.

#### BLACKSTONE RIVER VALLEY

Very quickly, Mr. Secretary, turning to the Blackstone Valley Park, as you know, last year the National Park System put out a tentative approval, and we are waiting for the final version. And can we get some indication of when the final study from NPS will be released? Because without that, it is difficult for us to seek the kind of authorization that is necessary.

Secretary SALAZAR. Senator Reed, I will do everything to get the study sprung. It is essentially completed, and there is a process underway. There is no doubt the center that founded the Industrial Revolution of America and all the history you have in the Blackstone area, the support of your Governor, both Senators, the support of Massachusetts as well, all that is in our calculus. I think it would be a great addition to our National Park System.

Senator REED. Thank you very much, Mr. Secretary.



Senator Murkowski.  
 Senator MURKOWSKI. Thank you, Mr. Chairman.

CONTRACT SUPPORT COSTS

Mr. Secretary, I mentioned in my comments my appreciation for the funding in the budget for contract support costs within BIA's budget. You are—it is estimated at full funding to cover the costs, and again, I thank you for that.

But the same account for IHS, which provides for the administrative cost to healthcare, is severely underfunded. So we are looking at this and saying, okay, we are making good headway on Department of the Interior's side through BIA, but through IHS we are not seeing things sync up.

Can you tell me whether or not there is any coordination between BIA—your Department and on IHS to deal with this as we seek to conduct the tribal consultation? And if there is not, if there is some way that we could look at this to see if we might be able to line some things up better?

Secretary SALAZAR. We would be happy to do so, and you and the President have attended some of these conferences. Every year we brought Nations from the country together. On law enforcement, Attorney General Eric Holder and I have an ongoing conversation about what we are doing on law enforcement issues in Indian country, on health issues as well with Secretary Kathleen Sebelius.

Now the specifics in terms of our budget on the BIA and health services at HHS maybe Pam will be able to answer those questions, or I will get some additional information to you. But at the end of the day, our approach, Senator Murkowski, has been to bring the whole of Government to deal with some of the most significant issues facing Indian country.

Certainly, the healthcare issue that is faced almost in every Indian reservation is one of the biggest challenges we face. It is important we have the whole Government behind it.

Senator MURKOWSKI. Well, and as we talk about tribal consultation, it makes sense to have that consultation with all of the affected agencies. So if we could just try to better understand how this coordinates because on paper it doesn't look like it is working as efficiently as we should.

477 PROGRAM

On another issue as it relates to tribal funding, last year in the Interior bill, we had placed language that would require the existing program within the 477 program. You will recall that this is the program for Indian employment for training and related services. There was a new requirement for auditing that really lacked a level of flexibility, lacked any effort with consultation with the tribes.

So, in last year's appropriations bill, we included language that stated that consultation with the tribes must occur before any changes to the 477 program moved forward. Do you have any updates in terms of how that consultation is coming along, whether or not we can expect some kind of agreement with the tribes through this process that will help with the program accountability?

Secretary SALAZAR. According to my Budget Director and my Deputy Secretary, we have workgroups meeting every week on this issue, and we hope to get to some good resolution.

Senator MURKOWSKI. Okay. So we will await an update from you or from your staff. I thank you for that.

#### HYDRAULIC FRACTURING

Let us move over to the energy side here. In the Interior budget, you are seeking a \$13 million increase to USGS to support hydraulic fracturing research. But in looking through the rest of the President's budget, we see that within the Department of Energy's Office of Fossil Fuel, they are also proposing an increase in that very limited fossil fuel budget to study hydraulic fracking on the impacts of water quality. And apparently, also within the EPA budget, there are additional monies devoted to fracking research.

And I guess the question is, as we are looking to eliminate redundancies within the budget, can you explain the need for at least three different agencies now to be devoting extra money in a very tight budget year to seemingly be doing the same research?

If it is not the same research, I would be curious to know where we are going with it. But can you fill me in on that?

Secretary SALAZAR. We have a very good working relationship in the cross-cutting budget that OMB approved for DOE, as well as EPA and Interior, relating to hydraulic fracking. All the efforts on research from all of the agencies—the USGS, DOE, and EPA—will be coordinated so we have a comprehensive look at the issues of hydraulic fracking.

Senator Murkowski, I have often said in places around the country and in my meetings with the oil and gas industry and other stakeholders, that the President has been very strong on supporting the future of natural gas. It is an abundant domestic resource. We have a 100-year supply.

As you will recall, even in 2009, we were very strong in supporting the trans-Alaska natural gas pipeline. We are still working on it, and hopefully, some of that will happen.

But as we look at the bright future of natural gas, it is my view as Secretary, where through the BLM we oversee about 700 million acres of the mineral estate of the country, that unless we are able to bring about the confidence of the American people in hydraulic fracking, it could be the Achilles heel for the promising energy resource we see. The rules we are in the process of putting together in their final stages will require three things.

First, it will require disclosure so everybody knows what is being injected into the Earth. So we don't have the kind of reaction that essentially has a potential for stopping natural gas development as we have seen happening in some of the States.

Second, well bore integrity. Each member of this subcommittee I have had conversations with at different times about the Deepwater Horizon and the Macondo oil spill. Well, the well integrity issues were part of what was going on there. We need to ensure well integrity with respect to hydraulic fracking so we don't have contamination of water supplies. It seems to me is common sense.

Third, every time you frack a well, you inject the fluids into the well, and you have flowback water and materials come back from

the well. Our proposed rule will actually address the monitoring of what happens with flowback water so it is not contaminating our streams.

When I have spoken to members of the industry, including the leading oil and gas companies, when I speak to them one-on-one, they are supportive of those kinds of common sense rules. If you look at what has happened in the State of Wyoming and in the State of Colorado now, in the State of Texas, there are rules on the books in those States that will allow that to move forward.

So hydraulic fracking I know will be an issue here in this Senate in the days ahead. Our intention is to move forward with the kind of a program at the Department of the Interior, knowing that, at the end of the day, the North Star guiding us and I know guiding you, Senator Murkowski, is that we need to make sure we are fully using the great promise we see in natural gas here in the United States.

Senator MURKOWSKI. Well, I thank you for that, and I would just, again, urge that we ensure that we don't have duplication of efforts across the agencies at a time when we have got tough budgets. I would concur with you. We need to get this right. We need to make sure that it is right, and your agencies are charged with that.

But just from a budget perspective, let us look carefully at whether we have got overlap. But I am sure you are looking at that.

Thank you.

Secretary SALAZAR. Absolutely.

Senator REED. Thank you.

Senator JOHNSON.

Senator JOHNSON. Thank you, Mr. Chairman.

And thank you to my good friend Secretary Salazar for being here today. And welcome Deputy Secretary Hayes and Ms. Haze.

#### LAND AND WATER CONSERVATION FUND

Though I have some concerns about parts of the budget request, I do appreciate the administration's recognition of the value of conservation, tourism, hunting, and fishing to our Nation's economy. I especially appreciate the boost in funding for the LWCF and also note that the LWCF from the Department of the Interior is responsible for Wind Cave National Park being able to complete acquisition of the 5,500-acre Casey Ranch that will provide access to a historic buffalo jump and preserve a valuable natural resource.

#### AMERICA'S GREAT OUTDOORS INITIATIVE

I also note that you, Secretary Salazar, have also identified the Blood Run site in South Dakota and the Dakota Grasslands Conservation Area as priority projects in the America's Great Outdoors Initiative.

As you well know, we have been long making the piece for better investment in infrastructure projects like rural water systems. While the budget request for rural water is much better this year than last, we are still losing ground to inflation in projects like Lewis and Clark.

## RURAL WATER

In the 2006 Rural Water Supply Act, the Congress directed Interior and the Bureau of Reclamation to develop a report assessing the status of authorized rural water supply projects like Lewis and Clark and the plan for completion. When can we expect to see this report, and what can you tell us about the long-term plans to complete these vital projects?

Secretary SALAZAR. Senator Johnson, first, thank you for your Herculean efforts on behalf of the people of South Dakota, and thank you for your support of the LWCF. I think the projects you speak about are very huge economic generators for the State of South Dakota from the Wind Caves National Park to Blood Run to the Dakota Grasslands.

As I travel around the country and I speak to both the business community and the conservation community, I often use those projects as great examples of how job creation and conservation go hand-in-hand. And certainly, the Dakota Grasslands are the duck factory of the United States of America. Fifty percent of the migratory birds go through that area, and it would be, frankly, 50 years from now a major setback for conservation in our world if we are not able to join you and your leadership in your efforts in protecting the Dakota Grasslands.

On rural water, it is a hugely important issue for us. I wish we could do more on the Lewis and Clark project. We have put in, I think, \$4.5 million, more or less, into next year.

Obviously, we could put a lot more in if we had the money. But again, Senator Johnson, this is one of those tough choices and painful budgets, and I believe in the rural water supply arena alone we could use probably 100 times the amount of money made available. We are having to make some really, really tough choices where we put the money.

South Dakota, Lewis and Clark, a multi-State project is a great example where we should have the money because the States' local water users have already put up their share of the money for the project. But we don't have the money on the Federal side to be able to complete it. We are trying to do as much as we can to move the project forward.

## INDIAN SCHOOL EQUALIZATION PROGRAM

Senator JOHNSON. I would also like to touch on the Indian School Equalization Program (ISEP). According to the last census, Indians younger than the age of 18 had a spike in population in my home State of South Dakota. How do you explain that from fiscal year 2012 to fiscal year 2013 more than 60 percent of the BIE's schools in South Dakota received a decrease in their ISEP funds? Does the ISEP formula need review?

Secretary SALAZAR. First, let me say the President, Secretary Duncan—and Keith Moore—the Director of the Bureau of Indian Education, have been working very hard with the tribes to make sure we are moving forward with reforms that, hopefully, will address the very painful and difficult circumstance we face in Indian schools around the country. We hope to be able to have some reform efforts that will help us get there.

In terms of the money itself, my understanding is that the formula that funds the equalization is driven by enrollment, and I think in those schools that you mention, there has been a significant decline in enrollment. But I would be happy to look into this issue further and to supplement my answer to you and your staff.

Senator JOHNSON. Please do.

Senator JOHNSON. I yield back.

Senator REED. Thank you very much, Senator Johnson.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

#### OFFSHORE WIND

First, Mr. Secretary, I know that you were very impressed when you came to the University of Maine and saw the cutting-edge lab that has been developed to test composite wind turbines that can withstand the heavier, more persistent offshore winds and all the work that is being done with the consortium that is supported by private companies, the State, the university system, other States as well, and the Federal Government.

And I think that is the kind of partnership that we need to ensure that the United States wins the race to develop offshore deep-water wind energy. And I would point out that race also includes thousands of manufacturing jobs to make the new composite wind turbines that are going to be necessary. So it is very important not only from an energy perspective, but an American manufacturing jobs perspective as well.

I look at what other countries are doing to foster the development of offshore wind, and I can't help but ask whether we should be doing more. For example, the United Kingdom, Germany, and Portugal have all established test sites for ocean energy. They have funded the environmental permitting studies and provided electrical infrastructure, including underseas cabling and grid interconnection for these test sites.

Then private industry in those countries, working with the research institutions, have then access to these sites that are all ready for them to build and test advanced offshore wind turbines and other ocean-energy-harvesting devices. And that is for still further commercial development.

So my question is, what potential role do you see for the Interior Department to develop plans similar to those that are being pursued in other countries, in our competitor countries, to work with States to actually establish the national offshore wind test sites? Do you, for example, envision a role for the Department in helping to provide the critical funding necessary to construct the grid interconnection for these national test sites?

Secretary SALAZAR. Senator Collins, we are doing everything we can on Atlantic offshore wind and are actually now processing an application on transmission for the Mid-Atlantic States called the Atlantic Connection. We will do everything we can because it is highest priority for the President of the United States and for me to move forward.

We control, obviously, the land base and have a partnership arrangement, memorandum of understanding, with DOE as well in terms of some of the research efforts that are going on. If there is

anything we can do that we are not doing within the resources we currently have, I would be delighted to have those conversations with you and members of the subcommittee because we are doing everything we can.

I would note your eloquence in your statement. It seems to me that if the United Kingdom, Portugal, and Denmark could move forward with these kinds of efforts, there is no reason why we in the United States should not. This is part of the race we cannot cede to the rest of the world.

I think, especially when you look at the Atlantic, when you look at Maine, and you look at the attributes you have there, it is an opportunity we ought not to let pass from us.

Senator COLLINS. Thank you. I couldn't agree with you more.

#### NORTH WOODS NATIONAL PARK PROPOSAL

I also want to take this opportunity to give you an update on a very controversial issue in Maine with which you are very familiar, and that is a proposal to establish a North Woods National Park.

Since your visit to Maine in August, the proponents have been trying hard to gain support for the completion of a feasibility or reconnaissance study. But I will tell you that the harder they have pushed, the stronger the resistance has become. Statewide, the Maine legislature passed a joint resolution opposing the creation of a national park in Maine's North Woods. Locally, the Millinocket town council approve a resolution in opposition.

East Millinocket actually had a vote, and the voters overwhelmingly opposed a feasibility study for this proposed national park. And the proposal is now opposed by the Maine Forest Products Council, the Maine Snowmobile Association, the Sportsmen's Alliance of Maine, Great Northern Paper Company, the United Steelworkers Local 137, and many of the smaller communities, as well as the two principal, three principal communities in the area.

So I would also point out that the National Park Regional Citizen Evaluation Committee, which had supported the park, has recently become inactive, reflecting the dwindling support for this plan.

What we have found in Maine works best is working with private owners to ensure public access, and we have been very fortunate over the centuries in Maine—Maine is the most heavily forested State in the Nation—to have that kind of public-private partnership without having Federal control and Federal ownership.

So I wanted to give you that update since your visit that the support that may have existed, which was always a minority level of support, has declined significantly. And I am hoping that you will assure me that NPS, which has so many demands on its funds, will not be looking into funding a reconnaissance study for this region.

Secretary SALAZAR. Senator Collins, first, let me say we have no plans to move forward on a reconnaissance study on the proposal from Ms. Quimby on the national park. There is no effort underway to do any of that.

When we look at the two projects that are part of the America's Great Outdoors Initiative, which I have identified as 2 per State and 1 for the District of Columbia—101 projects—the 2 in Maine

reflect the approach you have been advocating to me for a number of years, and that is grounds-up.

If you look at the Penobscot River, as you so eloquently stated, it is one of the most significant river restoration projects in the world, and we are getting close to getting that done. You look at the State project which is moving forward in part through your support and our advocacy on Keeping Maine's Forests, that is also a grounds-up kind of approach there.

I hope to visit those America's Great Outdoors Initiative projects with you soon. But on your point with respect to the Roxanne Quimby proposal, we are not moving forward with a reconnaissance study of any kind.

Senator COLLINS. Thank you very much.

And thank you, Mr. Chairman.

Senator REED. Senator Collins, thank you.

Senator Tester.

Senator TESTER. Thank you, Mr. Chairman.

And I will be as quick as I can getting to it. Welcome, Secretary Salazar.

#### SCHOOL CONSTRUCTION

The funding for the BIE's construction program was at \$140 million in fiscal year 2011, down to \$71 million in fiscal year 2012, and now \$52 million in fiscal year 2013. The schools, at least in Montana, are in dire need of repair. Dilapidated might be a word that comes to mind.

I know you have put forth a budget that is—has a lot of cuts in it, and as you said in your opening remarks, painful cuts in many, many cases. I want to bring that to your attention, and I want to get your response very quickly on it if I could.

Secretary SALAZAR. I wish we had the money to work on all these schools. We put significant amount of money from the American Recovery and Reinvestment Act into the construction projects. We have made significant progress from where we were in 2009, and more than 60 percent of the BIE schools are now rated in good condition. Well, that is not enough because that means 40 percent are in poor condition.

Senator TESTER. That is right. Yes.

Secretary SALAZAR. It is just a matter, Senator Tester, of, frankly, not having the money to be able to move forward.

Senator TESTER. Okay. We will look for opportunities as it goes forward together on this.

#### AUTOMATED STANDARD APPLICATION FOR PAYMENTS PROGRAM

The Automated Standard Application for Payments program, which I think you are familiar with. I hope I am calling it the right thing, A-S-A-P. It is an online reimbursement program designed for Government payments to go to corporations, nonprofits, universities—a paperless reimbursement.

The program was not designed for private land owners. It is kind of a one-size-fits-all policy, which treats family farms and ranches the same as large corporations when it comes to reimbursement. You, being an agricultural guy yourself, understand that, well, I mean, in most cases, we do have access to the Internet. But a lot

of times, we are a little bit suspicious when it comes to transferring money online, and so, it is a deterrent.

Is there any ability to put some flexibility in that? Because from my perspective, the land owners' buy-in is the most important part of this equation.

Secretary SALAZAR. Senator Tester, I absolutely agree with you, and I have asked Director Ashe from the Fish and Wildlife Service (FWS) to work with Pam Haze to see whether we can come up with some kind of a resolution. There are now 29 States with ranching organizations for conservation, much like you have in the Crown of the Continent, and I believe we need to do everything to encourage that kind of "working lands conservation" approach to conservation.

Senator TESTER. Okay. Good.

#### HYDRAULIC FRACTURING

I want to just touch on the fracking thing just to reinforce what you already know. And we have got a big play with the Bakken in eastern Montana. It is creating jobs. It is creating energy security. It is doing a lot of good things.

But hydraulic fracking is something I hear about when I come home all the time, and folks want to know if we have adequate inspectors to determine whether that case, the cementing that is going on in the casing is actually going to keep what is going on 2 or 3 miles down out of our groundwater.

Can you say with any kind of certainty that we have adequate inspections to make sure that that cement is done in a proper way to assure that we are not going to be polluting our drinking water?

Secretary SALAZAR. Our rule will so require, and I am going to have David, the Deputy Secretary, speak to the inspector issue.

Mr. HAYES. Senator, certainly on our public lands, we are prioritizing inspections to deal with potential high-risk issues, and that includes ensuring well construction is done with the appropriate integrity. The proposed rule the Secretary is referring to will require an additional certification by the operators to ensure they are using the proper cementing and, as you say, walling off the well from lower aquifers.

Senator TESTER. And we have got adequate people on the ground to make sure that happens, or is it a self-inspection reporting?

Mr. HAYES. It is both. We are giving a lot of attention to the inspector issue. We could use more inspectors, but BLM does do an enormous number of inspections a year. We want to supplement it with the certification by the operator.

#### HUNTING AND FISHING ACCESS

Senator TESTER. Okay. When I return to Montana, I also hear from sportsmen and women about access. It is the number-one issue amongst our sportsmen out there—access to go fishing, access to go hunting. Because of that input, I adopt—drafted a bill that sets aside 1.5 percent of land and water conservation funding to secure access for existing public lands.

Not to put you on the spot, but I will. Would you support this effort?



Secretary SALAZAR. We have money. It is \$2.5 million with BLM to try to provide public access. I think the concept makes tremendous sense and would be happy to work with you on it.

Senator TESTER. Okay. I appreciate that very much.

#### OFFSHORE DEVELOPMENT

With that, I would just like to say when I talked to you, I guess it has been a bit ago, about the offshore spill and what all transpired on there, I know you were under a lot of pressure. Probably lost a few follicles of hair that you couldn't afford to lose.

But the bottom line is, is that as we talk about opening up offshore production again, which we all want to be energy independent and we all want to make sure that this—that we develop the resources appropriately here at home, are you confident that what happened with the spill in the gulf won't happen again?

Secretary SALAZAR. Senator Tester, first, let me say from those days, I think I did lose follicles of hair for that reason and probably many other reasons as well. I am proud of the fact we have weathered that storm. Now, there are 60 permits issued in the Gulf of Mexico just in the last 12 months; the rigs are up and working, and we have led the greatest overhaul in the Nation's history in terms of offshore oil and gas production in America's oceans.

We are doing more to make sure prevention is prioritized so we don't see a Macondo well oil spill again. It means we have worked with industry and several corporations that have been set up, the Helix Corporation and Marine Well Containment Company, to make sure if something like that were to happen, there would be a quick response. Third, we have overhauled the efforts in terms of dealing with oil spill response as well.

Now to your question, because I think that is an important question to all the members of this subcommittee, including Senator Landrieu, who sees so much of the energy production of the United States coming from the Gulf of Mexico. Can we be 100-percent safe that something is not going to happen? No.

We can do as much as we can to minimize the risk, and we certainly have done that, I believe, in the Gulf of Mexico.

It is important, if I may, Senator Reed, and I know I probably am taking a little more time than I should here. It is important when you look at the map of the Gulf of Mexico to also recognize that between the United States and Mexico, we probably have about 98 percent of the land mass. We can control what happens in United States waters, but we can't, frankly, control what happens on the Mexican side of the border.

So, when you think about the huge potential for oil and gas resources, and Mexico is moving very aggressively into the deep-water, it is important we have the kind of relationship with them where they also learn the lessons and have the kind of system we have here in the United States.

Secretary Clinton and I signed an agreement with our counterparts in Mexico last Monday that will usher in this era of cooperation and resolve longstanding issues in the Gulf of Mexico. We are making significant progress, and I know probably Senator Murkowski, who is on top of these things in the Arctic, is also very cautious in terms of how we are moving forward with the most cau-

tious program that has ever been put together in terms of any exploration.

Senator TESTER. Well, I want to thank you once again, Mr. Secretary.

Thank you, Mr. Chairman.

Senator REED. Thanks, Senator Tester.

Senator Alexander, please.

Senator ALEXANDER. Thanks, Mr. Chairman.

Mr. Secretary, welcome.

#### JOINT CURATORIAL COLLECTION FACILITY

I mentioned earlier and we have talked before that these great national parks, Yellowstone National Park gets \$35 million, Yosemite National Park \$29 million, the Great Smoky Mountain National Park \$19 million, counting all funding, including fees. Yet the Great Smoky Mountain National Park has three times as many visitors. I say that in a way of suggesting that a point in favor of the joint curatorial collection facility, which would benefit the Great Smoky Mountain National Park and four other national parks by holding hundreds of thousands of artifacts and archival records, that could be a point in its favor.

I don't expect an answer from you on that right now, but I simply want to raise the importance of it. I appreciate your considering, the Department's considering it, and it is a sound project.

#### FISH HATCHERIES

I have two areas of question. One has to do with fish hatcheries. And I mentioned a little earlier that at one point I noticed that the number of Tennesseans who have hunting and fishing licenses exceeded the number who voted in the last election. So this is serious business for us.

The Erwin National Fish Hatchery provides eggs for hatcheries all over the country, and Dale Hollow produces 60 percent of the trout stocked in Tennessee. In your tight budget, you are having to cut from \$3.2 million from mitigation hatcheries, which would, if left alone, would close those hatcheries with very serious consequences for Americans.

My question is, well, we are working with TVA and with COE to help share in the funding of those hatcheries so that you will be able to keep them open. So my question is, can you assure me the hatcheries won't close until we have an opportunity to try to secure joint funding for them?

Secretary SALAZAR. Absolutely, Senator Alexander. I look forward to working with you and TVA and COE to see how we can keep these hatcheries open. They are, as you say, very important to the anglers of Tennessee and beyond Tennessee. I am happy to work with you on that.

#### JOINT CURATORIAL COLLECTION FACILITY

Just a quick note on the curatorial effort, I have asked NPS to see what we can do, and I do know, as we have communicated, the plan is done. I think nearly \$1 million of the \$4 million is already

in the bank, and we will turn over every stone to see how we can figure out a way of making the difference.

Senator ALEXANDER. I thank you for that. And you are exactly right. The five parks have worked together to try to squeeze every \$1 they can to minimize the money that is responded, and \$2 million is what is left.

#### ENERGY

Now I would like to ask you a question about equal treatment for different forms of technology, which the administration is moving toward. The President is talking about all of the above, and I think increasingly those of us who deal with energy and environment are saying we ought to treat all our different forms of energy as equally as possible.

For example, you propose to raise fees on oil and gas production in this budget. Do you intend to raise fees on wind and solar energy production at the same time and by the same amount?

Or let us take a second area. Let us take birds. In reading about Teddy Roosevelt, I was reminded that his whole conservation career began with birds and the protection of birds. And we have in our law a law that says if you kill eagles, you can go to jail. And then we have the Migratory Bird Treaty Act, if you kill migratory birds, you can go to jail.

And in 2009, Exxon Mobil killed 85 birds that had come into contact with crude oil in uncovered tanks or wastewater facilities, and they paid \$600,000 in fines and fees. Well, I noticed the other day the Minnesota Public Utilities Commission denied plans for a 48-turbine wind farm because of concerns about birds, bats, and bald eagles. And we all know that these big wind turbines have become sort of Cuisinarts in the sky for birds, especially golden eagles in California.

And I understand that that wind farm has even applied to the Department of the Interior, to the FWS for a "taking permit". So they can take a certain number of birds when the turbines start to roll.

So am I to understand that if you are going to treat forms of energy production equally that Exxon Mobil ought to be applying for taking permits for the next golden eagles it kills? Or if not, why would you not apply to wind turbines and other forms of energy the same rules you apply to oil and gas production?

So my question on this is equal treatment for forms of energy production. If you are going to raise fees on production of oil and gas, will you do the same for wind and solar? And will you apply to wind turbines the same laws that exist for killing birds that you apply to oil and gas production?

Secretary SALAZAR. Senator Alexander, first, on the revenue side for renewable energy projects, we have moved forward with rules and in our right-of-ways, which is what we grant to renewable energy projects onshore as well as in the offshore, to make sure the principle of a fair return to the taxpayers is adhered to, and that is the same principle we have with respect to oil and gas production, both onshore as well as offshore.

On your second concern relative to wind energy projects and birds, we are working on developing a set of guidelines from FWS

to deconflict the wind projects that are being proposed around the country with the avian issues we care so much about at the Department of the Interior.

Many of the projects, which were built 20, 30 years ago, including the one you cite in California, were projects that, first of all, didn't have the technology we have today. The technology being used now for wind blades and wind turbines is much better than the ones in place then. In fact, some of the projects in California have already turned over into the new technology because they recognize the issues, the lethality of their projects on avian populations.

Second, and perhaps more importantly, what we are working on with FWS is to try to identify those corridors which we know are of high use for avian populations so, in those areas, we would not be permitting wind projects. We are in the process of trying to come up with a plan to deconflict our mandate for conservation, which is a legal one, as you say, under the law, and at the same time honoring the priority to develop alternative sources of energy.

Senator ALEXANDER. Thank you, Mr. Secretary.

If I can prove to you we have lots of birds in the Great Smoky Mountains, will you keep the wind turbines out?

Secretary SALAZAR. I can guarantee you, Senator Alexander, that there will never be a wind farm built in the Great Smoky Mountain National Park.

Senator ALEXANDER. Thanks, Mr. Chairman.

Senator REED. Thank you, Senator Alexander.

I want to recognize Senator Leahy, but I also want to thank Senator Landrieu. Because of Senator Leahy's schedule, he asked to be recognized when he arrived.

Senator Leahy, please.

Senator LEAHY. I apologize, and I do thank Senator Landrieu also.

I also want to thank Senator Reed for holding this important hearing. I should tell you, Mr. Chairman, that Secretary Salazar is a rock star in Vermont. People still talk about his visit up there, and I appreciate that.

#### LAND AND WATER CONSERVATION FUND

But I am hoping that today's hearing doesn't simply focus on energy issues related to drilling and permits, and Senator Alexander has obviously related one. I would like to see us refocus our attention on LWCF, the bipartisan promise we made to land conservation in 1965 to allow us to invest in our natural areas in historic preservation.

Some of our country's most treasured places have been acquired using the LWCF, including the Grand Canyon National Park, Denali National Park, many historic Civil and Revolutionary War battlefields, the Appalachia National Scenic Trail, which runs through Vermont as well as States of three other subcommittee members—from Georgia, through Tennessee and Maryland, Vermont, ending in Maine. In fact, our four States make up 35 percent of it.

## SILVIO O. CONTE NATIONAL WILDLIFE REFUGE LAND ACQUISITION

I worry that if we don't use it right, we could lose natural resources forever, and I was concerned in hearing about the Silvio O. Conte National Fish and Wildlife Refuge that they have a number of resources that are ready to be acquired with the \$6.5 million that was in the President's fiscal year 2012 request and the \$1.5 million in fiscal year 2013.

Now I know you don't want to draw out too long some of these acquisitions. But I challenge the claims that have been made the Conte refuge is not able to spend the entire request that was made by the President last year.

They span four States. They encompass the entire 7.2 million acre Connecticut River watershed. Conservation in this area is essential. A Vermont Fish and Wildlife survey yesterday detected four or five Canadian lynx in the Nulhegan Basin of the Conte refuge. Now this is an endangered species and almost never seen, and they are coming back.

So, Mr. Secretary, can you explain the difference between what I am hearing on the ground in Vermont and throughout the Conte refuge regarding the number and cost of tracks of land available for acquisition with the \$6.5 million in your fiscal year 2012 request and what I am seeing in your reprogramming request?

I mention that because it is a critical part of the America's Great Outdoors Initiative. It crosses four States. It is an area under enormous pressure from developers. Is it a case where we have the money, and now the money is being taken away?

Secretary SALAZAR. Senator Leahy, first, let me thank you and Marcelle for the wonderful welcome that you always give me, including into the great State of Vermont just last summer. I hope to be up there again. Vermont is one of the great States in terms of hunting and fishing and environmental education.

Two, I support your efforts and applaud your leadership as well on the LWCF. The true needs of it, even though there will be debate, I am sure, in this subcommittee, are probably more in the neighborhood of \$5 billion a year. So, when we look even at our request at \$450 million in the fiscal year 2013 budget, it is not meeting the needs that are out there for conservation programs. And every one of our areas around the country from the Grand Tetons National Park to Yellowstone National Park to Silvio O. Conte National Park have needs.

What we have done with the Silvio O. Conte National Park area, and it is such a great wildlife refuge, and in the connectors that we are working on through the America's Great Outdoors Initiative, there are \$4 million in acquisitions ready to go. We will make those acquisitions in the fiscal year 2012 budget.

Now the delta between the \$4 million and the \$6.5 million and our reprogramming request before this subcommittee comes as a result of the fact there were significant cuts that were made to LWCF in the fiscal year 2012 budget. The budget we had put forward had a request of \$900 million, which was full funding for the LWCF.

When it came out of the fiscal year 2012 process, it was down to approximately \$300 million, and we have had to make some re-

alignments. But recognizing the importance of Silvio O. Conte National Park, Senator Leahy, what we have done is we are ready to go for the \$4.5 million, and we have the other \$1.5 million requested in the fiscal year 2013 budget.

Senator LEAHY. We may have to have further discussions on it. I fought like mad to get that money in the budget, and I would hate to have it go right back out. So we will have some more discussions, I will with the chair, on questions of reprogramming.

#### STREAMGAGES

And I will put for the record, and I really want answers on this, to give—our floods we had in Vermont, and we had an important Interior Department tool that both we and New York used. Those were the gages the USGS had, the river and lake gages.

I think we would have lost a lot more property, a lot more lives if we had not had those. So I will have questions. I will have questions on that, and I will thank you again on putting in money for white-nose syndrome among bats.

When I first started raising this question, people thought I was referring to a movie character that I have some familiarity with. But this is decimating, the loss of these bats are hurting agriculture throughout many, many, many States. And so, it is important that we keep working on this, and I applaud you for that.

Secretary SALAZAR. Thank you.

Senator REED. Thank you.

I am going to recognize Senator Cochran—we are going back and forth—and then Senator Landrieu. Excuse me again, Senator Landrieu.

Senator Cochran.

Senator COCHRAN. Mr. Chairman, thank you.

Mr. Secretary, welcome. It is good to see you and to be here to congratulate you on your fine job as Secretary of the Interior. We have enjoyed having the opportunity to work with you on a number of programs for wildlife habitat protection, NPS, LWCF programs, all very important in our State.

#### COASTAL IMPACT ASSISTANCE PROGRAM

One in particular, though, has come in for substantial reduction or deletion of funds that we had seen recommended for this agency is in the Coastal Impact Assistance Program (CIAP). This is particularly important in the Gulf of Mexico. We have been through a lot of challenges in that area, as everybody knows. And it just seems to me to assume a savings of \$200 million by rescinding unspent balances in the CIAP gave me pause when I saw that as kind of the lead description of this request.

Is there any way to reconsider that? How locked in are you to reducing the funding for that program at this critical point in the gulf's history?

Secretary SALAZAR. Senator Cochran, let me say that I appreciate your leadership on conservation and your work on the Migratory Bird Conservation Commission and our meetings every couple of months in that effort.

On CIAP, you may recall I was one of those supporters for CIAP when I was a U.S. Senator working with all of you. It is a very im-

portant program. It was not functioning well under the former Minerals Management Service. I moved it over to the FWS, and we are getting the money out in very significant amounts. The monies are going to the States.

In terms of the budget itself, it will take congressional action to adopt the proposal in the budget. It is one of those times where the whole budget is being combed for places where we can find some money to be able to balance the budgets. As I said in my opening remarks, Senator Cochran, it is painful to think we are having to do some of these things.

Senator COCHRAN. Well, you wouldn't urge the President to veto the bill if we added some of that money back in the budget, would you?

Secretary SALAZAR. I think it is a long way from today until we get to the point where we have a budget, an appropriations bill presented to the President. The Gulf of Mexico and coastal impacts and the restoration of the Gulf of Mexico, Senator Cochran, are an area where I would say it is probably the single most important conservation initiative on where I spend my time, at least in the last 3 years.

Senator COCHRAN. Well, we appreciate your service, and you have been very generous in allocating some of your travel time to come to our State and to reassure us of the attention that the national leadership of the Department is giving to challenges that we face in the Deep South.

And I want to thank you for mentioning the wildlife programs where you and I both have served as Members of Congress. It has been a great pleasure working with you over the years, and we look forward to a continuation of that good relationship.

Thank you, Mr. Chairman.

Senator REED. Thank you, Senator Cochran.

Senator Landrieu, and again, thank you for your patience.

Secretary SALAZAR. If I may, Senator Reed, Mr. Chairman Reed, just one comment to Senator Cochran?

Senator REED. Yes.

Secretary SALAZAR. One, I very much appreciate your help and leadership on the fiscal year 2012 budget, as well as members of this subcommittee, because we did make a huge difference on that. And number two, Sam Hamilton was a Hercules of wildlife and conservation and a great advocate for hunting and fishing. We appreciate your leadership in having a national wildlife refuge named in his honor, a bill which the President has now signed.

Senator COCHRAN. Thank you very much for that mention, and particularly remembering Sam Hamilton. Thank you.

Senator LANDRIEU. Thank you, Mr. Chairman.

#### OIL AND GAS REVENUES

I wanted to ask, Mr. Secretary, the total amount of your budget before us today is about \$11 billion. Is that correct?

Secretary SALAZAR. That is, approximately.

Senator LANDRIEU. What was the amount of money collected from oil and gas severances, both onshore and offshore, last year? Do you have those numbers, Ms. Haze?

Secretary SALAZAR. I think I may. Off the top of my head, they were in the \$9 billion range.

Senator LANDRIEU. So it is fair to say that the production of oil and gas in this country and the severances that are collected, the severance taxes—not the corporate income tax that is paid, not the payroll tax that is paid, not the indirect sales tax that is paid—literally funds the entire Interior Department of the United States? Is that roughly correct?

Secretary SALAZAR. It is roughly correct.

Senator LANDRIEU. Do you know where 80 percent of the offshore funding comes from, off the shores of what three States would those be?

Secretary SALAZAR. Most of our offshore energy production, as you well know, Senator Landrieu, is in the Gulf of Mexico.

Senator LANDRIEU. And what States exactly are those offshore?

Secretary SALAZAR. Well, the five States of the gulf—Louisiana, Mississippi, Alabama, Florida, and Texas.

Senator LANDRIEU. Well, it is not off of Florida, and it is Texas and Louisiana and Mississippi. Very little off the Alabama coast and none off the Florida coast because it is off limits except for the section 181 that we had to struggle to open.

My point being that a large chunk, Mr. Chairman and Ranking Member Murkowski, of the money that goes to fund this entire budget comes from Senator Cochran's shore and my shore. So you can imagine my horror when I pick up the budget and just read through the pages, starting here, page F1, this is the LWCF, land acquisition. These are all the States that I see—Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah.

Let us flip the page. Wildlife and fisheries—California, Florida, Kansas, Montana, New Mexico, Washington, Dakota, Upper Mississippi River. Not a penny for the lower Mississippi River.

Let us go to land acquisition. Arizona, California, Montana, Washington, and Wyoming. I don't know how long this subcommittee expects me to be a cooperative member. I really don't know how long this administration expects me to continue to try to be supportive. I cannot express anymore that we have had enough.

The second point I want to make is that when you said you did the greatest overhaul of oil and gas drilling in this country, you most certainly did. I guess the incident required it. But there was a tremendous amount of pain from Senator Cochran's State and my State that was contributed to that overhaul. For the record, I want to read it in. A study was just released.

This is not Exxon. This is not Mobil. This is not BP. These are the 2,000 independent oil and gas producers in my State alone. I am sorry I don't have the numbers for Mississippi, Secretary Salazar. And I want to tell you what they reported to an independent administration.

Forty-one percent of these businesses are no longer making a profit. Seventy-six percent have lost their cash reserves. Forty-six percent have moved away from the gulf coast, and 82 percent of these business owners have lost personal savings trying to live through the overhaul of this Interior Department.



So, on two points—and you are my friend, and I respect you personally—I strongly disagree with the policies of this administration. One, for underchanging the region of the country that contributes most to your entire budget. Where is Mississippi listed in this budget? Where is Louisiana listed in this budget?

And following up on what Senator Cochran said, the place we are listed, you are taking \$200 million away from us. That is not going to happen. The CIAP money, which you know because you voted for it, was my bill. I fought like a tiger to get the money, and we got it.

The first, the first money that the gulf coast has ever gotten to do restoration, and we shared it with Alaska. We shared it with California. And we shared it with Florida, even though they don't produce one barrel of oil. Mr. Chairman, that money cannot leave the gulf coast.

And I want to say just one more thing. In 1965, the LWCF was created using the severance taxes that come out of oil and gas drilling offshore, not onshore. The bill was passed by Senators Mark and Tom Udall's family that served here.

They said let us take the oil and gas resources, put them together, and create great conservation land for the country. We support that. What we cannot support is taking that money off the shores of Louisiana, Mississippi, and Texas, saving everyone else while we are literally drowning.

Do you all remember the water, how high it was for Katrina? Do I have to explain to anyone on this subcommittee that south Louisiana is going underwater? Can I find one dime in this budget?

I have had it. I don't know what I am going to do, but I am going to use all the power that I can to stop any funding for any programs as long as the money is coming off the coast of Louisiana, Mississippi, and Texas. You all can go find the money elsewhere.

Go get it from Wyoming. Go get it from the interior States. Wyoming yesterday—I want to correct this, and I am going to finish. Wyoming, they have plenty money. They have 500,000 people. I have 4.5 million, 1 million of them lost their homes and went underwater. I don't remember anyone losing their home in Wyoming.

Mr. Chairman, last year they kept from their revenue sharing \$971 million Wyoming put in their general fund. There are no restrictions as to how that money is spent. They can do anything with it. The law does not allow them—gives them all freedom.

They can spend it on education. They can reduce taxes. I can't get one penny of the \$6 billion that we send off the coast of Louisiana to fund this entire budget. And when I ask for it, it is given reluctantly. It is given with all kinds of "Oh, my gosh, we can't keep giving those people down there money."

My city has gone underwater. My State is underwater. We have lost more land than any State in this country, and it has got to stop.

So go get your money, Mr. Secretary, from the West. They have plenty of it, and just let us use our money to save ourselves.

Thank you.

Secretary SALAZAR. Mr. Chairman.

Senator REED. Mr. Secretary.

Secretary SALAZAR. May I respond? First, let me say there is no doubt everyone here in this subcommittee and everyone in the administration recognizes the passion that my good friend Senator Mary L. Landrieu has for Louisiana and for the Gulf States.

#### GULF STATES FUNDING

And I can tell you that with respect to the gulf States that include all the five States of the gulf, we have put significant resources into both our national parks and our wildlife refuges. There are more than 40 of them in that part of the country. They have some of the most incredible extensive wildlife habitat, as Senator Cochran knows from his service on the Migratory Bird Conservation Commission. And we will continue to make sure those investments, which create jobs in New Orleans and other places, are investments we continue to make.

Specific to Louisiana, one of the projects which Senator Landrieu has long championed is Lake Pontchartrain and the restoration efforts there. We are working very hard to make that project a reality. We have prioritized an urban water initiative in New Orleans that will connect up the downtown. We are working very hard to try to make sure we are taking care of the Gulf States.

#### OIL AND GAS

The other point I would make is I disagree very much with my friend Senator Landrieu in terms of the overhaul on the oil and gas industry in America's oceans. Without the overhaul that we have undertaken, we wouldn't be able to say there are 60 permits that have been granted just in the last year in the Gulf of Mexico.

Senator Landrieu lived through the horror of the Macondo spill. I was with her and Senator Murkowski and Senator Bingaman and others as we flew over on C-130s over the Gulf of Mexico. That was a national crisis, and our oil and gas industry offshore is doing very well today.

We are producing significant amounts of oil and gas, and it is less than 2 years from the date when the Macondo well blew up. We have continued to move forward in a cautious way, as Senator Murkowski knows, to try to put the resources in place for two seas in the Arctic, which she has been an advocate of for a long time.

So I would only say that President Obama and I are very serious about moving forward with an "all-of-the-above" energy strategy, and it does, in fact, include oil and gas, and it includes oil and gas in America's oceans. Now I will say this to Senator Landrieu's point that I think is an important one to note.

When she argued very hard for the Gulf of Mexico Energy Security Act legislation which I helped pass in the Senate, she was making the point about the impacts of oil and gas production on the Gulf Coast States, and that is a policy debate which will go on in this chamber and the U.S. Senate. My hope is when we work our way through the issues in front of us, including the litigation we now are involved in, in the Gulf of Mexico against those responsible for the oil spill, we will see the most significant ecosystem restoration project in the Gulf of Mexico we have ever seen.

So your part of the country is near and dear to my heart, even though I know that you are mad.

Senator REED. Senator Hoeven.  
 Senator HOEVEN. Thank you, Mr. Chairman.  
 Mr. Secretary, good to see you again. Welcome.  
 Secretary SALAZAR. Governor.

STREAM BUFFER ZONE RULE

Senator HOEVEN. I would like to talk to you about the stream buffer zone rule, which the Department of the Interior is promulgating and implementing, as I understand it. I believe that this is a rule that you are developing and implementing as a result of some conditions in the Appalachian region of the country. But I am concerned that you are also implementing it in our part of the world as well, and obviously, the coal mining is different throughout the country.

And so, I am concerned that the stream buffer zone rule will require additional monitoring requirements on the part of our companies, tougher reclamation procedures, and also it provides a broader definition of streams and damage. So I guess my first question is how many existing American jobs does the Department of the Interior expect will be eliminated as a result of this?

Well, let me step back. First, why are we kind of using this one-size-fits-all? In other words, if you are trying to address an issue in one region of the country, in the Appalachian region, why are you implementing the same approach in North Dakota, for example, where the coal is different and the mining procedures are different?

Secretary SALAZAR. Senator Hoeven, Governor Hoeven, thank you for your service to the country and to North Dakota.

Let me just say we still do not have a rule. It is still in the process of being formulated, and the economic analysis will certainly be a part of that rule. The Deputy Secretary has been working with Office of Surface Mining (OSM), Joe Pizarchik, the Director of the OSM, and I would like him to comment on the substance of the rule and the concerns you raised.

Mr. HAYES. Thank you, Mr. Secretary.

Senator, I would just like to emphasize we do not have a proposal on the street. We are hearing your concerns and the concerns of others, and we are still doing the evaluation, both economic and environmental. We want to work with you, and certainly before a rule comes out, we will want to sit down and talk to you about it.

A new rule is not imminent. A new proposed rule is not imminent. When the proposal comes out, there will be an active comment period. This process is extremely important to your State and to many other States and to the Department. I can assure you that we will work with you on it.

Senator HOEVEN. Where are you in the process?

Mr. HAYES. We are continuing to prepare the environmental impact statement associated with the proposed rule. That is ongoing right now. We do not have a proposal over to Office of Management and Budget (OMB) for review yet. So we are not even at the stage where we are engaged with OMB, which is, of course, the office we work through before we can put a proposed rule on the street.

Senator HOEVEN. What is your intent? What do you intend to do?

Mr. HAYES. We are still internally evaluating the environmental impact statement and the proposed rule. We have not made a decision as to when we will go to OMB with a proposal. If we do go, it typically takes an extended period of time of discussion back and forth before a proposed rule hits the street.

Senator HOEVEN. Are you willing to have either you, Mr. Secretary, or your designee come out to my State and actually take a look on the ground at the situation and talk to some of our companies before you proceed?

Secretary SALAZAR. Senator Hoeven, I am happy to do that and, in fact, I spent a good deal of time with your Governor just two nights ago, speaking about a number of North Dakota issues, including the Bakken formation where we have been very pleased to work with you, when you were Governor, and with the State in terms of the USGS information that has been provided on the Bakken.

I also noted to the Governor that it is the only place in the country where we actually have enhanced oil recovery through CO<sub>2</sub> capture.

Senator HOEVEN. Right.

Secretary SALAZAR. And so, North Dakota is a very important State. A number of issues there to be addressed. I hope to be out there, and when I am out there, we can certainly have a meeting around the coal issues as well.

Senator HOEVEN. I do want to say that you have been very good about coming to our State. Very good both just on these types of issues, but also when we have had flooding and some emergencies, and you have been out there a number of times. And we really appreciate it. So I do want to commend you for that and thank you for that.

On this rule, I am asking, again, that you or your designee come out and meet with us and look through this before you determine how best to proceed. I mean, again, this is information. This is fact finding, and hopefully, it will be beneficial both to you and to the companies out in our part of the country that do mining.

We are number one in the country in land reclamation. We are number one in terms of how we handle the water. We meet all ambient air quality requirements. So we believe in producing energy, but we believe in taking care of the environment, too.

So let us try to work together on this, and this is an opportunity to do so. And—

Secretary SALAZAR. That is a fair request, and we will be happy to do that.

Senator HOEVEN. Thank you.

#### HYDRAULIC FRACTURING

And then, I am pleased to hear that you were talking with Governor Dalrymple. Undoubtedly, he brought up the fracking issue to you. Obviously, it is a hot topic around the country. It is an important topic.

We want to do it safely and well. We want good transparency. We want people to understand it and be comfortable with it. But we are producing an incredible amount of oil and gas and more energy not just in North Dakota, but around this country. And we

can do so much more with good environmental stewardship. But we have to understand business practices and how they work.

So for you to bring forward a rule that says that—excuse me, Mr. Chairman, I will try to wrap up here. But for you to bring forward a rule that says, okay, that the exact specifications in every frack job have to be submitted to you 30 days before that is done, and then they can't make any changes whatsoever to that frack fluid mix when they undertake fracking, that is the kind of thing that does not work for business.

So, again, full transparency. We have no problem requiring that our companies provide what is in that frack fluid so that people know and it is fully transparent. You can go on the Web and find it. That is the Interstate Oil and Gas Compact Commission (OIGCC) model that we developed. But the idea that they can't change that once they have submitted the exact specifications to you 30 days after when they are out on a well site, trying to produce a well, and the conditions change as they develop that well—I know you understand this—that has to be taken into account.

So, again, it is about regulation that is understandable, straightforward, protects the environment, but that empowers businesses and investors and so forth to do the—undertake the development, but do it right. And so, this is an example of where we are going to have to do more work on your frack regulation.

And again, from the point of understanding, let us make it workable. Sure, let us know what is going into the ground, but let us make sure it is a workable regulation.

Secretary SALAZAR. We very much agree with you, Senator Hoeven. It has to be a workable regulation. In fact, much of the time over the last year has been spent on gathering information, including a meeting I had with oil and gas industry and other experts at the Department of the Interior over a year ago, hearings that BLM has had, including the one in North Dakota, to get input.

When the rule does come out that will address the issue of transparency to disclosure and the other matters I spoke about earlier here in this subcommittee, it still will only be a proposed rule. It needs to work.

I think this is one area where I do hope we can transcend the hot politics of the time and say we agree that our North Star here has to be to use the abundant resource of natural gas, which is an American resource, and that in order to do so, we need to make sure we are providing confidence to the American people that we are doing it right.

Most of the companies I deal with, Senator, come and talk to me about the requirements we are talking about on disclosure, well integrity, and flowback water, are in agreement that we are moving in the right direction. But we will continue to listen to you, as well as to industry, as well as to other stakeholders before any rule is finalized.

Senator HOEVEN. Thank you, Mr. Secretary.

And we can help you with that. Cost-benefit needs to be part of it. But we can work together on this and I think get it right. And so, we appreciate your willingness to work with us on it and look forward to it.

Secretary SALAZAR. Thank you, Senator.  
 Senator REED. Thank you, Senator Hoeven.

#### OFFSHORE INSPECTION FEES

Mr. Secretary, if I may, there has been some discussion of offshore production of oil and gas. You have taken significant efforts to reform the inspection process, the leasing process, et cetera. One of those was the result of last year's budget, we increased inspection fees \$62 million.

Will you realize the full \$62 million increase this year? Is that your expectation?

Secretary SALAZAR. Yes. And let me say thank you, thank you, thank you to you and Senator Murkowski and the members of this subcommittee for making sure we get the additional resources to be able to do the job right. We are pushing hard on the hiring of the inspectors and moving forward with the program that you have enabled us to implement.

Senator REED. And as you suggest, Mr. Secretary, 50 percent of these new fees are required to be used to improve permit reviews and related oversight activity. So there is a direct correlation between the increased fees and we hope the effectiveness of the inspections and the oversights, which after the Macondo spill, clearly, we need a more effective system. And your goal is to implement this effort?

Secretary SALAZAR. Yes, Senator.

Senator REED. And you had indicated also, that your budget reflects a cut in personnel to the Department of the Interior, but you are actually hiring more inspectors because of the increase in fees for the offshore production?

Secretary SALAZAR. The offshore oil and gas programs will see increases in the number of FTEs. Just a quick reminder, no increase from I think 1981, 1982 until what we have done in the last several years. It is necessary, and it is such an important part of our economy that we need to keep investing in that program.

#### OIL AND GAS REVENUES

Senator REED. And just a technical point, I believe, that all of the proceeds from production—from the gulf, from the Chukchi, from Bering, from Beaufort—all of those go to the Treasury of the United States. They do not go to the Department of the Interior?

Secretary SALAZAR. That is correct.

Senator REED. And they fund a range of efforts. You do not have a restricted receipt account where the Department gets all the proceeds?

Secretary SALAZAR. I wish we did. It would make it easier.

Senator REED. It would make it simpler. It would make it much more simple for this subcommittee. This could be a very short hearing, Mr. Secretary.

#### ONSHORE INSPECTION FEES

Turning now from offshore to onshore. One of the proposals that we discussed quite seriously in the appropriations process last year, was an onshore inspection fee, that the BLM would be able

to charge, an increase in fees, for that effect. That fee would be to increase their ability to inspect, to permit, in fact, to provide the kind of certainty and responsiveness that the business community really should have.

That was not successful, but I think, in the context particularly of the emphasis on making sure we get these fracking regulations done right and not just the regulations and the reporting, but the inspections, my feeling is that this fee increase would be appropriate and would be used for the same purpose. That purpose would be to facilitate both the exploration and recovery of these resources, while doing it safely so that we don't have contaminated water and don't have unexpected consequences. Is that your view also?

Secretary SALAZAR. I agree with you, Mr. Chairman.

Senator REED. And would you be supportive of the proposal in the budget to increase the fees on land-based as well as offshore?

Secretary SALAZAR. Yes.

Senator REED. Thank you very much.

#### LAND AND WATER CONSERVATION FUND

Let me just turn quickly to the LWCF because it has been mentioned before. It seems that the increases are focused in several specific areas—Montana, Wyoming, and in Florida. And the question really has been raised by a number of my colleagues, that this is a national program, and we understand that certain projects have particular needs and appeal and urgency. But there has to be, I believe, a much more even-handed or a comprehensive approach to try to fund projects across the country.

I could pick out urban projects in a number of places in the country. I could pick out projects that are east coast, south coast, et cetera. How can we help you provide a more comprehensive approach, based on merit, of course, than what seems to be appearing in the first cut of this budget?

Secretary SALAZAR. Senator Reed, Chairman Reed, let me say the way in which we could move forward with the true conservation agenda that fulfills the dreams of many in the conservation world would be to have enough money to be able to do many more of these landscapes. At the end of the day, this is about landscape-level planning.

When we look at the Crown of the Continent, from Yellowstone National Park up to Glacier and all of the work going on at three now national conservation areas there, we believe that with a collaborative effort, as opposed to operating in the silos of the agencies—the United States Forest Service, FWS, the BLM, and NPS—we can actually get that done.

The same thing is true with the longleaf pine in Georgia and Florida. And the same thing, frankly, would be true in a number of other landscapes that we would like to do the same thing with.

When I make the pitch, and it is not so in Senator Murkowski's case in Alaska, because Alaska is a world unto itself, very different situation than when you look at the lower 48. But there are landscapes, including many of those in the Northeast, which could benefit from this kind of investment and this kind of collaborative planning.

Criticism from some about investments in the LWCF, I will just say he is not on this subcommittee, but Senator Barrasso and Senator Enzi from Wyoming are great beneficiaries of the LWCF because the Grand Teton National Park alone would swallow up several hundred millions of dollars just to be able to buy out the in-holdings within Grand Teton National Park.

The need is tremendous, and the big problem we struggle with is how can we be most effective in implementing a conservation agenda that protects these landscapes of America and do it in a way that is going to be done in a timely manner?

So the Dakota Grasslands, the Flint Hills of Kansas, the Silvio O. Conte Connecticut River areas, all those are tremendous areas where there is just a huge need. I would hope, with the leadership of this subcommittee, that we can see some august, robust support for the LWCF.

#### GRAZING ADMINISTRATIVE FEE

Senator REED. Just a final question. The budget includes a proposed increase in grazing fees on BLM lands of \$1 from \$1.35 per horse to \$2.35—or per animal, I should say to be accurate, per animal to \$2.35. Even with such an increase, my presumption from what I have seen, would only cover a fraction of the BLM's cost to maintain this facility. I would also assume that comparative or relative to leasing private grazing property, even with this increase, there would be a very, very small charge. Is that a fair estimate, based on your analysis?

Secretary SALAZAR. That is very accurate, Chairman Reed. The fact of the matter is, and I know ranchers, including in my family, who rent lands for probably \$10, \$11 an Animal Unit Month (AUM), \$12 in the State of Colorado. So when you think about the public lands being leased out at \$1.35 an AUM, adding the \$1 administrative fee at \$2.35 still gives a tremendous benefit and advantage to part of the heritage of this country, which is the ranching heritage of America.

Senator REED. Thank you very much.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

#### OFFSHORE INSPECTION FEES

I just have a small handful of questions remaining here. But I want to follow on the chairman's questions about the increased fees that were placed in last year's appropriations bill, 50 percent of which to fund the personnel and the mission-related costs. You have indicated that you are pushing to get additional personnel brought on. We greatly appreciate that.

With that, are you seeing that the amount of time that it takes to approve the plans, the approvals, are they moving forward as you are able to add more on? Are we seeing any noticeable gains yet in that?

Secretary SALAZAR. If you look back just at the last year from today to February this day a year ago, we have seen a number of exploration plans approved. We have seen permits issued, including I think more than 130 in the shallow water in the gulf and 60 in the deepwater. We are moving forward with that effort.



On the hiring part, we are putting a lot of emphasis on it. In fact, we were having a conversation this morning about how Admiral Watson and Tommy P. Boudreau will make sure we are expediting the hiring of these people, and the flexibility you gave us in the budget to be able to pay 25 percent more for petroleum geologists and others who have the expertise will help us get the job done.

Senator MURKOWSKI. So you are still working to get there, is what you are saying?

Secretary SALAZAR. We are on the case, but it is not stopping us from moving forward.

Senator MURKOWSKI. All right. Thank you.

#### ONSHORE ROYALTY RATE

Yesterday, in the Energy Committee, I asked a couple questions about the onshore leases and the increase in the royalties, and the chairman has alluded to that in his question, et al. You mentioned that yesterday you were looking at several studies and mentioned the Government Accountability Office (GAO) study, I guess it was. But you said you were going to be taking that all into account.

And I left the hearing thinking, well, wait a minute. If you are going to be taking into account these various studies that are out there, but yet the budget makes very clear that you are going to be raising the rates 50 percent for all onshore oil and gas production, it seems like you have already made up your mind on doing this.

So I guess I have a question in terms of why are you going back and doing the studies now if you have already made the decision that you are going to move forward, or is that still in flux, the decision as to whether or not you bump up the fees an additional 50 percent?

Secretary SALAZAR. Senator Murkowski, it is still in flux in the sense there is additional information and study to be done. As you know, when you put a budget together, you are forecasting what may be happening, and that is what OMB did in this particular case.

At the end of the day, North Dakota just increased its royalty rates on State lands I think more than 18 percent. We know the numbers out of Texas and Wyoming, and I think the GAO was correct in making its finding at the 12.5-percent royalty rate, which has been in place since 1920, that the American taxpayer was not getting a fair return.

I believe we need to make sure we honor that principle of getting a fair return.

Senator MURKOWSKI. Well, we all want a fair return. But I would again urge you to make sure that we are taking into account what we are paid for those initial leases, to make sure that is factored in because that, clearly, is a return that comes to the taxpayers. And again, to ensure that where we are not going to be in a situation where we are not competitive.

#### NATIONAL WILDLIFE REFUGE FUND

I wanted to ask you about the National Wildlife Refuge Fund. I mentioned it in my opening statement. Apparently, the mandatory

portion of this fund is going to continue to go to the local counties, but you are proposing to eliminate the discretionary portion of the program.

And again, I will take you back to my rhetorical question, I guess, in my opening, which was what do you do for States like Alaska where we really are very limited in terms of our options? You have got the PILT payments coming. You are suggesting that it is going to be a 1-year continuation. Offsets haven't been identified. How do we deal with this, and can you tell me why you have chosen to eliminate the discretionary side from the National Wildlife Refuge Fund?

Secretary SALAZAR. Senator Murkowski, we still will have I think it is \$8 million set aside for the payments to the counties, which are a form of PILT, as you mentioned.

Senator MURKOWSKI. Right.

Secretary SALAZAR. In terms of the other \$14 million cut for the refuge fund that is in the budget, I will only say that, again, as one of those cuts which is a painful cut to take, I wish we didn't have to do it. At the end of the day, the concerns some of you have with the cuts proposed in this budget, they will all sort out relative to how the United States, the Congress, the President move forward with respect to dealing with some of the debt, deficit, and revenue issues needed to fund the Government.

Senator MURKOWSKI. Well, we will continue to talk about that one. We have got to figure out a good path forward. I appreciate the budget constraints that you are dealing with.

I have got a couple questions about wood bison in Alaska and Unimak Island that relates to the caribou, but I will give you those in written format.

#### GEOLOGICAL SURVEYING OF AFGHANISTAN

Senator MURKOWSKI. But I do have one. I think this is really quite interesting. Apparently, in September of last year, USGS issued a press release that described the process that had been made in the geological surveying of Afghanistan, and they used some hyperspectral imaging and indicated in the release that more than 96 percent of Afghanistan is now mapped using this advanced technology.

And I mean, that is all good, and clearly, the work is important. But we also have great opportunities with our own resources here in this country, certainly in Alaska. And of course, we all have to figure out, well, how do you pay for this type of mapping?

In comparison to the 96 percent of Afghanistan that according to USGS has been geologically surveyed using these technologies, we are told that only 5 percent of the United States has been mapped using the same technologies. I don't know if this is true. I don't know if you can give me this answer today.

But if it true, if you really do have this very stark difference between what we know about mineral-related investments that this administration is making in Afghanistan versus Alaska, do we know whether in this budget we have sufficient funding to start focusing on the United States mapping? I don't know if it is in there.

But this is, again, one of those interesting data points that you say, well, gosh, if we can afford to be mapping Afghanistan, we

would assume that this country is mapped, and I know for a fact that it is not. So can you help me out with that one?

Secretary SALAZAR. On Afghanistan, obviously, because there has been huge investment both by the Bush administration and by President Obama's administration in Afghanistan, those were all reimbursable costs, as I understand, to the USGS.

I will note, Senator Murkowski, the USGS just developed a study that looked at shale gas in Alaska, including the important areas of the North Slope, which you care so much about. I take your comment seriously, and one of the things I will do is I will talk to Dr. McNutt and to Bob Abbey to see whether there are some ways in which the technology that has been developed with efforts here in the United States, we have a good foundation from which to start.

But maybe even taking the lessons from Afghanistan to be able to deal with some of the other mapping and surveying issues which you have talked about. Let me take that under consideration, see whether there is something we might be able to do.

Senator MURKOWSKI. Okay. I would recommend you start alphabetically with the States.

#### GOVERNMENT REORGANIZATION

Senator MURKOWSKI. We got a lot that we can cover up North. And then, Mr. Chairman, with your indulgence, what do you think about the proposal to move the National Oceanic and Atmospheric Administration (NOAA) from the Department of Commerce to the Department of the Interior?

Secretary SALAZAR. Well, Senator Murkowski, first, the President was very clear in asking for the authority to be able to reorganize the Government. That is first and foremost because with that authority, there are probably other areas in Government that do need to be consolidated. We still have much of our Government which was created 100 years ago and really hasn't caught up to the 21st century.

President Ronald Reagan had the authority to do reorganizations and consolidations. I think it is a simple request from the President.

On the question of NOAA and the Department of the Interior, there are synergies that could be developed if there was such a consolidation. But we are not at this point looking at it until we get the authority from the Congress to move forward.

Senator MURKOWSKI. So you really haven't invested any time or effort to see how those synergies might come together?

Secretary SALAZAR. I have seen studies from outside groups that indicate it would be a good idea, but any reorganization undertaken is always a difficult one and takes time to do it right. I tried to do a little consolidation with OSM and BLM, and we know what happened with that.

Secretary SALAZAR. A reorganization of the kind that would bring NOAA and the Interior together, it would be an effort that would take a significant amount of time to do it right. Where the President is on this issue and where I am and my colleague Secretary Bryson are is we are supportive of giving the President the authority.

It doesn't make sense for us to engage in any kind of study on any of these reorganizations until we have that authority.

Senator MURKOWSKI. Thank you.

Mr. Chairman, I just might point out that if fisheries were under the Secretary's jurisdiction here, we could probably ensure better salmon dinners, and we will work with you on that.

Senator REED. Thank you, Senator Murkowski.

Mr. Secretary, thank you very much, and your colleagues, for your testimony today.

#### ADDITIONAL COMMITTEE QUESTIONS

We will leave the record open until next Wednesday if there are additional statements or questions by any of my colleagues, and would ask you, Mr. Secretary, you and your staff to respond as quickly as possible.

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

#### QUESTIONS SUBMITTED BY SENATOR JACK REED

##### OFFSHORE WIND

*Question.* Rhode Island has been helping lead the way on offshore wind in developing its "pilot-scale" offshore wind project in the State waters off Block Island, which will provide important engineering and environmental expertise for these new technologies in the water. How will the Department of the Interior (DOI) partner with Rhode Island on these efforts?

*Answer.* Rhode Island continues to be a valuable partner at the forefront of offshore renewable energy development with DOI. Rhode Island's work in developing its Special Area Management Plan provided essential information to support DOI's decisions. The Bureau of Ocean Energy Management (BOEM) Rhode Island OCS Renewable Energy Taskforce continues to be an effective means of expanding this partnership at the Federal, State, local, and tribal levels. Through its Environmental Studies Program, BOEM is addressing issues and concerns identified by Rhode Island. For example, BOEM is partnering with the University of Rhode Island to develop protocols and modeling tools to support offshore wind development. Ongoing and future studies funded by BOEM through the Environmental Studies Program will investigate changes to recreation and tourism activities that may result from offshore wind energy development. BOEM is also conducting a study of best management practices to foster compatible development of offshore energy with fishing activities. BOEM also engages routinely with the Rhode Island Fishery Advisory Board and Habitat Advisory Board. Finally, to ensure an efficient and responsible environmental review, BOEM is combining its review of the transmission cable system with the U.S. Army Corps of Engineer's (COE) review of the pilot project under the National Environmental Policy Act (NEPA) and required consultations under Federal law.

*Question.* Mr. Secretary, I appreciate that the commitment you made in the hearing to expedite BOEM's efforts to process right-of-way applications for the transmission line between Block Island and the Rhode Island mainland. Would you also make a similar commitment to expedite the consultation of any agency within DOI, such as the National Park Service (NPS), with other Federal agencies including COE that would have a role in the siting and approval of the State water project?

*Answer.* Yes. The President has directed that all Federal agencies, including NPS and COE, do everything that can be done to expedite consultation and to be supportive in siting and approving projects in State waters. In these times of fiscal restraint, partnering between Federal agencies ensures that resources are spent more efficiently and are directed to those areas of greatest concern. Partnering also ensures the maximum use of collaboration between all stakeholders at the Federal, State, and local levels. In keeping with our "Smart from the Start" Initiative, I am committed to accelerating the leasing process changes in order to build a robust and environmentally responsible offshore renewable energy program that also creates jobs here at home.

## QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

## CADIZ

*Question.* Last November the Interior Department's Solicitors office issued a memorandum known as the "M Opinion" which stated that railroad companies lack authority to permit activities along their right-of-way unless the projects directly benefit railroad operations. The proposed Cadiz water project in the Mojave Desert has proposed using the Arizona & California Railroad's Right of Way to construct a 43-mile long pipeline connecting their project site with the Colorado River Aqueduct. The project's Draft Environmental IR suggests that the water pipeline would benefit the railroad because it would allow them to place fire hydrants along the route for fire suppression. Can you tell me are fire hydrants typically placed along the Bureau of Land Management (BLM) granted-railroad right-of-ways?

*Answer.* We are not aware of any hydrants placed on BLM-granted railroad rights-of-way. We would need to review each authorization to determine if hydrants are present.

*Question.* Do they exist along any railroad right-of-way in the desert southwest?

*Answer.* We can only speak to those railroad right-of-way grants that we approved. We do not know if other railroad grants involve hydrants. The Federal Railroad Administration or Surface Transportation Board may be able to clarify this.

*Question.* What steps has the Department of the Interior taken to assess Cadiz' proposed use of the right-of-way as it relates to the "M Opinion" or assert its jurisdiction to regulate the use of the Right of Way for nonrailroad purposes?

*Answer.* BLM is currently in the process of assessing Cadiz' proposed use of the right-of-way as it relates to the "M Opinion." As part of that assessment, the BLM California State Office has taken the following steps:

On January 10, 2012, the BLM California State Office sent a letter to all railroad companies with rights-of-way authorized under the authority of the 1875 Railroad Act in California, including the Arizona & California Railroad, which has entered into a lease for a pipeline for the Cadiz project. The letter requested the companies to disclose agreements for third-party easements within 30 days. The Arizona & California Railroad (ARZC) responded to this request on February 15, 2012, requesting additional information about specific ROWs and the areas for which BLM is interested.

On February 13, 2012, BLM's California State Director sent a letter commenting on the Draft Environmental Impact Report prepared by the Santa Margarita Water District and Cadiz, to comply with the California Environmental Quality Act. The comment letter requested copies of the plan related to water conveyance along the railroad, the Longitudinal Lease Agreement between Cadiz and ARZC and all other supporting documentation. BLM received a response letter from the Santa Margarita Water District which included copies of the Longitudinal Lease Agreement, an amendment to this agreement and correspondence between the Railroad and Cadiz.

On May 4, 2012, BLM sent a letter to ARZC, along with a copy of the Longitudinal Lease Agreement between ARZC and Cadiz requesting the company provide more information on how the proposed pipeline described in the Agreement furthers railroad purposes, and whether these design features are consistent with standard railroad industry practices.

On May 22, 2012, ARZC provided a response letter to BLM's May 4th request describing the "proposed water pipeline as a unique opportunity to bring fire suppression resources to ARZC's critical rail improvements in an efficient and cost-effective manner, as well as providing collateral rail operating benefits." It also asserts that "with respect to hydrants, fire suppression capability is a chronic and historical challenge in the rail industry, most particularly on rural lines with trestles and bridges." BLM is currently coordinating with FRA to understand the feasibility of these water features, and whether they meet the objective of furthering railroad purposes.

## PRIVATE LANDS PERMITTING

*Question.* Secretary Salazar, I am concerned that the permitting of renewable energy projects on disturbed private lands remains more difficult than the process for permitting a similar project on pristine public land. The Conference Report accompanying the Department of the Interior's fiscal year 2012 appropriations legislation asked you to address this, stating:

"In order to facilitate better species protection and stewardship of public resources, the conferees expect that (the new Renewable Energy Permitting Office in the Fish and Wildlife Service) will develop permitting policies that make it less dif-

difficult and time-consuming to permit projects on disturbed private lands than on pristine public lands . . . . The conferees . . . support efforts by the Service to establish a pilot fee program using the Service's existing authorities."

Please describe how the Fish and Wildlife Service (FWS) has implemented this congressional directive to date, and please describe the Interior Department's strategy to address this matter during fiscal year 2013.

Answer. FWS has met this congressional directive by realigning support for renewable energy work in the Carlsbad, Ventura, and Nevada Fish and Wildlife Offices (FWOs). FWS opened an office in Palm Springs in August 2011, which is closer to where many renewable energy projects are located. The office covers southwestern San Bernardino County, and all of Riverside and Imperial counties. The Palm Springs FWO works on renewable energy projects in the desert area, including the Desert Renewable Energy Conservation Plan (DRECP). FWS has two offices working on renewable energy permitting in Nevada, one in Reno and one in Las Vegas. The Secretary of the Interior recently signed an agreement to finish the DRECP by 2013. FWS is developing the DRECP to address private lands impacts and to serve as the programmatic permitting mechanism for renewable energy projects in the desert in California while sustaining the conservation of listed species.

To help us be more responsive to renewable energy projects on private lands, the Service recently finalized a package of template documents and instructions that can be used by local FWS offices to establish reimbursable agreements with non-Federal entities that would provide additional funding. The additional funding can then be used to hire additional staff so that the Service can provide more timely environmental reviews of the projects.

#### GAMING

*Question.* Mr. Secretary, I am deeply disappointed that the Department was delinquent in responding to this subcommittee about the two controversial casinos that were approved in California last September. The Consolidated Appropriations Act, 2012 provided a 60-day window to respond; this deadline was missed by more than 2 weeks.

The Committee report language gave your Department an opportunity to verify the claim of strong local support for these projects, despite the fact that only 3 of 33 elected officials or public entities expressed support for the casinos. I find it hard to believe that three support letters constitute "strong local support" as your document claims, particularly when Yuba County voters expressed opposition to one of the casinos in an advisory measure.

Since Californians continue to be puzzled by the claim of "strong local support" for these casinos, I would like to follow up on the Committee Report.

Of the 33 elected officials and bodies that you are required to consult with, how many have expressed support, in writing, for the casino projects?

Answer. The Department received six express declarations of support from local units of government, with respect to the Enterprise Rancheria's application for a Secretarial Determination under the Indian Gaming Regulatory Act. These statements of support were discussed in the Department's September 1, 2011, decision at page 25. It is important to note that these supportive comments were submitted by the City of Marysville and Yuba County, in which the Enterprise Rancheria's proposed gaming facility would be located. These local units of government would experience the most significant impact of the tribe's proposed gaming facility. The Department previously provided the subcommittee with a copy of the September 1, 2011, Secretarial Determination for the Enterprise Rancheria on March 8, 2012, as an appendix to our response to House Conference Report No. 112-331 Directive.

The Department received seven express declarations of support from local units of government, with respect to the North Fork Rancheria's application for a Secretarial Determination under the Indian Gaming Regulatory Act. These statements of support were discussed in the Department's September 1, 2011, decision at pages 43-45. It is important to note that these supportive comments were submitted by the City of Madera and Madera County, in which the North Fork Rancheria's proposed gaming facility would be located. These local units of government would experience the most significant impact of the tribe's proposed gaming facility. The Department provided the subcommittee with a copy of the September 1, 2011, Secretarial Determination for the North Fork Rancheria on March 8, 2012, as an appendix to our response to House Conference Report No. 112-331 Directive.

*Question.* How many have expressed opposition?

Answer. The Department received three express declarations of opposition from local units of government, with respect to the Enterprise Rancheria's application.

These statements of opposition were discussed in the September 1, 2011, Secretarial Determination at pages 26–27.

The Department received two express declarations of opposition from local units of government, with respect to the North Fork Rancheria's application. These statements of opposition were discussed in the September 1, 2011, Secretarial Determination at page 44.

It is important to note that the Department provided a meaningful opportunity for local units of government to comment on the tribes' applications, pursuant to our regulations at 25 CFR part 292. A majority of those local units of government declined to submit comments to the Department on the tribes' applications.

*Question.* How much weight was given to Yuba County Measure G, the advisory vote rejecting the proposed casino in Yuba County?

*Answer.* The Secretarial Determination issued on September 1, 2011 for the Enterprise Rancheria contains a discussion of how the Department considered Measure G in reviewing the tribe's application at page 25.

*Question.* What needs to be done to ensure that county voters and residents can have their voices heard in this process?

*Answer.* On June 13, 2011, the Assistant Secretary—Indian Affairs issued a memorandum explaining how the Department would consider tribal applications for Secretarial Determinations under the Indian Gaming Regulatory Act. In that memorandum, the Assistant Secretary noted "In my view, IGRA and the Department's regulations, at 25 C.F.R. Parts 151 and 292, adequately account for the legal requirements and policy considerations that must be addressed prior to approving fee-to-trust applications, including those made pursuant to the "off-reservation" exception. Specifically, the recently enacted part 292 regulations require exacting review of requests for off-reservation gaming."

Part 292 regulations were promulgated pursuant to IGRA and other statutory authorities. Under the IGRA's "off-reservation" exception, a tribe may conduct gaming on lands acquired after October 17, 1988 only if:

"The Secretary, after consultation with the [applicant] Tribe and appropriate State and local officials, including officials of other nearby Indian Tribes, determines that a gaming establishment on newly acquired land would be in the best interest of the Indian Tribe and its members, and would not be detrimental to the surrounding community."

The Department continues to believe that existing law and regulations ensure a careful review of tribal applications for Secretarial Determinations under IGRA, which will allow for a meaningful opportunity for local communities to participate. It is important to note that Secretarial Determinations issued pursuant to IGRA are subject to the concurrence of the Governor of the State in which tribal gaming activities would occur.

*Question.* Some of the most vocal opposition to these casinos has been from tribes, especially those who believe that new casinos should be built on the tribe's aboriginal lands—not in the most profitable location. This is consistent with the position of the National Indian Gaming Association. To what extent did you engage in consultation with these tribes and how did you respond to their concerns?

*Answer.* The Assistant Secretary's June 13, 2011 Memorandum on processing tribal applications under IGRA's Secretarial Determination Exception was issued after thorough consultation with tribal leaders throughout the United States over a period of 3 months. Similarly, the Department's regulations at 25 CFR part 292 were promulgated in 2008 after years of tribal consultation, as well as after a period of public notice and comment.

With respect to the applications of the Enterprise Rancheria and the North Fork Rancheria, the Department adhered to the requirements set forth in governing regulations. In an effort to be transparent and inclusive, the Department even considered comments submitted by tribes outside the scope of what is required by our regulations. The September 1, 2011, Secretarial Determination for the Enterprise Rancheria contains a discussion of comments submitted by other tribes at page 27. The September 1, 2011, Secretarial Determination for the North Fork Rancheria contains a discussion of comments submitted by other tribes at page 45.

*Question.* Are the proposed casino sites on land that is within the undisputed aboriginal territory of the appropriate tribe?

*Answer.* Neither IGRA nor the Department's regulations, at 25 CFR part 292, require a tribe's proposed gaming facility be located within its "aboriginal territory." Nevertheless, the Department's regulations require us to evaluate the existence and extent of a tribe's "significant historical connection" to a proposed gaming site when making a Secretarial Determination under IGRA. The September 1, 2011, Secretarial Determinations for both the Enterprise Rancheria and the North Fork

Rancheria concluded that both tribes established a “significant historical connection” to their respective proposed gaming sites.

The September 1, 2011, Secretarial Determination for the Enterprise Rancheria contains a discussion of the tribe’s significant historical connection to the proposed gaming site at pages 13–14. The September 1, 2011, Secretarial Determination for the North Fork Rancheria contains a discussion of the tribe’s significant historical connection to the proposed gaming site at pages 11–17.

BUREAU OF LAND MANAGEMENT SOLAR SUPPLEMENTAL DRAFT PROGRAMMATIC  
ENVIRONMENTAL IMPACT STATEMENT

*Question.* Last October, BLM issued its Draft Supplemental Solar Programmatic Environmental Impact Statement (PEIS), which includes large amounts of “variance” lands outside the solar zones. It is my understanding that while applicants are strongly encouraged to pursue projects within the identified solar zones, BLM will also consider permitting development in these “variance” areas. While some flexibility to consider lands beyond the zones may be necessary, I find it highly problematic that an estimated 50,000 acres of land that were donated or purchased with Land and Water Conservation Fund dollars have been included in the variance lands. Given that these lands were intended to be preserved in perpetuity, I do not believe they should be open for development. Can you tell me what is the process by which the BLM will consider and grant permission for solar projects to be constructed on “variance” lands?

*Answer.* The process for considering solar projects on “variance” lands has been delineated in the Supplemental Draft Solar PEIS in detail. However, no final decision has been made. In addition, there might be market, technological, or site-specific factors that make a project appropriate in a non-solar energy zone area. BLM will consider variance applications on a case-by-case basis based on environmental considerations; consultation with appropriate Federal, State, and local agencies, and tribes; and public outreach. All variance applications that the BLM determines to be appropriate for continued processing will subsequently be required to comply with National Environmental Policy Act (NEPA) and all other applicable laws, regulations, and policies at the applicant’s expense. Applicants applying for a variance must assume all risk associated with their application and understand that their financial commitments in connection with their applications will not be a determinative factor in BLM’s evaluation process.

*Question.* Why have donated and LWCF-acquired lands been included among the “variance” lands and what steps are being taken to avoid their development?

*Answer.* Comments received on the Supplement to the Draft Solar PEIS have requested that donated and LWCF-acquired lands be identified as exclusion areas for utility-scale solar energy development. BLM is currently considering this request, but no decision has been made yet. We would be available to brief your office directly in more detail at your request.

CENTRAL VALLEY PROJECT

*Question.* Last week the Bureau of Reclamation (BOR) released its initial water allocations for Central Valley Project (CVP) water users. Given the low precipitation and Sierra snowpack we have experienced in California, the 30-percent water allocation for agricultural service contractors is disconcerting, but not altogether surprising. Significant carry-over storage appears to have helped boost reservoir supplies, but it is unclear whether those supplies are sufficient to provide all the water necessary to meet the needs of farms and communities for the remainder of the year. Can you tell me:

If there is not significant additional precipitation in the remaining weeks of the wet season, how will this affect future water allocations for the remainder of the water year?

*Answer.* The initial 30-percent allocation to agricultural water service contractors in February 2012, was due to very dry hydrologic conditions. December, typically one of the wettest months in California, ended up being one of the driest on record. The dry pattern continued through mid-March. Since mid-March, improved precipitation in the Sacramento Valley and improved snowpack in the Northern Sierra resulted in increases to the allocation for CVP San Joaquin Exchange and Sacramento River Settlement Contractors, wildlife refuges, agricultural, and municipal and industrial water service contractors in April. As of May, the allocation for north of delta agricultural water service contracts was 100 percent, but the allocation south of delta agricultural water service contractors remained lower at 40 percent. The lower allocation south of the delta is a reflection of constraints on exports from the Delta and the loss of pumping windows during the winter when conditions were



much drier. In the San Joaquin Valley, precipitation did not improve as significantly as it did in the Sacramento Valley. The initial allocation to Friant Class I contractors was 35 percent which increased to 55 percent as of May 24. The Friant Class II allocation remains zero.

*Question.* What administrative actions can BOR take to help ensure adequate water supplies to San Joaquin and Sacramento farmers this year?

*Answer.* BOR developed a series of actions in the CVP Water Plan 2012 to help support water management efforts this year. The plan, available at <http://www.usbr.gov/mp/pa/water>, identifies actions related to Joint Point of Diversion, Exchange Contractors' transfers, and California Aqueduct/Delta-Mendota Canal Intertie operations. BOR also worked with the water community to identify opportunities for transfers and administrative actions to better manage available supplies.

#### YUROK FUNDING

*Question.* Secretary Salazar, Yurok Chairman O'Rourke recently wrote to your Department seeking assistance with the historic and continued under-funding for Yurok tribal government, law enforcement and transportation needs. I share his concerns and hope that your staff will give his request for additional funding all due consideration.

To help clarify some outstanding questions raised by Chairman O'Rourke, I hope that you can provide me with answers to the following questions.

Has your Department reviewed and analyzed the Yurok Tribe Justification and Request for Increased Base Funding, which was provided to the Regional Office and conveyed to the Assistant Secretary earlier this month?

*Answer.* The Department received and reviewed the "Yurok Tribe Justification and Request for Increased Base Funding." The Bureau of Indian Affairs (BIA) has examined the request, and we hope that our explanation of the issues raised by the tribe are addressed in the explanation of Tribal Priority Allocations (TPA) which are below.

*Question.* Do you agree with the conclusions reached in this document, particularly that the tribe is disproportionately underfunded?

*Answer.* In general, the distribution of TPA funds is sound. Tribes with historically larger populations and/or larger reservations receive proportionately larger shares of TPA funds. Adjustments reflecting treaties, court decisions, executive policy decisions, and congressional acts are also factored into the distributions.

The allocation of resources among the regions and tribes is based on a complex set of historical, geographical, demographic, political and programmatic factors. Today, "base funding" identifies the basic contract amount of services on which a tribe can rely from 1 year to the next—the base amount from which budget increases or decreases are calculated. The base funding amount is the result of years of legislation, appropriations, and BIA administrative policies.

At various times, especially in the past several decades, the Federal Government has emphasized the development of certain natural resources and provided additional funding for those programs. Additional funds were provided only to tribes owning such resources, and those funds were made part of the tribe's recurring TPA base funding. On the other hand, several programs were removed from tribal recurring bases, as well. These programs included the Housing Improvement Program and Road Maintenance program; many tribes had ranked these programs as top priorities and had allocated a substantial amount of their funding for them. When these funds were reduced or eliminated from the TPA base, tribes that had these programs listed as top priorities lost significant portions of their base funding.

At various times, the BIA has emphasized certain programs, such as Human Services. At those times, the BIA has requested additional funding for those programs. Tribes with higher populations received a high proportion of these funds, which were then made part of their recurring TPA base to meet ongoing needs. However, increased tribal enrollment, whether through changes in membership criteria, or natural population growth, has not been considered a factor in distributing additional funds for TPA programs. Migration to and from reservations, particularly as economic opportunities change, has not been accounted for in any calculations of TPA funding.

As a result of treaties, court decisions, executive policy decisions, and congressional acts, the legal obligations and funding for particular tribes have resulted in unique recurring funding levels for those tribes. Additionally, these funds were incorporated into various tribes' bases to address the prospect of litigation from these tribes against the Federal Government for failure to support certain activities required by treaty, statute, or the Government's trust responsibility.

*Question.* What is the minimum per-capita funding that a rural, nongaming tribe should receive?

*Answer.* The BIA does not establish a minimum per-capita funding level for any tribe, regardless of locality or gaming status. However, the Small Tribes Initiative was established to address a funding allocation process that consistently failed to take into consideration the basic funding needs of small tribes. These tribes have small memberships and most have little or no land or natural resources. The initiative attempts to ensure that all tribes, regardless of population size, land base, or natural resources, will receive a recurring base of \$160,000 for tribes in the continental United States. The base funding amount is considered sufficient to enable small tribes to put in place and maintain the management systems necessary to account for funds and ensure compliance with applicable laws and regulations. The funding also permits tribes to establish and maintain administrative mechanisms sufficient to establish viable tribal office operations and service delivery systems.

*Question.* If a per-capita formula is inappropriate, please explain what formula your Department does use and why it is the more appropriate funding mechanism.

*Answer.* A per capita formula is inappropriate to use. At one time, the Government Accountability Office (GAO) developed an analysis of the TPA base funding per tribe. Their analysis showed that there is considerable variation in per capita funding between regions and tribes. For example, in the comparison between regions, GAO found the average TPA funding per capita Nationwide was \$601; however, in Eastern Oklahoma TPA per capita was \$121 and in Northwest TPA per capita was \$1,020. This level of analysis, though, ignores that the Eastern Oklahoma Tribes tend to have small land bases while the Northwest Region Tribes have both reservations and significant natural resources held in trust.

The only funding formula that the Department uses for the distribution of base funding is the TPA process. Many difficulties arise in any effort to develop an allocation system that takes into account the relative means of the tribes. Determining the type, extent, and magnitude of tribal revenues is the first difficulty. In an era when the BIA had a continuous presence on the reservation and managed an Indian Tribe's affairs, BIA personnel knew about all tribal business activities. In the current era of Self-Determination and Self-Governance, the BIA often does not know the extent of tribal businesses. There is no assurance that the financial statements and reports even exist for all tribal business. Even if they exist, there is no assurance the format and content of the statements and reports may be readily compared or that the tribes would give BIA the information.

The current TPA process is the most appropriate due to the efforts of the BIA in consulting with tribes and tribal leaders in the early development stages of the TPA process.

*Question.* As a small and needy tribe, what supplemental funding can be identified to address this shortfall?

*Answer.* The Catalog of Federal Domestic Assistance is a valuable resource because it identifies programs which identify tribal governments as eligible applicants. These programs are available and the BIA has seen increased outreach efforts by a number of Federal agencies, which is an indicator that tribal participation in these other programs may show steady increases and a bridged gap in shortfalls.

#### SAN LUIS REY WATER SETTLEMENT

*Question.* In 1988, the Congress passed the San Luis Rey Indian Water Rights Settlement Act which provided a framework for resolving the decades old water dispute in Northern San Diego County. Within the last 2 years the five Indian Bands and the cities of Escondido and Vista have reached an agreement on how to proceed, however the Department of the Interior—as the bands' trustee—has yet to approve the deal.

What are the primary unresolved issues which prohibit you from approving this settlement?

*Answer.* The Department of the Interior believes that the proposed settlement agreement drafted by the Bands and the local entities is inconsistent with the 1988 San Luis Rey Indian Water Rights Settlement Act ("Settlement Act") and contemplates obligations for the United States which exceed the authority and intent of the Act. The Department's position on the core issue in dispute, discussed below, was conveyed to the Bands as early as 2004, and has been reiterated multiple times across at least two administrations.

The central point of contention concerns the scope and effect of the Settlement Act. The Department believes that the Settlement Act fully and finally quantified and resolved all of the Bands' Federal reserved water rights. The Department believes this position is fully supported by both the plain language of the Settlement

Act and the congressional record behind the enacted legislation. In full settlement of the Bands' reserved water rights claims and to satisfy the obligations of the United States to the Bands as trustee, the Settlement Act established a \$30 million trust fund and also required the Secretary to acquire and deliver 16,000 acre-feet per year of imported water to the Bands. The Bands and local entities disagree with this interpretation and rely on language from, and the legislative history behind, prior unenacted bills to assert that, in addition to the 16,000 acre-feet per year of imported water identified in the Settlement Act, the Bands retain claims to reserved water rights in waters originating within the San Luis Rey River basin.

*Question.* What is the timeline for you to resolve these issues?

*Answer.* The Department is committed to the expeditious development of a settlement agreement consistent with the Settlement Act, should the parties wish to pursue such an agreement. The Department has engaged in dozens of settlement discussions with the parties over the last several years and has offered multiple approaches to fashioning an agreement which would make the benefits of the Settlement Act available to the Bands. The Department views the quantity of water together with the specific exchange authority provided by the Settlement Act as an exceptional asset that holds the potential to provide the Bands with a permanent and reliable water supply unobtainable through any other means. If the parties are willing to pursue an agreement based upon the benefits explicitly set forth in the Settlement Act, the Department is hopeful that a final agreement could be developed this year.

*Question.* Does the 16,000 acre/feet of water provided by the Settlement have federally reserved status?

*Answer.* The Congress directed the United States, through the Secretary of the Interior, to acquire and deliver 16,000 acre-feet of water to the Bands in settlement of the Bands' reserved water rights claims. This water cannot be forfeited or abandoned and is federally protected water that, in the Department's view, constitutes a trust asset.

*Question.* Under your interpretation of the Settlement Act, does it preclude tribes from using existing ground and surface water on their reservations?

*Answer.* No. All five Bands have historically used either local surface water, ground water through domestic or community wells, or some combination of both. These uses have never been challenged. There is no reason that these uses could not continue following implementation of the Settlement Act.

*Question.* Does this water have federally reserved status?

*Answer.* The purpose of the Settlement Act is "to provide for the settlement of the reserved water rights claims of the la Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians" by providing the Bands with 16,000 acre-feet per year of supplemental water and a \$30 million trust fund. Against the backdrop of this congressional intent, the United States would not assert Federal reserved water rights on behalf of the Bands to local water sources.

*Question.* The Settlement Act provides the authority to exchange settlement water for water from other sources. Once this exchange occurs, is the federally reserved status of the water maintained?

*Answer.* The Settlement Act resolved the Federal reserved water rights claims of the five Bands by directing the Secretary to acquire and deliver 16,000 acre-feet of water imported annually to supplement the waters under dispute in the basin. The Department takes the position that this water is a trust asset to which the obligations of the United States attach. The Congress further authorized specific and limited authority for exchanges of the imported water for water from other sources for use on the Bands' reservations. If the water provided by the United States is exchanged consistent with the authority of the statute for water from another source, the Department believes that the trust asset character of the water can follow the exchange and be applied to this new source and that the Bands' use of water from this source could be protected as such.

#### FEE TO TRUST PROCESS AND APPLICATIONS

*Question.* One of the most common concerns I hear expressed by tribes in California is the length of time it takes the Department to make decisions on fee to trust applications.

In some cases I believe the Department acts responsibly in conducting a deliberative process, especially when gaming is involved. But in other cases, I believe the Department could and should move more quickly. This will require a more open, transparent process, and better communication with local interests.

How many trust applications are pending in California? How many are for gaming?

Answer. California has 134 applications pending, of which 13 are for gaming.

*Question.* What has been the average length of time it takes to process a trust application for a California tribe in the last 10 years?

Answer. The time it takes complete an application varies depending upon a number of factors, including the stated purpose of the acquisition, comments from interested parties, environmental concerns, and concerns stemming from the Supreme Court's decision in *Carciari v. Salazar*. Some applications can be completed in less than 2 years, while others have taken up to 5 years.

*Question.* On average, how long does it take the Department to notify the local interests of a new trust application in their area? What steps are you taking to improve notifications?

Answer. On average, it takes the Department 6 months to notify the local interests. Actions that have been taken to improve the notification process include the development of a national policy identifying timeframes associated with the process, revising the Fee-to-Trust Handbook, implementing guidance to process mandatory acquisitions, replacing the Fee-to-Trust tracking system with an improved collaborative system, and developing performance measures for senior executives to process applications.

*Question.* To what extent do gaming acquisitions slow the process of trust land approvals in general?

Answer. Gaming applications require more work/information/approval levels and require preparation of an Environmental Impact Statement rather than an Environmental Assessment. The tribe must coordinate processing with the State and local governments and applications generally receive more scrutiny for compliance with NEPA, IGRA, and applicable gaming and land acquisition regulations.

*Question.* Do the same staff analyze both gaming and nongaming applications? Does this create a situation where nongaming trust applications receive less staff time because of the more intensive process required for gaming acquisitions?

Answer. Yes, staff does perform work on both gaming and nongaming applications. The nongaming applications do compete for staff time as the gaming acquisitions are labor intensive.

*Question.* Is it possible for a parcel taken into trust using the nongaming procedure to ever be used for gaming activities?

Answer. Yes, in some circumstances. Section 20 of IGRA provides that for lands that are within reservation boundaries or contiguous thereto, BIA has the authority to take land into trust that can subsequently be used by a tribe for gaming purposes. Requests for gaming must still be approved using section 20 of IGRA, whether the land is being taken into trust for that purpose or it is in existing trust status.

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#### QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

*Question.* Secretary Salazar, an important Interior Department tool that Vermont and many other States, including New York, used during the floods caused by Hurricane Irene were the U.S. Geological Survey (USGS) river and lake gauges. These gauges helped our first responders save lives and property by providing real-time information as the waters rose. In addition, the gauges also provide a long-term value by helping track changes in our rivers and lakes for ongoing water quality control monitoring and improvements. Nonetheless the USGS has flagged 18 river and lake gauges in the Champlain watershed of Vermont and New York to be discontinued for lack of funding.

Do you agree with the assessment that the USGS river and lake gauging network in the United States represents one of the greatest return-on-investments of any dollar spent by your Department? Can you tell me what is needed to avoid any further damage to this critical network in Vermont and nationwide?

Answer. Yes, the USGS streamgaging network provides a great return on the American taxpayer's dollar. Information on the flow of water in America's rivers and streams is fundamental to national and local economic well-being, the protection of life and property, and the efficient and effective management of the Nation's water resources. According to the National Research Council (2004), "streamflow information has many of the properties of a public good, because everyone benefits whether they pay or not, and benefits to additional users come at no additional cost." There are many uses of streamflow information including:

- water resource appraisal and allocations;
- managing interstate agreements and court decrees;
- engineering design of bridges, culverts, and treatment facilities;
- the operation of reservoirs, powerplants, and locks and dams;
- evaluating changes in streamflow due to climate and land-use change;

- flood forecasting (warning) and flood plain mapping (planning);
- support of water quality evaluations; and
- assessing in-stream conditions for habitat assessments and recreational safety and enjoyment.

For many of the uses of streamflow information, it is difficult or impossible to assign an economic benefit to the information, though in many cases the benefits are evident. The National Weather Service (NWS) is one agency that reports an economic benefit on the use of streamflow data. NWS reports that over the last 30 years, there has been, on average, 94 deaths and \$7.8 billion in damages in personal and public property per year due to flooding on the Nation's rivers. Without streamflow information to calibrate and verify NWS forecast models, NWS would be "flying blind" in making flood forecasts, implying that the number of deaths and magnitude of losses to property would be much higher.

*Question.* The National Streamflow Information Program (NSIP), as authorized in the SECURE Water Act of 2009, was designed to provide stability to the national streamgauge network by providing a federally funded "backbone" network of streamgages to meet Federal needs for streamflow information. This backbone is supplemented with streamgages that are funded through partnerships to more fully meet State, tribal, and local needs for streamflow information. The enacted funding level for fiscal year 2012 for the NSIP is \$29.4 million and the proposed funding level for fiscal year 2013 is \$32.5 million. This increase during a time of fiscal constraints represents a commitment to increasing funding for the Nation's streamgages and greater implementation of the NSIP as described in the SECURE Water Act.

Has the Department's Climate Change Response Council, which you chair, analyzed the impact of these gauge closures in the face of potential climate change impacts which are likely to bring about new and greater flood risks?

Answer. Yes, the Department takes the issue of climate change very seriously with respect to water and other natural resources and hazards.

The effects of climate change in any given area are often widely debated. It is likely that certain areas of our Nation will be at greater risk of floods, while other areas are at greater risk of droughts, and some may see no change at all. Some of the first scientific work demonstrating the occurrence and consequences of climate change was produced through analysis of long-term streamflow information. For example, it was demonstrated that in the Northeast, river flows were getting higher earlier in the year as a consequence of snow pack melting sooner, and late summer flows were getting lower, while there was no discernible change in the average or peak flows. In other areas, such as the Southwest, it appears that stream flows are decreasing. Without an adequate number of streamgages located in optimal locations and providing comparable high-quality data, it will be increasingly difficult to detect and predict the consequences of climate change on water supply and hydrologic extreme hazards.

*Question.* With regard to white nose syndrome (WNS), which is still spreading across the country at a fast rate and has the potential to cost our Nation's farmers and consumers billions of dollars, can you tell me how the Department's request to reduce the Endangered Species Recovery account by more than \$1 million will impact the work being done on white nose syndrome and other important endangered species recovery work?

Answer. While our fiscal year 2013 budget request seeks a net overall reduction of \$1.59 million, the decreases are specifically targeted at discontinuing the Wolf Livestock Loss Demonstration Program and reducing funding for the State of the Birds activities in fiscal year 2013 in order to fund higher-priority conservation activities elsewhere in the budget request, such as the Cooperative Recovery Initiative. Through the Cooperative Recovery Initiative, the Service is requesting \$5.35 million to support a cross-programmatic partnership approach to complete planning, restoration, and management actions addressing current threats to endangered species on and around National Wildlife Refuges. In addition, the Service is continuing to place a high priority on addressing white nose syndrome (WNS) and bat conservation. In fiscal year 2012, the Service will allocate \$995,000 in State and Tribal Wildlife Grants for WNS research and monitoring by the States. In addition, \$485,000 in Refuge Inventory and Monitoring is estimated to be spent on work related to WNS monitoring and control on Refuges. The total amount being spent by the Service in fiscal year 2012 for WNS research and response activities will be at least \$4,855,000. Additional funding may also come from Cooperative Endangered Species Section 6 Grants or Adaptive Science competitive grants, if projects addressing WNS are chosen to be funded.

*Question.* In August, you announced that the U.S. Fish and Wildlife Service (FWS) would take full responsibility for sea lamprey control on Lake Champlain. In

this context, can you explain when we will see the funding required to implement the program become a part of the President's budget request so that your Department's commitment can be entirely fulfilled?

Answer. FWS funds a wide array of aquatic invasive species control, management, and prevention responsibilities across the country. Protecting the health and vitality of Lake Champlain and the significant fisheries resources, economic benefits, and jobs it provides is a high priority for FWS. The fiscal year 2013 President's budget includes \$380,000 in base funding for Sea Lamprey in Region 5 which supports 3.5 FWS base-funded full-time equivalents (FTEs) and four temporary/term FTEs based in the Lake Champlain Fish and Wildlife Resources Office in Essex Junction, Vermont. Through a reimbursable agreement, FWS currently works with the Great Lakes Fishery Commission, which receives funding from the State Department, to administer the Sea Lamprey control program.

*Question.* The White River National Fish Hatchery remains the best cold water National Fish Hatchery in New England and the Northeast. White River is the lynch-pin to Federal fishery restoration work from Lake Ontario all the way to Maine, but it is currently out of commission and requires approximately \$5 million in repairs as a result of damage caused by Hurricane Irene.

Can you confirm that repairs to the White River Hatchery will be a priority? Are sufficient funds requested in your budget proposal, and programmed, as needed, for the repairs to this hatchery to proceed without delay?

Answer. The White River National Fish Hatchery sustained approximately \$5.2 million in damages resulting from Hurricane Irene. Repairing the White River National Fish Hatchery will be among the highest priorities for the Fisheries Program. Emergency clean-up operations have already been completed. Additionally, the Northeast Region immediately redirected approximately \$620,000 in fiscal year 2011 deferred maintenance funding to initiate emergency mission-critical repairs. The President's fiscal year 2013 proposed budget includes \$1.9 million to reconstruct the water infiltration gallery and to demolish and reconstruct the fish-tagging building. Upon completion of the aforementioned projects, 100 percent of fish-rearing capacity and operational capacity will be restored. An additional \$2.6 million in damages to critical support infrastructure (e.g. roads, septic systems, etc.) will remain, which will need to be addressed through the application of annual deferred maintenance funds.

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QUESTIONS SUBMITTED BY SENATOR TIM JOHNSON

*Question.* As you know, both the EROS Data Center, located in my home State, and the Landsat series of satellites are very important resources, not only for South Dakota, but for our entire Nation and the international community. Lead time is required for developing these satellites, and it's important that we look now at how to proceed beyond Landsat 8, which is scheduled for launch next year. The budget request excludes funding for Landsat 9 mission development, which is very concerning to me. How does the United States Geographical Survey (USGS) envision the program to function beyond Landsat 8, and what coordination activities are currently underway with the National Aeronautics and Space Administration (NASA) and other agencies in examining how to continue the Landsat missions program and ensure mission continuity?

Answer. USGS received \$2 million in the 2012 omnibus appropriations bill to support program development activities for Landsat satellites 9 and 10. In fiscal year 2012, these funds are being used to consider options to obtain, characterize, manage, maintain, and prioritize land remote sensing data and to support the evaluation of alternatives for a Landsat 9 mission and other means for acquiring data. The fiscal year 2013 budget request includes \$250,000 to continue these efforts.

USGS is working closely with the Landsat user community, the Department of the Interior, the White House Office of Science and Technology Policy, and NASA to identify and consider all available options for maintaining the continuity of moderate-resolution land observation data for the Nation. USGS recently posted a Request for Information to solicit information and options for providing a dependable, long-term source for Landsat-like data to follow Landsat 8. Mission concepts may include revolutionary "clean-slate" technical approaches, as well as evolutionary upgrade approaches. Approaches may involve single- or multiple-satellite acquisitions, commercial data buy arrangements, public/private partnerships, hosted payloads, international collaboration, small satellites, or architectures utilizing combinations of space-based sensors. USGS is also supporting a National Research Council study on programmatic and operational alternatives for establishing a long-term source of Landsat-like data for the Nation. These efforts include a "Meeting of Experts" to ex-

amine the feasibility of new and emerging technology that might be applicable for sustaining global land observations.

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QUESTIONS SUBMITTED BY SENATOR BEN NELSON

*Question.* Secretary Salazar, could you provide an update on the Platte River Recovery Program?

As you know, Platte River Recovery Implementation is a basin-wide effort undertaken by the Department of the Interior (DOI) in partnership with the States of Nebraska, Colorado, and Wyoming to provide benefits for endangered and threatened species.

I know you've included \$8 million for implementation in your request which I appreciate.

I was serving as Governor in 1997 when Nebraska entered into the Cooperative Agreement for Platte River Recovery Implementation. A little more than a decade later we were able to successfully authorize implementation as part of the Consolidated Natural Resources Act signed into law in 2008.

I believe the first increment of the program is to last a bit over a decade—wrapping up in 2019. What's the Department's assessment so far? What progress are we making and are we on the right track?

Answer. The Platte River Recovery Implementation Program (Program) continues to be a highly successful collaborative process, and also continues to receive broad support from water users, environmental and conservation entities, the States of Nebraska, Colorado, and Wyoming, as well as the U.S. Fish and Wildlife Service and the Bureau of Reclamation (BOR).

The Program has made significant and steady progress during the first 6 years of the 13-year First Increment. The most recent Program success has been the completion of the Pathfinder Modification Project, which was declared substantially complete on January 11, 2012. The Pathfinder Modification Project raised the spillway at Pathfinder Dam (a BOR facility) by approximately 2.4 feet in order to recover storage space in Pathfinder Reservoir which had been lost to sedimentation. The Pathfinder Modification Project is a contribution to the Program by the State of Wyoming, and no Federal appropriations were required to modify the spillway at Pathfinder Dam. The Pathfinder Modification Project's Environmental Account in Pathfinder Reservoir will provide up to approximately 34,000 acre-feet (AF) of water for the benefit of the Program's target species.

The Program will implement the Land Plan in order to protect, and where appropriate, restore 10,000 acres of habitat by no later than the end of the First Increment. To date, the Program has acquired an interest in approximately 9,150 acres of land for habitat purposes, leaving approximately 850 acres left to acquire by the end of the First Increment.

The Program will implement water projects under the Water Action Plan capable of providing at least an average of 50,000 AF per year of shortage reduction to target flows, or for other Program purposes, by no later than the end of the First Increment. The Program, through an agreement with the State of Wyoming, has acquired 4,800 AF of water per year from the Wyoming Account in Pathfinder Reservoir through the remainder of the First Increment; however, the Program and the State are still in the process of determining the final yield of the 4,800 AF for the benefit of the target species at the associated habitat. The Program is also currently negotiating a water service agreement with the State of Nebraska (Nebraska) and the Central Nebraska Public Power & Irrigation District (CNPPID) to acquire water from the proposed J-2 Project. The J-2 Project, if constructed, could have the ability to retine approximately 40,000 AF of excess flows for the benefit of the target species. Under the proposed agreement, the 40,000 AF would be shared 25 percent (approximately 10,000 AF) for Nebraska and 75 percent (approximately 30,000 AF) for the Program. This agreement is a vital aspect of achieving the Program's Milestone of providing at least an average of 50,000 AF per year of shortage reduction to target flows.

The Program continues to be successful, and many of the Program's Milestones have been achieved. The implementation of the Program and the achievement of the Milestones provides measures to help recover the four target species, which in turn provides critical Endangered Species Act (ESA) compliance for the continued operation of existing water projects in the Platte River Basin. The Program also provides ESA compliance for the development of certain new water projects within the Platte River Basin.

Due to the amount of land that the Program has acquired an interest in, it is very likely that the Program will achieve the Land Milestone of 10,000 acres by the end

of the First Increment. The one remaining major Program Milestone to be achieved by the end of the First Increment is developing water projects capable of providing at least an average of 50,000 AF per year of annual shortage reduction to target flows. Significant funding from DOI will need to be contributed to the Program over the remaining years of the First Increment for the development of these water projects, including the aforementioned water service agreement with Nebraska and CNPPID. Adequate funding in the future for this project and other water projects will be critical in order to achieve the Program's Water Milestone by the end of the First Increment.

*Question.* I am regularly reminded by Nebraska constituents that additional wind power development will require new investments in the transmission system along with more efficient and flexible operation of the grid. I would appreciate your thoughts on ways the Federal Government may assist in expanding and improving the transmission system.

*Answer.* Transmission remains one of the largest barriers to the development of renewable energy potential in this country. This administration is taking steps to improve coordination and streamline processing of Federal permits through inter-agency agreements to expedite and simplify permitting on Federal lands. In addition, in 2009, the Bureau of Land Management (BLM), the United States Forest Service (USFS), the Department of Defense, and the Department of Energy issued a final Programmatic Environmental Impact Statement that evaluated issues associated with the designation of energy corridors on Federal lands in 11 Western States. Using this information, the BLM designated transmission corridors on BLM lands by amending 92 land-use plans in the Western States. Designation of corridors provides preferred locations for developers to site major linear facilities (such as transmission lines) and specifically identifies lands that are available for that purpose.

BLM will continue to actively coordinate with the Western Electricity Coordinating Council to ensure their transmission planning and grid reliability initiatives are in harmony with BLM initiatives related to land-use planning, designation of utility corridors, policy development, and timely review and permitting of high-voltage transmission lines.

BLM's 2009 transmission corridor designations were limited to BLM-managed lands. BLM manages only 6,354 acres in Nebraska so it was not practical to designate any corridors in that State.

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#### QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

*Question.* I see that inspection fees for offshore oil and gas facilities are being increased from \$62 to \$65 million. Will this money be used to provide more personnel for inspections, in order to relieve delays? If it is not being used to alleviate delays, what will this increased fee be directed toward?

*Answer.* The amount of individual inspection fees has not changed. The \$3 million increase in inspection fee collections is the result of differences in assumptions about the timing of fee collections, not an increase in the fees themselves. In fiscal year 2012, inspection fees were assessed for the inspection of drilling rigs for the first time. The revenue from monthly drilling rig inspections that occur in the last quarter of the fiscal year may not be received until the following fiscal year. In fiscal year 2013, actual receipts will include fees from inspections in the final quarter of fiscal year 2012 and the Bureau will therefore receive a full year of inspection fee revenue. It is also important to remember that these are estimates and that actual fee collections will vary depending on changes in the number of applicable Outer Continental Shelf (OCS) operations in a given year. All fee revenue will be used to address important mission-related priorities. As required by the Consolidated Appropriations Act of 2012, not less than 50 percent of the inspection fees collected by the bureau will be used to fund personnel and mission-related costs to expand capacity and expedite the orderly development, subject to environmental safeguards, of the OCS pursuant to the Outer Continental Shelf Lands Act, including the review of applications for permits to drill.

*Question.* With industry still struggling with slow permitting and delays in the permit submission process, and in light of the President's stated desire to increase domestic production, what efforts are you making to fix the problems with the permit process?

*Answer.* Respectfully, the Department does not agree that the industry is struggling with slow permitting and delays in the permit submission process. As of May 4, 2012, the Bureau of Safety and Environmental Enforcement (BSEE) approved 128



new shallow water permits, 412 deepwater permits requiring subsea containment, and 66 deepwater permits not requiring subsea containment.

BSEE has worked very hard to help industry better understand the permitting requirements and improve the efficiency of the application process. Among the steps taken to improve the process, BSEE has:

- Held permit processing workshops for industry, including one in April 2012, which has improved the quality and thoroughness of applications;
- Published a permit application completeness checklist to make it clear to industry what information is required, and to reduce the frequency with which operators submit incomplete applications;
- Established priorities for reviewing permit applications—assigning the highest priority to permits for ongoing operations or emergency operations;
- Begun to balance workloads for its engineers by taking some permit applications and reassigning them to different districts;
- Allowed authorized users of BSEE's online permit application system to track the status of their applications, which provides operators with greater transparency in the permitting process.

As a result of these steps and the industry's increasing familiarity with the process, permit review times have decreased significantly in the past year.

*Question.* In light of the fact that production on public lands and waters have decreased and with Federal OCS production dropping 441 million barrels in 2011, down from 588 million in 2010. What is being done to increase the speed at which permits are reviewed and approved? Would it be wiser to direct more of the money allocated to Bureau of Energy Management (BOEM) and BSEE to hire more staff to review permit applications?

*Answer.* With respect to production from the Federal OCS, the data you reference is incomplete. Production data is not required to be submitted by operators until 45 days after the end of the month of production, so the spreadsheet on BSEE's Web site presenting production figures as of January 25, 2012, is missing nearly all the production from December 2011. Furthermore, production is not included in that spreadsheet until after the reported production volumes are verified, which can take several months. The final production numbers for 2011 will be substantially higher than the values you reference.

BSEE intends to hire significantly more personnel with the funding provided by the Congress in fiscal year 2012, including a significant number dedicated to reviewing permits. The hiring and training process takes time, and it will be several years before engineers hired this year are fully trained to evaluate the breadth of issues required as part of the full permitting process. However, BSEE is committed to continuously monitoring and improving its permitting process, while conducting thorough reviews to ensure that all safety requirements are met. In the meantime, as indicated by the permit information available on BSEE's Web site, the Bureau is successfully reviewing permit applications and doing so in a timely fashion.

*Question.* I see that a fee of \$4 per acre is being proposed on nonproducing, but leased, Federal lands. I am curious why this fee is being proposed, when it would appear that the greatest impediment to production on these lands is the slow pace of permitting. What was the rationale behind this fee?

*Answer.* The administration believes this legislative proposal will encourage energy production on lands and waters leased for development. A \$4 per-acre fee on nonproducing Federal leases would provide a financial incentive for oil and gas companies to either get their leases into production or relinquish them so that the tracts can be leased to and developed by new parties. The proposed \$4 per-acre fee would apply to all new leases and would be adjusted for inflation annually. In October 2008, the Government Accountability Office (GAO) issued a report critical of past efforts by the Department of the Interior to ensure that companies diligently develop their Federal leases. This proposal is similar to other nonproducing fee proposals considered by the Congress in the last several years and this fee is projected to generate revenues to the U.S. Treasury of \$13 million in 2013 and \$783 million over 10 years.

#### WILD HORSES

*Question.* Mr. Secretary, since passage of the Wild Free-Roaming Horse and Burro Act of 1971, more than 20 million acres of wild horse habitat has been removed from Herd Management Areas. At least 5 million of those acres could be suitable for reintroduction of wild horses. When the Bureau of Land Management (BLM) is spending more than \$40 million per year on wild horse and burro holding costs and continues to remove almost twice as many animals as it can reasonably

adopt each year, why hasn't the BLM re-evaluated those 20 million acres and seriously considered reintroducing horses and burros to those areas?

Answer. No specific amount of acreage was set aside for the exclusive use of wild horses and burros under the 1971 Wild Free-Roaming Horses and Burros Act. The Act directed the BLM to determine the areas where horses and burros were found roaming, and then to consider managing the animals within the boundaries of those areas. Of the 22.2 million acres no longer managed for wild horse and burro use, 6.7 million acres were never under BLM management. There are a number of reasons why the BLM has not considered reintroducing wild horses and burros to the remaining acres. These reasons include:

- 48.6 percent (7,522,100 acres) are intermingled (“checkerboard”) land ownerships or areas where water was not owned or controlled by the BLM, which made management of wild horses infeasible;
- 13.5 percent (2,091,709 acres) are lands transferred out of the BLM’s ownership to other agencies, both Federal and State, through legislation or exchange;
- 10.6 percent (1,645,758 acres) are lands where there were substantial conflicts with other resource values;
- 9.7 percent (1,512,179 acres) are lands removed from wild horse and burro use through court decisions, urban expansion, highway fencing (causing habitat fragmentation), and land withdrawals;
- 9.6 percent (1,485,068 acres) are lands where no BLM animals were present at the time of the passage of the 1971 Act or places where all animals were claimed as private property. (These lands should not have been designated as lands where herds were found roaming and will be removed from the totals in future land use plans.); and
- 8 percent (1,240,894 acres) are lands where a critical habitat component (such as winter range) was missing, making the land unsuitable for wild horse and burro use, or areas that had too few animals to allow for effective management.

*Question.* Equine geneticists have concluded that a minimum wild horse herd size to sustain genetic viability is 150–200 adult animals. Most wild horse herds are less than this minimum level. The BLM budget request includes an additional \$2 million with your stated goal of maintaining herd health. Can you provide more information about how BLM intends to address herd health and viability considering herd populations are lower than recommended by experts?

Answer. The proposed number of animals (150–200) in a genetically viable wild horse herd is a size that is estimated by some to minimize genetic loss. Genetic diversity is lost through time in any isolated population of animals, but is slower in larger populations.

Although some of the herds on BLM lands are smaller than this recommended size, there are other factors that make these herds genetically viable. Herds that are associated with or border other herds experience the exchange of genetic material. Many BLM herds fall into this category. A small amount of exchange (through a few individuals) can have a large impact on overall genetic diversity. The exchange of individuals through management intervention is also possible should the need arise.

During gather operations, the BLM frequently collects hair samples from individuals in a herd for genetic testing. The geneticist who does the testing provides BLM with a report evaluating the level of genetic diversity and recommending actions that BLM should take, if any, including when additional genetic monitoring should be conducted. For instance, should a herd genetics report indicate low genetic diversity, the BLM can adjust the herd composition by removing and relocating some of the brothers and/or sisters (genetic redundancy likely to cause genetic malformities) to keep them from breeding. Depending on herd population size relevant to appropriate management level within the herd management area, the BLM may also bring in horses with other genetics from similar herds.

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#### QUESTIONS SUBMITTED BY SENATOR LAMAR ALEXANDER

##### U.S. FISH AND WILDLIFE SERVICE—BACKGROUND

*Question.* The Minnesota Public Utilities Commission recently denied plans for a 48 turbine wind farm because of concerns about the impact on birds, bats, and bald eagles. According to the American Bird Conservancy, this project was the first ever wind farm project to apply to the U.S. Fish and Wildlife Service (FWS) for a “taking” permit for bald eagles. Thankfully, there is growing awareness that wind turbines kill not just migratory birds and bats, but also bald eagles.

If the Department moves forward with plans to allow construction of wind farms on public land, how do you plan to address this problem?

Answer. FWS has promulgated a regulation at 50 CFR 22.26 (the Eagle Take Regulation) under the Bald and Golden Eagle Protection Act that authorizes issuance of programmatic eagle take permits to unintentionally take golden eagles, bald eagles, or both, at sites such as wind facilities. However, the permits will be issued only if FWS determines that any take is compatible with the preservation standard for eagles set in the Act by Congress.

FWS established an approach to ensure that permitted take meets the preservation standard in our National Environmental Policy Act (NEPA) analysis for the Eagle Take Rule. Further, FWS has developed Eagle Conservation Plan Guidance that provides recommendations for wind developers on how to reduce impacts to eagles by using robust survey techniques to select project sites, establishing appropriate monitoring of eagle use areas, employing adaptive management measures, and if necessary, offsetting impacts to eagles through compensatory mitigation. FWS believes that using the Guidance and working with the Service will reduce likely eagle take by wind energy projects to levels compatible with the preservation standard for eagles set in the Act by Congress.

Additionally, FWS is developing training on how to evaluate wind projects in light of FWS guidance and regulations. The training will initially be targeted at Service staff, but the FWS plans to expand the training and make it available to industry in the near future. The draft training outline was provided to private stakeholders for comment in an effort to ensure it will meet industry's needs.

*Question.* Will wind farm projects be expected to apply for a permit to kill bald eagles?

Answer. Take of a bald eagle or a golden eagle without a permit is a violation of the Act. FWS's Guidance relative to Eagle Take Permits applies to both species. The Guidance encourages a wind project developer at a site at which take of bald eagles is predicted to seek an Eagle Take Permit.

*Question.* Will wind farm projects be required to submit mitigation plans to make up for the killing of bald eagles?

Answer. Any wind energy facility that receives a permit from FWS will be required to work through the mitigation hierarchy as defined under the FWS's Mitigation Policy. Avoidance and minimization are the essential components of the Mitigation Policy, while compensatory mitigation may be appropriate if avoidance and minimization cannot reduce take to acceptable levels. In order to qualify for a permit, the new regulations require applicants to demonstrate that they have avoided and minimized take of eagles to the maximum degree achievable. In many areas of the country, FWS has determined that some take of bald eagles can be authorized without risk of violating the preservation standard set by the Congress. In these locations, additional compensatory mitigation for take is not mandatory, but in other locations compensatory mitigation may be required to qualify for an eagle take permit.

*Question.* What about other species that might be endangered or threatened?

Answer. Section 9 of the Endangered Species Act prohibits the take (which includes killing) of endangered wildlife and that prohibition is generally extended by regulation to threatened wildlife. Wind farm projects that are expected to take listed wildlife species would therefore need to receive an authorization to take listed species. Information regarding these procedures may be found in Appendix 5 "Procedures for Endangered Species Evaluations and Consultations" in the 2003 "Service Interim Guidance on Avoiding and Minimizing Wildlife Impacts from Wind Turbines."

Additional information regarding Consultations and Habitat Conservation Plans may be accessed at <http://www.fws.gov/endangered/what-we-do/consultations-overview.html> and <http://www.fws.gov/endangered/what-we-do/hcp-overview.html> respectively.

#### U.S. FISH AND WILDLIFE SERVICE—BACKGROUND

*Question.* Tennessee is home to two very important mitigation fish hatcheries, the Erwin National Fish Hatchery in Erwin, Tennessee and the Dale Hollow National Fish Hatchery in Celina, Tennessee. The Erwin hatchery provides eggs for hatcheries all across the country, and the Dale Hollow hatchery produces 60 percent of all the trout stocked in Tennessee.

The Department's fiscal year 2013 budget request proposes to cut \$3.2 million from the mitigation hatcheries, and Ed Carter, director of the Tennessee Wildlife Resources Agency, has said that if these hatcheries close the impact on Tennessee will be devastating.

Will the Department work with the Corps of Engineers (COE) and other Federal agencies to continue to fund mitigation hatcheries and ensure that these critical hatcheries will not be closed until a funding solution is in place?

Has the Department considered the economic benefits of maintaining the fish hatcheries?

Answer. FWS's mission-driven priority is to protect and restore native fish species and habitat. At a time when budgets are tight and available resources limited, we need to focus our resources on these high-priority outcomes. The President's fiscal year 2013 budget proposal would move nonreimbursed mitigation activities toward a user-pay system, similar to the President's fiscal year 2012 budget proposal. This approach puts all of the mitigation hatcheries on the same footing, and represents a more efficient use of Federal funds. Federal water development agencies are the appropriate entities for mitigating the adverse effects of the projects they operate and the impact of those projects on recreational fisheries. The Department is aware of the significant economic benefits of fish hatcheries and will continue to work with COE, the Tennessee Valley Authority and other Federal agencies to receive full reimbursement for mitigation activities. We understand that the fish supplied by these hatcheries provide important economic opportunities to States and recreational community, and we support the continuation of mitigation work. Our goal is to keep our mitigation fish hatcheries open, and to continue to provide fish as we have in the past in the most efficient and effective way possible. However, the Service's policy is to move toward a user-pay system.

#### U.S. GEOLOGICAL SURVEY—DISASTER PREPAREDNESS—BACKGROUND

*Question.* Tennessee experienced record flooding in Nashville and middle Tennessee in May 2010 and in Memphis and west Tennessee in 2011. The U.S. Geological Survey (USGS) played a critical role in these flooding events, and it is welcome news that the Department is requesting increased funding for USGS to prepare for future disasters.

USGS has doubled the number of monitoring stations in the Nashville area, and is working closely with local government and other Federal agencies to ensure the right information gets to emergency managers as quickly as possible. Other communities in Tennessee, including Chattanooga and Memphis, hope to work with USGS to improve their flood management as well.

*Question.* Could you tell us how the Department plans to use the additional funds?

Answer. The fiscal year 2013 proposed budget for the National Streamflow Information Program (NSIP) provides funds to be invested in activities that will help protect life and property from hydrologic hazards, including flooding. These activities include developing and producing streamgages that can be rapidly, but temporarily, deployed to locations that are currently or forecast to be in flood or drought conditions to provide streamflow information over a broader area. This information would be used by forecasters, flood-management agencies, and first responders, who must make decisions regarding flood-fighting and evacuation, and would provide a better understanding of hydrologic extremes. The fiscal year 2013 proposed budget also provides for activities related to producing flood inundation maps. These maps show the extent and depth of flood waters for streams at USGS streamgages that serve as National Weather Service flood-forecast locations. The maps will assist home owners, business owners, and first responders to anticipate and respond to flooding. Since the recent flooding in the Nashville area, the USGS has been involved in a cooperatively funded pilot project that developed more than 1,000 flood inundation maps for that community.

*Question.* Will funds be available for additional monitoring stations?

Answer. The proposed NSIP budget for 2013 provides funds for ecosystem restoration activities in the upper Mississippi and Columbia River basins that likely will include providing streamflow information for use in the design and implementation of techniques and processes to restore ecosystems to more natural conditions.

In addition to these activities the 2013 request includes funding for the operation and maintenance of about 100 streamgages, which are part of the Federal backbone needed for flood forecasting. Many streamgages are currently funded through the Cooperative Water Program (CWP). Reductions in the budget of the CWP could lead to a net loss of 270 to 300 streamgages nationwide. Proposed funding increases in the budget for NSIP will help to bring more stable funding to those 100 streamgages.

*Question.* What steps will the Department be taking to address earthquake hazards along the New Madrid fault, which impacts Memphis and west Tennessee?

Answer. USGS supports a seismographic network in the New Madrid seismic zone in cooperation with the University of Memphis and Saint Louis University. The location, depth, time, and felt area of all earthquakes in the region above approximately magnitude 1.7 are automatically posted to a public USGS Web site in near real time. The USGS National Seismic Hazard Maps depict the regional elevated hazard in the region. More detailed earthquake hazard maps are currently available for the urban areas of Memphis, Tennessee, and Evansville, Indiana and a map of the St. Louis metropolitan area is nearing completion. These maps show the amplification of seismic shaking caused by local geologic deposits. Data from a network of geodetic stations supported by the USGS shows that there is small but significant slow ground deformation in the region capable of producing damaging earthquakes.

#### OIL AND GAS LEASE REVENUES—BACKGROUND

*Question.* In 2011, the Department generated \$11.3 billion from energy production on Federal lands—a \$2 billion increase more than 2010. Since 2008 oil production from the Outer Continental Shelf has increased by 30 percent. Despite this progress, gas prices are on the rise and domestic production is not keeping up.

What steps are being taken to expand oil and gas leases on public land?

What impact will the Department's proposal to impose new inspection fees and raise other collection fees have on oil and gas production?

Answer. Facilitating the efficient, responsible development of domestic oil and gas resources is part of the administration's broad energy strategy that will protect consumers and help reduce our dependence on foreign oil. The Bureau of Land Management (BLM) is working on a variety of fronts to ensure that development is done efficiently and responsibly including implementing leasing reforms; increasing leasing opportunities in the National Petroleum Reserve in Alaska (NPR-A); adopting new processes to process drilling permits more quickly; and improving inspection, enforcement, and production accountability. BLM can only speculate as to why the operators have not produced more on Federal Lands. Oil and gas drilling and development are market-driven activities, and the demand for leases is a function of market conditions. Market drivers include prevailing and anticipated oil and gas prices, bidder assessments of the quality of the resource base in a given area, the availability/proximity of necessary infrastructure, and the proximity of the lease to local, regional, and national markets and export hubs. The shale formations that currently have high industry interest for development, such as North Dakota's Bakken shale, Texas's Eagle Ford shale, and the Marcellus and Utica shales of the Eastern United States, are primarily in areas with a high proportion of non-Federal land. These areas have seen increased development recently due to a favorable mix of the factors noted above. As drilling priorities shift due to changes in technology or markets, an operator may choose different areas for development. Further, BLM lands are primarily gas-prone. Recent national rig counts (by Baker Hughes) indicate that rigs drilling for gas are at an "all-time low" (by percentage) and the gas is selling at "a record discount to crude." (Wall Street Journal, May 4, 2012).

Approximately 38 million acres of Federal land are leased for oil and gas development. Not all leases have equal production potential, and not all leases have optimal transmission capacity where the oil or gas is being extracted. Approximately 12 million acres are producing oil and gas, and active exploration is occurring on an additional 4 million acres. We are encouraged by increasing production on Federal leases. BLM, specifically, has approved approximately 7,000 applications for permit to drill that are not being used by industry.

The proposed new inspection and enforcement fee is consistent with the principle that users of the public lands should pay for the cost of both authorizing and oversight activities. These fees are similar to fees now charged for offshore inspections, and to numerous cost-recovery fees charged for other uses of Federal lands and resources.

#### WHITE NOSE SYNDROME—BACKGROUND

*Question.* In May 2011, FWS unveiled a national plan to address the growing threat posed by white-nose syndrome (WNS), which has killed more than 5 million bats since it was discovered in 2006. Since then, the fungus has spread throughout the bat population and is now reported in 18 States and Canada, including Tennessee. In 2010, Austin Peay State University's Center of Excellence for Field Biology was tasked by the U.S. Forest Service (USFS) to monitor WNS at Land Between the Lakes, and the Center is currently engaged in a number of research efforts to combat this disease.

The Department has invested millions to support monitoring, research, and the development of protocols to reduce transmission. However, most of this funding has

been targeted for northeastern States where the WNS was first discovered, but funding is not making it to the States and universities in the South, where WNS is rapidly expanding.

*Question.* What is the Department doing to help wildlife researchers in States like Tennessee to reduce the spread of WNS?

*Answer.* WNS is a disease associated with massive bat mortality in the Northeastern and Mid-Atlantic United States. Affected hibernating bats often have white fungal growth on their muzzles, ears, and/or wing membranes as the result of infection by a newly described species of fungus (*Geomyces destructans*), which causes skin erosions and ulcers and can invade underlying connective tissue. There is no clear indication of any natural resistance to WNS in the affected bat populations.

Since first observed at four bat hibernacula (hibernation areas) in New York in winter 2006–2007, WNS has been detected in 16 States and four Canadian Provinces. The most recent surveys of hibernacula near the epicenter of the outbreak show that since 2007, mortality is approaching 100 percent at some sites. Six cave-hibernating bat species, including four federally listed species, are directly affected or at risk from WNS. The fungus causing WNS is responsible for the death of more than 6 million bats.

During the winter of 2011–2012, USGS conducted video-monitoring of bats in caves and mines in New York and Tennessee to test whether fungal skin infection triggers unsustainable energy-consuming behaviors during hibernation. USGS is working with USFS to conduct detailed characterizations of fungi associated with bat hibernation sites to better understand the microbial ecology of WNS.

For fiscal year 2012, USGS has allocated \$692,882 for WNS research studies. Modeling software is being developed by USGS that will help forecast the consequences of alternative actions for the persistence and recovery of bats. The USGS fiscal year 2013 budget includes a \$1 million increase that would be used to enhance surveillance and diagnostic capability to detect the continued spread of WNS; bolster research on environmental factors controlling persistence of the fungus in the environment; develop management tools, particularly the development of a vaccine; and conduct research on mechanisms by which WNS causes mortality in bats, focused on immunology and pathogenesis.

In fiscal year 2012, the Congress directed FWS to spend \$4 million from endangered species recovery funding to combat WNS. FWS has proposed to reprogram \$625,000 of this funding to other critical endangered species recovery actions, and to utilize funding from the State and Tribal Wildlife grant program and from the National Wildlife Refuge program for WNS. Under this proposal FWS will dedicate a minimum of \$4,855,000 for WNS efforts in 2012. The fiscal year 2013 FWS budget includes \$1.9 million (not including any competitive grants that may be awarded) for work on WNS, including \$995,470 to continue funding WNS coordinator positions, and \$901,530 to fund critical WNS research.

WNS continues to spread and is projected to appear in the highly dense and diverse bat populations in additional Southern and Midwestern States in the very near future. Predictions for spread to western States and the affect of WNS on bats there is less certain.

#### NATIONAL PARK SERVICE—MAINTENANCE BACKLOG—BACKGROUND

*Question.* The National Park Service (NPS) budget request for fiscal year 2013 is \$2.6 billion, \$1 million less than the fiscal year 2012 enacted level. Within this amount, the Department seeks to increase park operations funding by \$13.5 million, but proposes to reduce line item construction funding by \$25.3 million and funding for National Heritage Areas program by \$7.8 million.

*Question.* National parks are already underfunded by \$600 million each year. What progress is being made to address this issue?

*Answer.* NPS does not quantify shortfalls in park operations. Funding for the main operating account of the NPS has stayed fairly level in nominal dollars since 2010, but there have been unavoidable cost increases in recent years due to inflation, rise in nonpersonnel fixed costs, and the added responsibility for five new parks. NPS is focusing funding on programs that are most central to the NPS mission, implementing management efficiencies, and undertaking administrative cost savings to optimize the use of appropriated dollars.

*Question.* What is being done to address the deferred maintenance backlog and how long can we continue to ignore the problems facing our national parks?

*Answer.* The current backlog of deferred maintenance (DM) associated with NPS constructed asset components considered critical to their function, such as roofs, foundations, road surfaces, etc., is approximately \$4.1 billion. The fiscal year 2013 budget request maintains funding for operational DM at fiscal year 2012 levels. The

request includes \$71 million for the highest-priority DM repair and rehabilitation projects and \$96.4 million to prevent additions to the DM backlog through cyclic maintenance projects. The line-item construction proposal funds the highest-priority construction projects to address critical life safety, resource protection, and emergency needs and does not add any new assets to the NPS asset portfolio. These projects address long-standing DM needs.

FEDERAL INTERAGENCY COUNCIL ON OUTDOOR RECREATION—BACKGROUND

*Question.* According to Tennessee's Commissioner of Tourism, Susan Whitaker, tourism has a \$13 billion impact on Tennessee. Tourism supports a lot of jobs in Tennessee, and since the Great Smoky Mountains National Park is our Nation's most visited national park, the new Federal Interagency Council on Outdoor Recreation is welcome news.

It is very encouraging to see the Department of the Interior working with the Departments of Commerce and Agriculture to boost tourism and outdoor recreation, but one of the biggest challenges our international visitors face is getting a visa. If it takes months to get a visa to come to the United States and only 1 week to get a visa to go somewhere else, people will go somewhere else.

Is the Department working with the State Department to decrease the amount of time international visitors have to wait before they can come visit our national parks?

*Answer.* In the same Executive order that established the Task Force on Travel and Competitiveness (which is co-chaired by the Secretary of the Interior and the Secretary of Commerce), the President directed the Department of State in conjunction with other agencies and White House offices to take actions to enhance and expedite travel to and arrival in the United States by foreign nationals, consistent with national security requirements.

The Visa Waiver Program (VWP) is the flagship of our national tourism strategy. More than 60 percent of all travelers to the United States come under the VWP, generating more than \$60 billion in annual tourism revenue and representing about 60 percent of all tourism-related expenditures in the United States from overseas travelers. While VWP remains the largest travel facilitation program, the Obama administration is also committed to easing travel for the approximately 35 percent of international travelers who currently require visas and border crossing cards to enter the United States. Building on the progress made over the past several years and in response to the President's Executive order, the Obama administration is facilitating legitimate travel to America while maintaining security by:

*Tracking the Increasing Arrivals.*—The Department of Homeland Security continues to monitor the number of arriving travelers. Comparing the first 6 months of fiscal year 2012 to fiscal year 2011, arrivals of travelers using VWP have increased by 8 percent and arrivals of travelers from China and Brazil have increased by 33 percent and 18 percent, respectively. Total nonimmigrant admissions, travelers not including U.S. citizens and returning residents, have increased by 4.5 percent.

*Shortening Visa Interview Wait Times.*—Around the world, wait times for visa interviews are generally short, and have dropped dramatically in some of the busiest travel markets where demand for visas has increased. Now, travelers wait just 2 days for an appointment at United States consulates in China, 2 weeks or less in Brasilia, Recife, and Rio de Janeiro, and 35 days or less in São Paulo. In anticipation of the summer travel season, the Department of State is adding staff and streamlining its operations to continue to reduce wait times.

*Streamlining the Visa Process.*—Tens of thousands of travelers want to visit the United States, and a new pilot program is now underway to streamline processing will help facilitate the demand by freeing up more interview slots for first-time applicants. Consular officers may waive in-person interviews for certain low-risk, qualified individuals, such as those renewing their visas within 48 months of the expiration of their previous visas. Consular officers may also waive interviews for Brazilian applicants younger than the age of 16 and age 66 and older, but retain the authority to interview any applicant in any category if security or other concerns are present.

*Building Capacity in China and Brazil To Meet Demand.*—The Department of State is doubling the number of diplomats performing consular work in China and Brazil over the next year and is investing approximately \$40 million in 2012 on existing facilities in Brazil and \$18 million in China—adding interview windows, expanding consular office space, and improving waiting areas. On April 9, President Obama announced that the United States will establish con-

ulates in Belo Horizonte and Porto Alegre, Brazil, while major expansion projects are underway in China.

*Increasing Consular Staffing and Implementing Innovative Hiring Programs.*—To address immediate growth in demand, the Department of State is sending consular officers from all over the world to Brazil and China to adjudicate visa applications. The Department of State is doubling the number of diplomats performing consular work in China and Brazil over the next year, to ensure that the United States can continue to offer timely visa services to qualified applicants. Similarly, the first group of newly hired consular adjudicators recently arrived at United States consulates in Brazil and China. These adjudicators were hired under a landmark program targeting recruits who already speak Portuguese or Mandarin.

Additionally, Interior agencies have made it easier for more partners to become third-party vendors of the “America the Beautiful” \$80 pass which provides visitor access, including international visitors, to hundreds of public lands destinations nationwide. They are actively reaching out and encouraging partners to both sell the pass online, at trade shows, and in other tourism venues as well as to develop promotions for buying and using the pass. The goal is to increase sales to both Americans and international visitors, who will then have an incentive to visit more destinations and lesser known locations, and to extend their stays.

*Question.* How has COE worked with the Department to support the outdoor recreation initiatives promoted by the interagency council?

*Answer.* Through the America’s Great Outdoors Initiative, seven agencies were identified for inclusion in the Federal Interagency Council on Outdoor Recreation including:

- COE;
- National Oceanic and Atmospheric Administration (Commerce);
- USFS (Agriculture);
- NPS;
- FWS;
- Bureau of Reclamation; and
- BLM (Interior) to coordinate Federal land and water recreation management efforts.

The Federal Interagency Council on Outdoor Recreation (FICOR) has worked closely with existing Federal Advisory Committee Act bodies that support recreational activities, including the Wildlife and Hunting Heritage Conservation Council, the 21st Century Conservation Service Corps Committee, the Sport Fishing and Boating Partnership Council, the First Lady’s Let’s Move! Initiative, and the President’s Council on Fitness, Sports, and Nutrition to promote better integration and coordination among the Federal agencies in support of providing outdoor recreation opportunities for Americans. FICOR has identified two high-priority actions, including support for the National Travel and Tourism Strategy to promote domestic and international tourism on Federal lands and waters, and enhancements to the Federal Interagency Recreation Web site—recreation.gov.

#### QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

*Question.* States have complained that the length of the Coastal Impact Assistance Program (CIAP) grant approval process is too long and cumbersome. For years I have relayed the frustration Mississippi coastal communities have experienced with this program. Last year, the administration transferred management to the Fish and Wildlife Service (FWS) stating that this would lead to a more efficient process and expeditious delivery of funds. Can you please provide details on the progress being made in addressing these concerns?

*Answer.* To address these concerns, FWS began meeting with all of the affected States starting in May 2011, to discuss the issues and develop a transition plan to minimize the impact on States and Coastal Political Subdivision (CPS) operations. As a result of these discussions, on October 1, 2011, FWS began to encourage submission of CIAP applications and the obligation of funds. We centralized the grant administration into the Washington office and hired and trained a professional grants management team to review and award grants. Additionally, we have added a technical guidance function in each of the States to provide a State liaison to work closely with the recipients of CIAP funds. Five of the six States presently have a State liaison, with the sixth in the process of being hired. The State liaisons in the four gulf States are co-located with State staffs. In California and Alaska, the liaisons are located in local FWS offices in Sacramento and Anchorage, respectively, to encourage communication and expeditious handling of technical questions on plan-



ning and proposed project issues. The Washington office staff is responsible for the technical review, including programmatic and financial aspects that are integral to the grant award process. The State liaisons are working with the recipients in the pre-award phase to guide the planning process, develop project proposals and to help improve the quality of initial grant application submissions to alleviate the time consuming process of supplemental information requests during review.

In addition, we have held a national webinar and two national teleconferences with CIAP applicants. We have completed a CIAP training session in Alaska and are in the process of scheduling training workshops for States and CPSs for better CIAP grants management. We expect to hold these workshops April through August 2012 in the eligible States.

*Question.* It is my understanding that the Department of the Interior has changed the definition of "obligated funds" under CIAP. Why?

*Answer.* The Department has not changed the definition of obligated funds.

*Question.* The administration has been quick to highlight increased levels of domestic oil and gas production. How much of this is attributed to production increases on State and private lands as opposed to Federal lands?

*Answer.* The Department of the Interior does not administer oil and gas from State and private lands. However, as reported by the U.S. Energy Information Administration in its March 2012 report "Sales of Fossil Fuels Produced from Federal and Indian Lands, Fiscal Year 2003 Through Fiscal Year 2011", production of oil from onshore Federal lands in fiscal year 2011 was 112 million barrels, an increase more than the 108 million barrels produced in fiscal year 2010. Natural gas production from Federal lands in fiscal year 2011 was 2,955 billion cubic feet, nearly level with the 3,068 billion cubic feet produced in fiscal year 2010. Average oil production from Federal lands from fiscal year 2005 through fiscal year 2008 was 103 million barrels. Average oil production increased from fiscal year 2009 through fiscal year 2011 to 108 million barrels. Average gas production from Federal lands from fiscal year 2005 through fiscal year 2008 was 2,892 billion cubic feet. Average gas production, too, increased from fiscal year 2009 through fiscal year 2011 to 3,064 billion cubic feet.

*Question.* The President has called for an "all-of-the-above" approach to addressing our Nation's energy challenges, and while I have always supported energy diversification, it seems to me that this budget and the proposed offshore oil and gas leasing plan for 2012 to 2017 does not reflect that. Can you speak to what the Department is doing to explore and develop new energy resources, in the Gulf of Mexico specifically, that could lower gas prices and strengthen our energy security?

*Answer.* When President Obama took office, the United States imported 11 million barrels of oil a day. The President has put forward a plan to cut that by one-third by 2025. The administration is taking a series of steps to execute the Blueprint for a Secure Energy Future, a broad effort to protect consumers by producing more oil and gas at home and reducing our dependence on conventional energy resources by using cleaner, alternative fuels and improving our energy efficiency. The Blueprint is a plan that calls for an "all-of-the-above" approach. The administration is moving ahead with a comprehensive energy plan for the country that is enhancing our energy security, creating jobs, and improving protections for the environment. In 2011, American oil production reached its highest level since 2003, and total U.S. natural gas production reached an all-time high.

The Department of the Interior plays an important role in advancing domestic production. Last November, I announced a proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2012–2017 that would make areas containing more than 75 percent of undiscovered technically recoverable oil and gas resources estimated in Federal offshore areas available for exploration and development. The proposed program focuses on six offshore areas where there are currently active leases and/or exploration, and where there is known or anticipated hydrocarbon potential. Three of the six areas are in the Gulf of Mexico, which is and will remain one of the cornerstones of America's energy portfolio and is central to our country's energy security. The gulf, in particular the deepwater areas, already has several world class producing basins and there have been a number of significant new discoveries in the last year. We estimate that the Central Gulf of Mexico holds more than 30 billion barrels of oil and 133.9 trillion cubic feet of natural gas yet to be discovered. This is nearly double the estimated technically recoverable resource potential of the Chukchi Sea. The Western Gulf of Mexico is just behind the Chukchi with more than 12 billion barrels of technically recoverable oil and nearly 70 trillion cubic feet of technically recoverable natural gas.

We have been providing incentives to spur efficient oil and gas development where possible using administrative action. Offshore, existing authorities make it possible to shorten the base term of leases, where appropriate, and reward diligent

development efforts with lease extensions, providing industry with an incentive to develop its existing leases. The proposed 2012–2017 lease sales in the Gulf of Mexico consider offering all the unleased available acreage, including the small portion of the Eastern Gulf of Mexico planning area that is not under congressional moratorium pursuant to the Gulf of Mexico Energy Security Act of 2006.

Moving ahead with the “all-of-the-above” strategy will reduce dependence on foreign oil, thereby enhancing energy security and helping us as we transition to a cleaner energy future. However, it will not have a direct impact on the price of gasoline, which is overwhelmingly dictated by the global price of crude oil. There are other actions that the administration has taken that can have longer-term impacts on the demand for gasoline, which is why the President set an ambitious goal that by 2015 we would have 1 million electric vehicles on the road, becoming the world’s leader in advance vehicle technologies. To help reach this goal, the President is proposing bold steps to improve the efficiency of all modes of transportation and to develop alternative fuels. The administration continues to push forward on fuel economy standards for cars and trucks. The President has proposed to speed the adoption of electric vehicles with new, more effective tax credits for consumers and support for communities that create an environment for widespread adoption of these advanced vehicles in the near term. These actions are already helping to lower transportation costs by reducing dependence on oil, provide more transportation choices to the American people, and revitalize the U.S. manufacturing sector.

*Question.* I am curious to know if the Historic Preservation Fund contains any public-private partnership opportunities to fund bricks and mortar projects, previously carried out by grants from Save America’s Treasures program?

*Answer.* Development (bricks and mortar) projects are an eligible activity under the National Historic Preservation Act (NHPA). State and Tribal Historic Preservation Offices may choose to use their annual Historic Preservation Fund (HPF) grants to fund development activities at National Register listed properties. Additionally, the NHPA requires that States direct 10 percent of their annual HPF allotment to Certified Local Governments (CLGs). Each State sets the parameters of the types of projects CLGs can complete with this funding, and may choose to allow CLGs to fund development projects.

Most States and tribes, however, currently use the majority of their HPF grant funds to carry out nondiscretionary activities mandated by the NHPA, including consultation with Federal agencies on the impact of Federal undertakings (section 106 compliance), survey and inventory of historic properties, listing properties in the National Register, and administering CLGs. After this work has been completed, little funding generally remains to complete development projects. Similarly, few States currently choose to include development projects as an eligible project type for CLGs subgrants, because the amount each State distributes to CLGs is small. The average CLG subgrant in fiscal year 2011 was \$2,600. The projects CLGs complete generally include survey of historic properties, National Register listings, and educational resources.

#### SUBCOMMITTEE RECESS

Senator REED. With that, again, thank you, and the hearing is concluded.

[Whereupon, at 11:42 a.m., Wednesday, February 29, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

**DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2013**

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**WEDNESDAY, MARCH 14, 2012**

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

The subcommittee met at 9:35 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Jack Reed (chairman) presiding.  
Present: Senators Reed, Tester, and Murkowski.

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

STATEMENT OF HON. ROBERT V. ABBEY, DIRECTOR

OPENING STATEMENT OF SENATOR JACK REED

Senator REED. Let me call the hearing to order. Good morning. I want to welcome our witnesses to the subcommittee's oversight hearing on Federal offshore and onshore energy development programs within the Department of the Interior.

On behalf of the members of the Interior, Environment, and Related Agencies Subcommittee, I'd like to welcome our panel and thank everyone for joining us here today.

Now, before us, we have the Honorable Robert V. Abbey, who's the Director of the Bureau of Land Management (BLM); the Honorable Tommy P. Beaudreau, Director of the Bureau of Ocean Energy Management (BOEM); and the Honorable James Watson, Director of the Bureau of Safety and Environmental Enforcement (BSEE). Gentlemen, thank you.

Director Beaudreau and Director Watson, this is your first hearing before the subcommittee as heads of these two new bureaus which were created in October of last year, so we wanted to offer a special welcome to both of you.

As many of you know, the subcommittee was fortunate to have the opportunity to discuss many aspects of energy development when Secretary Salazar appeared before us 2 weeks ago. In particular, I'm especially grateful that we had the opportunity to discuss with him the potential for offshore wind development to create new manufacturing and assembly jobs and to generate renewable energy in my home State of Rhode Island and in other States.

However, and I know that many of my colleagues on both sides of the aisle will agree, there is much more to discuss about energy policy, which is why we've convened this hearing today.

Making sure that the right resources and policies are in place and that safe and responsible energy development on public lands is a significant part of this subcommittee's jurisdiction. The three agencies that we have before this subcommittee today all play a huge role in ensuring the success of the President's energy strategy by overseeing both conventional and renewable energy development on Federal lands and in our Federal waters.

We must ensure that these three agencies have the right resources with staffing in place to perform their permanent inspections and enforce their duties. That is why I think it's important to start with an overview of where these agencies are in terms of their fiscal year 2013 budget requests.

For the offshore perspective, the budget proposed a large increase to BSEE for a total of \$222.2 million. That's a 13-percent increase or \$24.8 million more than fiscal year 2012 funding levels.

The President's request also continues the inspection fee program that the Congress established last year and proposes to collect \$65 million in inspection fees from drilling operations to offset the appropriations request.

The budget request also includes a total program level for BOEM of \$164.1 million. That's a \$3 million increase more than the fiscal year 2012 levels, or approximately 2 percent.

Finally, the budget includes a program level of \$173.4 million for BLM energy program. That's a \$33 million increase more than the fiscal year 2012 level or approximately 23 percent.

The budget request also includes a new \$48 million inspection fee program similar to the one we enacted last year for BSEE that will offset the appropriations request. I'm anxious to hear from Director Abbey how these fees would be used to strengthen energy development on BLM lands.

We're also going to take a look this morning at the progress that's being made to better process offshore and onshore permits and efforts that these agencies have made to recruit, hire and train new petroleum engineers and inspection personnel.

Since the Deepwater Horizon incident less than 2 years ago, major reforms have been made to the way the Interior Department oversees the planning, leasing, and permitting processes for offshore energy development. I understand that concerns are being raised about whether the administration is acting quickly enough to exploit our offshore energy reserves.

It is also important to note that lease sales are underway and permits have in fact been approved since the incident including a total of 325 deepwater drilling permits and an additional 116 shallow water drilling permits approved in the Gulf of Mexico as of Monday, March 12.

As we move ahead, I think the administration must strike the proper balance between the speed of processing and ensuring that industry is drilling responsibly and safely especially in the context of the largest oil spill in our Nation's history which we saw with the Deepwater Horizon incident.

The same can also be said for making sure that we are addressing onshore energy development in a thoughtful and environmentally sensitive manner. I look forward to discussing efforts to improve the BLM inspection process, particularly related to the steep rise in the use of hydraulic fracking on public lands.

Now, before we hear from our panel, I'd like to recognize Ranking Member, Senator Murkowski, and other colleagues if they'd like to speak.

Senator REED. Senator Murkowski.

STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Mr. Chairman, and welcome to our witnesses. I appreciate all that each of you do. It was nice to visit with you, Director Beaudreau. It's always nice to have an Alaskan at the helm. You clearly understand what we're faced with so on many of these issues. But, again, welcome to each of you.

As Americans face steeply rising energy costs, it's important that this subcommittee ensure that the agencies that sit before us today have the resources that they need and the right policies are in place to maximize domestic production from our Federal lands in an environmentally responsible manner.

Now, a number of new authorities were included in last year's Interior bill that I hope will give your agencies the tools necessary to improve the pace of permitting and increase our domestic production.

For example, new fees on offshore operators were authorized and 50 percent of these collections must be used to expand capacity and expedite the development of the Outer Continental Shelf (OCS). Authority was also given to pay higher salaries for certain critical job positions in order to address the problems with hiring sufficient numbers of key personnel to review the exploration plans and the process permits in a timely fashion, as the chairman has mentioned.

Finally, the responsibility for reviewing air quality issues in the Arctic OCS was transferred from the Environmental Protection Agency (EPA) to BOEM to deal with egregious permitting delays, almost 6 years in one case. I'd like to hear from all of you today about how these new authorities are being utilized, and whether you believe that you've got the tools that you need to improve the pace of permitting and increase production both on and offshore.

Improving the Department's performance is particularly important to me in light of recent Department of the Interior reports that indicate that while overall production domestically is at an all-time high, but it's not necessarily the case on Federal lands and waters.

ENE News recently reported the production of natural gas declined by 11 percent in fiscal year 2011 and oil production declined by 14 percent. A significant portion of this is clearly the result of the moratorium that was put in place in the Gulf of Mexico following the Deepwater Horizon.

So I would like to explore with you today what the current pace of permitting is in the gulf; how many drilling rigs are operating; whether the improvements have been made to improve and accelerate the approval of exploration plans and drilling permits.

I think there is a difference of opinion out there between the Department and the industry on whether or not things are improving. So I would like to hear your perspective on that.

The discrepancy between production on State and private lands versus Federal lands also concerns me as I look at the new policies that are proposed in the fiscal year 2013 budget that will make leasing on Federal lands less competitive.

When companies have the option of oil exploration on large new reserves on State and private lands, whether it's North Dakota or Texas, or for natural gas in the Marcellus Shale, I question the wisdom of proposals to increase Federal onshore royalty rates and put in place new inspection and drilling fees, and charge a fee on the so-called nonproducing leases.

It seems to me that this is just taking us in a direction that will make our Federal lands less competitive, and we may see a continued trend of more investment fleeing to the stateside into the private lands or possibly even to other countries.

Again, I thank the witnesses for joining us and for the work that they do within their respective agencies and look forward to the questions.

Senator REED. Thank you, Senator Murkowski. I just have to point something out. Mr. Beaudreau is from Alaska, but his father is from Woonsocket, Rhode Island. So that is either the shrewdest appointment ever made—

Senator MURKOWSKI. Way to go. Phenomenal.

Senator REED [continuing]. Or the luckiest appointment ever made, and only time will tell.

Senator MURKOWSKI. I'm sure he also has ties to Montana.

Senator REED. If not, he's bought a cabin there. Senator Tester, do you have any comments?

#### STATEMENT OF SENATOR JON TESTER

Senator TESTER. I would. Thank you, Chairman Reed, and Ranking Member Murkowski for holding this hearing today, and I want to welcome Mr. Abbey, Mr. Beaudreau, and Mr. Watson to the hearing this morning.

I want to say just a few quick words about the fiscal year 2013 Department of the Interior budget. First, there's been a lot of talk about oil and gas leasing and development in the United States and the need to expand the developments, reduce our dependence on foreign oil. And I firmly believe that we do need to reduce our dependence on imported oil.

We are giving \$1 billion a day to countries that don't necessarily like us much and that hasn't done us much good in securing and developing our economy or enhancing our national security.

But I think it's important we don't confuse reducing our dependence on foreign oil with reducing prices at the pump. We all know the price of gasoline isn't just about supply and demand factors and the talking point of "drill baby drill" isn't getting us those desired results. So let's be honest about the facts.

Drilling is up. There are more drilling rigs in the United States than there are anywhere else in the world. Production is up. We're producing more than we have in the last 8 years. Dependence on imported oil is declining. Consumption, domestically, is down.

But we are facing competition from China for oil, and that is driving the world price as well as speculators influencing the market and adding as much as 56 cents a gallon at the pump. All this is to say that we need to look at an “all-the-above” solution. There is no magic bullet.

In Montana, energy production is fueling our economy, literally, with the Bakken Field, we’re producing nearly 500,000 barrels per day. I’m proud Montana is a part of that expanding energy, domestic energy solution.

But I also want to point out that this hearing isn’t just about extracting traditional fuels from public lands. We also need to permit renewable energy projects in a timely manner. We need to put just as much effort into those leasing and approvals of those projects to secure our energy future.

And I look forward to visiting with each one of you today and, particularly, you, Bob, about getting more renewable energy up and running. I look forward to visiting with you about those throughout this hearing and hearings to come.

Senator TESTER. And, once again, I want to thank Chairman Reed and Ranking Member Murkowski, for holding this hearing.

Senator REED. Thank you very much, Senator. Gentlemen, your statements are part of the record, so you may be free to summarize your comments and Mr. Abbey, please begin.

#### SUMMARY STATEMENT OF ROBERT V. ABBEY

Mr. ABBEY. Well, thank you, Mr. Chairman, and members of the subcommittee. It’s always a pleasure to appear before you today to discuss the President’s fiscal year 2013 energy and minerals budget request for BLM. In the interests of time, I will keep my opening remarks quite brief.

BLM, as many of you know already, is responsible for managing more than 245 million acres of public lands primarily in the 12 Western States, as well as approximately 700 million acres of on-shore subsurface mineral estate nationwide.

BLM’s unique multiple-use management of public lands includes activities as varied as livestock grazing, outdoor recreation and conservation of natural, historical, cultural, and other important resources. America’s public lands provide resources that are critical to the Nation’s energy security and will continue to play an important role in domestic energy production, in mineral development, for decades to come.

Our management of public land resources and protection of public land values results in extraordinary economic benefits to local communities and to this Nation. It is estimated that in 2011, BLM’s management of public lands contributed more than \$120 billion to the national economy and supported more than 550,000 American jobs.

BLM’s fiscal year 2013 budget proposal reflects the administration’s efforts to maximize public benefits while recognizing the reality of the current fiscal situation.

The New Energy Frontier Initiative recognizes the value of environmentally sound, scientifically grounded development of both conventional and renewable energy resources on public lands. Conventional energy resources on these public lands continue to play

a critical role in meeting the Nation's energy needs, producing 41 percent of the Nation's coal, 13 percent of natural gas, and 5 percent of the domestically produced oil.

During 2011, BLM held 32 onshore oil and gas lease sales covering more than 4 million acres. Onshore mineral leasing revenues are estimated to be \$4.4 billion in 2013. The fiscal year 2013 budget strengthens BLM's oil and gas inspection capability through a proposed fee on oil and gas producers similar to the fees now charged for offshore inspections.

Collection of these fees is consistent with the principle that users of the public lands pay for both the cost of use authorizations and for providing for oversight activities. This fee will generate an estimated \$48 million to improve safety and production inspections for oil and gas operations.

President Obama, Secretary Salazar and this Congress have stressed the critical importance of renewable energy to the Nation's energy security, job creation, and long-term economic development. To date, Secretary Salazar has approved 29 commercial-scale, renewable-energy projects on public lands, and these include 16 solar, 5 wind, and 8 geothermal projects that represent more than 6,500 megawatts and 12,500 jobs.

BLM's fiscal year 2013 budget proposes a \$5 million increase for these efforts, and we do intend to reach our goal of almost 11,000 megawatts of renewable energy production in 2013.

#### PREPARED STATEMENT

Finally, the budget proposes legislative initiatives to reform hard-rock mining, remediate abandoned mines and encourage diligent development of nonproducing oil and gas leases.

Mr. Chairman, members of the subcommittee, again, thank you for this time.

[The statement follows:]

#### PREPARED STATEMENT OF ROBERT V. ABBEY

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear here today to discuss the President's fiscal year 2013 energy and minerals budget request for the Bureau of Land Management (BLM).

BLM, an agency of the Department of the Interior (DOI), is responsible for managing our national system of public lands, which are located primarily in 12 Western States, including Alaska. BLM administers more than 245 million surface acres, more than any other Federal agency. BLM also manages approximately 700 million acres of onshore subsurface mineral estate throughout the Nation. BLM's unique multiple-use management of public lands includes activities as varied as energy production, mineral development, livestock grazing, outdoor recreation, and the conservation of natural, historical, cultural, and other important resources. BLM is one of a handful of Federal agencies that generates more revenue than it spends.

#### MEETING OUR NATION'S NEEDS

BLM's management of public land resources and protection of public land values results in extraordinary economic benefits to local communities and to the Nation, helping to contribute more than \$120 billion annually to the national economy and supporting more than 550,000 American full and part-time jobs according to the Department of the Interior Economic Contributions report of June 21, 2011. Energy and mineral resources generate the highest revenue values of any uses of the public lands from royalties, rents, bonuses, sales, and fees.

These benefits are not only economic, but also contribute substantially to America's energy security. During calendar year 2011, BLM held 32 onshore oil and gas lease sales—covering nearly 4.4 million acres—which generated about \$256 million



in revenue for American taxpayers. Onshore mineral leasing revenues are estimated to be \$4.4 billion in 2013. The 2011 lease sale revenues are 20-percent more than those in calendar year 2010. There are currently more than 38 million acres of Federal mineral estate under oil and gas lease, and since only about 32 percent of that acreage is currently in production, BLM is working to provide greater incentives for lessees to make production a priority. In fiscal year 2011, DOI collected royalties on more than 97 million barrels of oil produced from onshore Federal minerals. Moreover, the production of nearly 3 trillion cubic feet of natural gas made it one of the most productive years on record.

Meanwhile, the coal produced from more than 300 Federal coal leases, on nearly a one-half million acres of Federal mineral estate, generated more than \$780 million in royalties. This coal is used to generate electricity in at least 40 States, accounting for more than one-fifth of all electricity generated across the country. BLM held four coal leases sales in 2011. BLM accepted bonus bids of more than \$700 million for these four lease sales, underscoring the administration's commitment to the goals of energy security and job creation.

BLM also is leading the Nation on the new energy frontier, actively promoting solar, wind, and geothermal energy development. Under Secretary Salazar, BLM has approved permits for 29 commercial-scale renewable energy projects on public lands or the transmission associated with them since 2009. This includes 16 solar, 5 wind, and 8 geothermal projects. Together, these projects represent more than 6,500 megawatts (MW) and 12,500 jobs, and when built will power about 1.3 million homes. In addition, DOI has identified more than 3,000 miles of transmission lines for expedited review. Enhanced development of wind power is a key component of our Nation's energy strategy for the future. There are currently 437 MW of installed wind power capacity on BLM-managed public lands, but there are 20 million acres of public lands with wind potential. Additionally, nearly one-half of U.S. geothermal energy production capacity is from Federal leases. The fiscal year 2013 budget reflects a goal of permitting a total of 11,000 MW of clean renewable energy by the end of 2013.

#### FISCAL YEAR 2013 BUDGET OVERVIEW

BLM's fiscal year 2013 energy and minerals budget makes significant investments in America's economy, while making difficult choices to offset priority funding increases. Investments in this budget will promote America's energy production at home and grow America's economy. The proposed budget for BLM makes a strategic investment in support of the New Energy Frontier, an important Secretarial initiative. Investment in this program today will reap benefits for years to come.

The total fiscal year 2013 BLM budget request is \$1.1 billion in current authority, which is essentially the same as the fiscal year 2012 enacted level. The budget proposes \$952 million for BLM appropriation and \$112 million for the Oregon and California grant lands appropriation, BLM's two main operating accounts. The budget makes strategic funding shifts to target high-priority initiatives, scales back on lower-priority programs, and sustains and expands energy program activities. The budget also includes several important legislative proposals linked to the uses of lands and resources, including proposals to fund the remediation of abandoned hardrock mines; to provide a fair return to the taxpayer from the production of several hardrock minerals on Federal lands; to encourage diligent development of oil and gas leases; to repeal a prohibition on charging oil and gas permitting fees along with associated mandatory funds; and to reauthorize the Federal Land Transaction Facilitation Act. This testimony focuses on BLM's energy and mineral resources programs.

#### PROMOTING AMERICAN ENERGY PRODUCTION AT HOME

The fiscal year 2013 budget continues DOI's new energy frontier initiative to create jobs, reduce the Nation's dependence on fossil fuels and oil imports, and reduce carbon impacts. The Secretary's new energy frontier initiative emphasizes the value of scientifically based, environmentally sound development of both renewable and conventional energy resources on the Nation's public lands. Facilitating renewable energy development is a major component of this strategy along with effective management of conventional energy programs. BLM's proposed fiscal year 2013 budget advances the goals of the initiative by including priority funding for both renewable and conventional energy development on public lands.

*Renewable Energy.*—President Obama, Secretary Salazar, and the Congress have stressed the critical importance of renewable energy to the future of the United States. Success in attaining the Nation's goals to reduce greenhouse gas emissions, mitigate climate change, and protect the global environment relies on sustained ef-

forts to develop renewable energy resources. Renewable energy production is vital to our Nation's long-term economic development and energy security. The development of renewable energy creates American jobs and promotes innovation in the United States while reducing the country's reliance on fossil fuels.

BLM continues to make significant progress in promoting renewable energy development on the public lands in 2012, including working to approve additional large-scale solar energy projects and complete a draft Solar Programmatic Environmental Impact Statement to provide for landscape-scale siting of solar energy projects on public lands. The agency is working on wind development mitigation strategies with wind energy applicants and other Federal agencies, and is currently reviewing more than 45 wind energy applications. Additionally, the transmission infrastructure required to deliver renewable energy from production facilities to major markets relies on corridors across BLM-managed lands.

The fiscal year 2013 budget request includes a total program increase of \$7 million in the Renewable Energy Management program, including \$5 million in new funding. This will support additional environmental studies to accelerate the identification of prime areas for utility-scale renewable energy project development. It will also enable BLM to continue ongoing program management responsibilities associated with geothermal energy development by replacing mandatory funding previously provided by the Geothermal Steam Act Implementation Fund, for which new deposits have ceased. The remaining \$2 million increase is a transfer of geothermal funds from the oil and gas management program to BLM's renewable energy program.

*Conventional Energy.*—While we work to develop renewable energy sources, domestic oil and gas production remain critical to our Nation's energy supply and to reducing our dependence on foreign oil. Secretary Salazar has emphasized that conventional energy resources on BLM-managed lands continue to play a critical role in meeting the Nation's energy needs. Conventional energy development from public lands produces 41 percent of the Nation's coal, 13 percent of the natural gas, and 5 percent of the domestically produced oil. DOI's balanced approach to responsible conventional energy development combines onshore oil and gas policy reforms with effective budgeting to provide appropriate planning and support for conventional energy development.

The fiscal year 2013 budget proposes an increase of \$2.4 million in appropriated funding to be utilized for inspection and enforcement of coal production on Federal and Indian lands. The requested increase will fund the program at roughly the 2011 enacted level. BLM will continue efforts to institute cost-recovery fees within this program, but recognizes these fees may not be in place by the start of 2013.

The President's fiscal year 2013 budget proposes \$13 million in oil and gas program increases to provide industry with timely access to Federal oil and gas resources, backed by the certainty of defensible environmental analysis. Of that increase, a \$5 million program increase will restore BLM's leasing and oversight capacity to the 2011 enacted level. An additional \$3 million will be used for large, regional-scale studies and environmental impact statements for oil and gas leasing and development issues. Finally, an additional \$5 million programmatic increase will allow BLM to fully implement its leasing reform strategy without sacrificing other important program goals.

BLM is committed to ensuring oil and gas production is carried out responsibly. To accomplish this, BLM performs inspections to ensure that lessees meet environmental, safety, and production reporting requirements. BLM recently initiated a program using a risk-based inspection protocol for production inspections, based on production levels and histories. Success realized in this program will support expansion of this risk-based strategy to the other types of inspections the BLM performs. The risk-based strategy will maximize the use of inspection staff to better meet BLM inspection goals and requirements in the future.

The fiscal year 2013 budget proposes to expand and strengthen BLM's oil and gas inspection capability through new fee collections from industry, similar to the fees now charged for offshore inspections. Collection of these fees is consistent with the principle that users of the public lands should pay for the costs of use authorizations and the costs associated with the oversight of authorized activities. The inspection fee schedule included in the budget is estimated to generate \$48 million in collections, which would offset a proposed reduction of \$38 million in BLM's appropriated funds, while providing for a net increase of \$10 million in funds available for this critical BLM management responsibility. The increased funding is aimed at correcting deficiencies identified by the Government Accountability Office (GAO) in its February 2011 report, which designated Federal management of oil and gas resources including production and revenue collection as high risk. The \$10 million increase will help BLM achieve the high-priority goal of increasing the completion

of inspections of Federal and Indian high risk oil and gas cases by 9 percent more than fiscal year 2011 levels. BLM will also complete more environmental inspections to ensure environmental requirements are being followed in all phases of development. Fee levels will be based on the number of oil and gas wells per lease so that costs are shared equitably across the industry.

To encourage diligent development of new oil and gas leases, the administration is proposing a per-acre fee on each nonproducing lease issued after enactment of the proposal. The \$4-per-acre fee on nonproducing Federal leases (onshore and offshore) would provide a financial incentive for oil and gas companies to either put their leases into production or relinquish them so that tracts can be re-leased and developed by new parties.

The administration believes that American taxpayers should get a fair return on the development of energy resources on their public lands. A 2008 GAO report suggests that taxpayers could be getting a better return from Federal oil and gas resources in some areas. To this end, the administration is developing a proposed rule to address onshore royalty rates.

#### ABANDONED MINE LANDS AND HARDROCK MINING REFORM PROPOSALS

The budget includes legislative proposals to address AML hazards on both public and private lands and to provide a fair return to the taxpayer from hardrock production on Federal lands. The first component addresses abandoned hardrock mines across the country through a new AML fee on hardrock production. Just as the coal industry is held responsible for abandoned coal sites, the administration proposes to hold the hardrock mining industry responsible for abandoned hardrock mines. The proposal will levy an AML fee on all uranium and metallic mines on both public and private lands that will be charged on the volume of material displaced after January 1, 2013. The receipts will be distributed by BLM through a competitive grant program to restore the Nation's most hazardous hardrock AML sites on both public and private lands using an advisory council comprising of representatives of Federal agencies, States, tribes, and nongovernment organizations. The advisory council will recommend objective criteria to rank AML projects to allocate funds for remediation to the sites with the most urgent environmental and safety hazards. The proposed hardrock AML fee and reclamation program would operate in parallel to the coal AML reclamation program, as two parts of a larger effort to ensure that the Nation's most dangerous coal and hardrock AML sites are addressed by the industries that created the problems.

The budget also includes a legislative proposal to institute a leasing process under the Mineral Leasing Act of 1920 for certain minerals (gold, silver, lead, zinc, copper, uranium, and molybdenum) currently covered by the General Mining Law of 1872. After enactment, mining for these metals on Federal lands would be governed by a leasing process and subject to annual rental payments and a royalty of not less than 5 percent of gross proceeds. One-half of the royalty receipts would be distributed to the States in which the leases are located and the remaining half would be deposited in the Treasury. Pre-existing mining claims would be exempt from the change to a leasing system, but would be subject to increases in the annual maintenance fees under the General Mining Law of 1872. However, holders of pre-existing mining claims for these minerals could voluntarily convert their claims to leases. The Office of Natural Resources Revenue in DOI will collect, account for, and disburse the hardrock royalty receipts.

#### REDUCTIONS AND EFFICIENCIES

BLM's fiscal year 2013 budget proposal reflects many difficult choices in order to support priority initiatives and needs while supporting the President's commitment to fiscal discipline and spending restraint. In fiscal year 2013, BLM is requesting a decrease of \$2 million for its abandoned mine lands program. BLM will continue to fund the highest-priority sites, as determined through its ongoing ranking process. Red Devil Mine reclamation activities remain a high priority.

#### CONCLUSION

BLM's fiscal year 2013 budget request for energy and minerals programs provides funding for the agency's highest-priority energy and minerals initiatives, while making difficult but responsible choices for reductions to offset some of these funding priorities. Our public lands and resources play an important role in American lives, economies, and communities and include some of our Nation's greatest assets. This budget request reflects the administration's commitment to encourage responsible energy development on the public lands, as well as to ensure the American people receive a fair return for the public's resources. Mr. Chairman, thank you for the op-

portunity to testify on BLM energy and mineral budget request for fiscal year 2013. I will be pleased to answer any questions you may have.

Senator REED. Thank you very much, Director Abbey. Director Beaudreau.

BUREAU OF OCEAN ENERGY MANAGEMENT

**STATEMENT OF HON. TOMMY P. BEAUDREAU, DIRECTOR**

Senator REED. Please turn on your microphone.

Mr. BEAUDREAU. Okay. Yes. Thank you, Chairman Reed, Ranking Member Murkowski, and Senator Tester.

Thank you for the opportunity to appear today to discuss the President's fiscal year 2013 budget request for BOEM, and for the opportunity to provide these brief opening remarks.

As we know, the Deepwater Horizon rig explosion and oil spill in the Gulf of Mexico spurred the administration to undertake the most aggressive and comprehensive reforms to offshore oil and gas regulation in United States history.

Central to these reforms are the structural changes we have made to Federal oversight, including the establishment of new, independent agencies with clearly defined missions to provide effective management and strong safety oversight of the development of our shared offshore energy and mineral resources.

Simply put, BOEM is responsible for overseeing the environmentally and economically responsible development of our country's abundant offshore conventional and renewable energy resources. This includes promoting responsible offshore oil and gas development as well as renewable energy projects such as offshore wind.

BOEM's decisionmaking must closely consider the resource potential of geographic regions on the OCS, the critical role offshore energy development plays in the mix of resources necessary to meet the Nation's energy demands, the significance of offshore oil and gas to the economy and employment, and the vital need for environmental protection and responsible stewardship.

These are priorities and values shared by everyone in this room. This budget request is designed to provide BOEM with the resources necessary to advance our commitment to a comprehensive all-of-the-above energy strategy that encourages safe and responsible domestic oil and gas exploration and development as well as pushes forward with the development of offshore wind and other clean, renewable-energy resources.

The resources we have requested will allow BOEM to continue pursuing our programmatic priorities which include, one, finalizing and implementing the next 5-year offshore oil and gas leasing program which as proposed will include 15 potential lease sales and make available more than 75 percent of the undiscovered but recoverable oil and gas resources offshore of the United States.

Two. Conducting the rigorous scientific and environmental analyses that are necessary at all stages of the offshore energy development process. Last December, we held the first lease sale following the spill which was one of the most successful in the history of the Western Gulf of Mexico.

We will hold a consolidated lease sale for the Central Gulf of Mexico on June 20. Planning for both of these sales included rigorous analyses of available information concerning the environmental effects of the Deepwater Horizon oil spill.

Three. We continue to conduct efficient and thorough reviews of offshore exploration and development plans under the new heightened standards which include site specific environmental assessments on every deepwater exploration and development plan.

Four. We've implemented innovative lease terms that ensure that the American taxpayer receives fair return and that provides strong incentives for industry to diligently develop their lease holdings offshore to meet our energy needs.

Finally, we are on the forefront of development of offshore renewable energy resources. Over the next year and beyond, we expect to issue a number of commercial leases for offshore wind development particularly along the Atlantic coast.

#### PREPARED STATEMENT

BOEM is focused on its mission to help the United States secure its energy future through responsible development of conventional and renewable offshore energy. Thank you and thank this subcommittee for its continuing support of our mission and our efforts. [The statement follows:]

#### PREPARED STATEMENT OF TOMMY P. BEAUDREAU

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear here today to discuss the President's fiscal year 2013 budget request for the Bureau of Ocean Energy Management (BOEM) within the Department of the Interior (DOI).

This request is designed to provide the resources necessary to advance BOEM's commitment to effective and efficient management and oversight of the Nation's offshore resources as part of our comprehensive energy strategy to encourage safe and responsible domestic oil and gas exploration and development, as well as to expand development of clean and abundant renewable energy resources.

With the guidance, support, and oversight of the Congress, the Obama administration has been implementing the most aggressive and comprehensive reforms to offshore oil and gas regulation in U.S. history following the Deepwater Horizon explosion and oil spill in the Gulf of Mexico. The Minerals Management Service (MMS) was restructured into three new, independent entities, and the Bureau of Ocean Energy Management (BOEM) took on the role of effective and efficient management and oversight of the Nation's offshore resources as part of our comprehensive strategy to encourage safe and responsible domestic oil and gas exploration and development. BOEM is also committed to expand development of clean and abundant renewable energy resources. Both activities support job growth and healthy local economies, and this budget request is designed to provide the resources necessary to advance this commitment.

In order to ensure an efficient and integrated approach to offshore energy development, BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) work together closely and certain functions remain linked and require close coordination. As you will hear from my colleague, Director James Watson, BSEE functions as the offshore safety authority, charged with enforcement of the strengthened safety and environmental standards implemented in the aftermath of Deepwater Horizon. We designed the reorganization to ensure that both agencies operate efficiently and without unnecessarily redundant bureaucracies. For example, BOEM and BSEE continue to share administrative infrastructure and functions that service both bureaus efficiently.

For fiscal year 2013, BOEM is requesting an operating level of \$164.1 million, which includes a base appropriation of \$62.7 million and \$101.4 million in offsetting collections (\$98.8 million from rental receipts and \$2.6 million from cost-recovery fees). BOEM manages the Nation's offshore energy and mineral resources in a balanced way that promotes efficient and environmentally responsible energy develop-

ment through oil and gas leasing, renewable energy development, and a commitment to rigorous, science-based environmental review and study. BOEM's functions include offshore leasing, resource evaluation, review and administration of oil and gas exploration and development plans, renewable energy development, National Environmental Policy Act (NEPA) analysis, and environmental studies.

BOEM's organizational structure is designed to advance core elements of its mission including:

- strategic resource development;
- environmental analysis and applied science; and
- renewable energy development.

#### KEY PRIORITIES AND ACCOMPLISHMENTS

Since its establishment on October 1, 2011, BOEM has made substantial progress and achieved a number of important priorities. These priorities will continue to guide the agency's activities throughout the remainder of fiscal year 2012, and form the basis of the budget request moving into fiscal year 2013. These priority areas include:

*Developing and Implementing the Five-Year Outer Continental Shelf Oil and Gas Leasing Program for 2007–2012.*—In December 2011, BOEM held Western Gulf of Mexico (GOM) Lease Sale 218—the last Western GOM sale scheduled under the current 5-year program and the first sale conducted after completion of a supplemental environmental impact statement that considered the effects of the Deepwater Horizon oil spill. BOEM has scheduled Consolidated Central GOM Sale 216/222, the final sale in the current program, for June 20, 2012. In addition, BOEM is developing the next 5-year program. Last November, BOEM issued the proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2012–2017, which makes more than 75 percent of undiscovered technically recoverable oil and gas resources estimated in Federal offshore areas available for exploration and development. It advances an innovative, regionally tailored approach to offshore oil and gas leasing designed to take into account the particular resource potential, environmental and social concerns, and infrastructure condition of each planning area. BOEM will finalize the program in fiscal year 2012.

Conducting rigorous scientific and environmental analysis to support all stages of the OCS Lands Act process—from pre-sale planning through exploration and development. Rigorous scientific analysis underlies all of BOEM's decisions. For example, BOEM held Western Gulf of Mexico Lease Sale 218 after conducting necessary environmental analyses to evaluate available information concerning the effects of the Deepwater Horizon oil spill. BOEM recently completed a similar analysis with respect to the Central Gulf of Mexico Planning Area in preparation for Lease Sale 216/222. BOEM has completed an extensive supplemental environmental analysis for the Chukchi Sea Planning Area that addresses key issues including the potential effects of a hypothetical, very large oil spill. The analysis supported the Secretary's decision to affirm Chukchi Sea Lease Sale 193, originally held in 2008. This analysis resulted in Chukchi Lease Sale 193 being judicially upheld, and the injunction of those leases being lifted. At the postlease stage, BOEM currently conducts site-specific environmental assessments on all deepwater exploration and development plans, rather than relying on categorical exclusions as had been done historically.

*Ensuring a Fair Return.*—BOEM lease terms now include a range of fiscal and drilling requirements to ensure that taxpayers receive fair value and encourage operators to undertake diligent development, consistent with the administration's Blueprint for a Secure Energy Future. Recent changes made in lease terms include raising the minimum bid level from \$37.50 per acre to \$100 per acre in water depths of 400 meters or greater; promulgating policies that reduce the time a lease can be held without drilling activity by up to 3 years in water depths of 400 to 1,600 meters; and increasing rental rates to encourage faster exploration and development of leases. The higher minimum bid level strengthens the bidding process and supports the goal of ensuring a fair return. It discourages bidders from acquiring tracts with the intention to hold them undrilled for many years. Lessees who meet the shorter drilling timeframes earn three additional years on the lease term as an added incentive for timely drilling. BOEM has both increased base rental rates and established escalating rentals to encourage faster exploration and development of leases, or earlier relinquishment when exploration is unlikely to be undertaken by the current lessee.

*Conducting Reviews of Exploration and Development Plans.*—BOEM conducts efficient and thorough reviews of exploration and development plans. Consistent with strengthened standards for environmental analysis, BOEM is committed to ensuring that its process for reviewing and approving plans is rigorous, efficient, and transparent. BOEM works collaboratively with industry throughout the review of plans, to ensure operators understand and comply with BOEM's stronger operational and environmental standards and that the review process is efficient.

*Advancing Renewable Energy Leasing and Development through the "Smart from the Start" Initiative.*—BOEM has established a regulatory framework for renewable energy leasing and development on the OCS and has taken critical steps to support the development of an offshore wind industry. On April 19, 2011, Secretary Salazar announced the approval of the Cape Wind Associates' Construction and Operations Plan. The Secretary signed the Cape Wind lease in 2010, and it is the first offshore commercial wind lease in the United States.

The Secretary's "Smart from the Start" Initiative, announced in fiscal year 2011, is intended to build on the existing regulatory framework and facilitate the efficient and environmentally responsible siting, leasing, and construction of new wind energy projects in the Atlantic. Recently, BOEM completed a number of important steps to advance additional lease sales in fiscal year 2013 and beyond, including:

- developing a commercial lease form and conducting an analysis to determine auction formats;
- completing an environmental assessment to support leasing in wind energy areas off of four Mid-Atlantic States; and
- issuing Calls for Information and Nominations to gauge industry interest in the areas offshore Rhode Island, Massachusetts, Maryland, and Virginia.

BOEM also is moving forward with the review for a potential Mid-Atlantic Wind Energy Transmission Line, which would enable up to 7,000 megawatts of wind turbine capacity to be delivered to the electric grid.

The fiscal year 2013 request continues these efforts and supports ongoing collaboration between BOEM, intergovernmental task forces, industry, and stakeholders and a continued focus on environmental assessment, while developing formats and processes for renewable energy lease auctions. BOEM expects to hold the first competitive lease sales for offshore wind in fiscal year 2013.

*Science-Based Decisionmaking.*—A core principle of BOEM is the integration of science with decisionmaking through comprehensive research and rigorous analysis. The new Office of Environmental Programs establishes an umbrella organization that integrates applied scientific research and information with the environmental analyses that BOEM conducts in support of programmatic decisions. This structure facilitates top-quality research by talented scientists from a range of disciplines, as well as targeted scientific study to support policy needs and priorities.

*Strengthening of the Environmental Review Processes.*—BOEM is committed to setting high standards for analyses conducted in compliance with NEPA and other governing statutes, and this budget request continues ongoing efforts to strengthen these processes. BOEM is conducting a comprehensive review of its application of NEPA to ensure that environmental risks are thoroughly analyzed, appropriate protective measures are implemented, and the process is transparent and well-understood within the Federal Government and by stakeholders. This review includes an ongoing assessment of the use of categorical exclusions. In the interim, BOEM is conducting site-specific environmental assessments for all new and revised exploration and development plans in deep-water.

*Developing the First Geological and Geophysical Programmatic Environmental Impact Statement for Areas in the Mid- and South Atlantic.*—BOEM is committed to conducting thorough, scientific reviews that facilitate a better understanding of potential conventional and renewable resources in the Atlantic, which is central to our strategy for evaluating potential future leasing in the Mid- and South Atlantic. This Programmatic Environmental Impact Statement (PEIS) will evaluate potential environmental effects of multiple Geological and Geophysical activities, such as seismic surveys, conducted to inform future decisions regarding oil, natural gas, and renewable energy development on the OCS in the mid and south Atlantic planning areas. BOEM will issue the draft PEIS this spring.

## THE FISCAL YEAR 2013 BUDGET REQUEST

This fiscal year 2013 BOEM budget request is consistent with the direction set forth in the fiscal year 2012 budget for BOEM and consists of limited funding increases reflecting difficult tradeoffs given the tight fiscal constraints. BOEM's fiscal year 2013 request of \$164.1 million includes careful analysis of the resources needed to develop the agency's capacity and to execute its functions carefully, responsibly, and efficiently. Consistent with the overall contours of BOEM's request, these targeted increases, which amount to \$3.3 million more than the fiscal year 2012 enacted level, reflect modest increases for renewable energy auction support services, environmental studies, and fixed costs—and are necessary to advance administration priorities that are vital to BOEM's mission.

*Renewable Energy Auction Support Services (+\$1,296,000; 0 FTE).*—In order to achieve the Secretary's renewable energy goal outlined in the "Smart from the Start" Initiative, BOEM must accelerate the auction schedule of potential wind leases. Because it is not yet equipped with the technical support or expertise to manage these auctions, BOEM will contract those services and purchase wind resource data in the near term.

*Environmental Studies (+\$700,000; 0 FTE).*—The requested increase will enable BOEM to initiate high-priority baseline characterization and monitoring studies. With the release of the proposed 5-year program, establishing baseline information will become an increasing need in order to ensure a scientific basis for informed and environmentally responsible policy decisions.

*Fixed Costs (+\$1,453,000; 0 FTE).*—Fixed costs in the amount of \$1,453,000 are fully funded in this request. These costs include increases needed to support employee pay, changes in Federal health benefits and worker's compensation, rent to the General Services Administration, and payments to the Department's Working Capital Fund.

*Offsetting Collections and Cost Recovery (-\$322,000; +0 FTE).*—This requested change reflects a revised net estimate of BOEM's fiscal year 2013 offsetting collections and cost-recovery fees.

*Administrative Reduction (-\$122,000; +0 FTE).*—This reduction offsets high-priority increases in the fiscal year 2013 request and will be applied by reducing administrative costs within BOEM.

The fiscal year 2013 request also includes legislative proposals that directly relate to BOEM's programs including:

*Deep Gas Incentives.*—The administration proposes to repeal section 344 of the Energy Policy Act of 2005. Section 344 mandated royalty incentives for certain "deep gas" production on the OCS. This change will help ensure that Americans receive fair value for federally owned mineral resources. Based on current oil and gas price projections, the budget does not assume savings from this change; however, the proposal could generate savings to the Treasury if future natural gas prices end up below current projections.

*Fee on Non-Producing Oil and Gas Leases.*—The administration will submit a legislative proposal to encourage energy production on lands and waters leased for development. A \$4 per-acre fee on nonproducing Federal leases would provide a financial incentive for oil and gas companies to either get their leases into production or relinquish them so that the tracts can be leased to and developed by other parties. The proposed fee would apply to all new leases onshore and offshore and would be indexed annually. In October 2008, the Government Accountability Office issued a report critical of past efforts by Interior to ensure that companies diligently develop their Federal leases. Although the report focused on administrative actions that the Department could undertake, this proposal requires legislative action. This proposal is similar to other nonproducing fee proposals considered by the Congress in the last several years. The fee is projected to generate revenues to the U.S. Treasury of \$13 million in 2013 and \$783 million over 10 years.

## CONCLUSION

BOEM plays a vital role in advancing safe and responsible offshore energy development to secure our energy future. Given our environment where serious fiscal constraints demand difficult decisions, we appreciate the critical resources the Congress has provided in recent appropriations—including investment in robust science to inform decisions relating to ocean energy policy and management and appropriate environmental safeguards. It is imperative to sustain this investment moving into the next fiscal year and the fiscal year 2013 request reflects a careful analysis of the resources needed to ensure our ability to carry out the important mission with which we are charged.



Thank you once again for the opportunity to testify here today, and for your consistent support throughout the reorganization process. I look forward to our continued work together, and to answering your questions today.

Senator REED. Thank you very much. Director Watson, please.

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

**STATEMENT OF HON. JAMES WATSON, DIRECTOR**

Mr. WATSON. Good morning, Chairman Reed, Ranking Member Murkowski, and Senator Tester. Thank you.

I am pleased to appear before you for the first time as Director of BSEE and to discuss the tremendous strides we have made as well as our vision for the future of the agency.

We have a critical mission, providing safety and environmental oversight of offshore oil and gas operations on the OCS. In leading positive changes in the safety culture of offshore operations, our near-term goal is to restore America's confidence that offshore operations can be carried out safely and responsibly and without the tragic human and ecological costs that occurred as a result of the Deepwater Horizon tragedy.

In the long term, our goal is to set standards and build capacity for offshore safety assurance throughout this country and also to be the world leader for safe offshore operations.

The key to our success is the employees of BSEE. Over the past 3 months, I have met our employees from all of our offices. They've made it clear to me that they believe in and are passionate in our mission. They are unmatched in their knowledge of the offshore industry and are making the best use of the resources at their disposal to advance the cause of safety and responsible offshore oil and gas operations.

Overseeing safety and environmental performance on the OCS includes drilling permits and managing the orderly development of the Nation's offshore oil and gas resources. A lot of attention has been paid to our permitting pace, and I sympathize with the people who depend on these permits for jobs, the same people who were so negatively impacted by the Deepwater Horizon tragedy in many cases.

Permitting is an essential part of our safety mission. We issue permits only when companies have demonstrated that they can conduct their proposed operations safely and responsibly, they're meeting all of the enhanced safety standards, and they can respond effectively in the event of a worst case discharge.

By working closely with the industry, we have significantly decreased the amount of time it takes to approve a permit and have issued hundreds of deepwater and shallow-water permits over this past year.

However, those who believe that the pace of permitting should be automatically the same as before Deepwater Horizon are ignoring the lessons of that disaster.

I will commit to routing out inefficiencies in making the permitting as straightforward, predictable and understandable for the industry as possible, but not at the expense of safety.

When coupled with increasing hiring and training of engineers, scientists, inspectors and other personnel, these efforts will further

enhance the permitting process and improve safe and responsible operations on the OCS.

PREPARED STATEMENT

We've made a tremendous amount of progress since our formation. In my written testimony, I've provided a number of examples of how we spent the time focused on hiring new personnel, enacting safety reforms, improving our permitting process, and completing the reorganization of the Minerals Management Service.

Thanks again for this opportunity to testify. I look forward to answering your questions.

[The statement follows:]

PREPARED STATEMENT OF JAMES WATSON

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear here today to discuss the President's fiscal year 2013 budget request for the Bureau of Safety and Environmental Enforcement (BSEE) in the Department of the Interior (DOI).

BSEE has an enormously critical mission—providing safety and environmental oversight of offshore oil and gas operations on the Outer Continental Shelf (OCS). More fundamentally, however, our mission is to restore the confidence of the American people that offshore operations can be carried out without the tragic human and ecological costs that were borne by the people of the Gulf of Mexico region nearly 2 years ago.

The budget request for BSEE strengthens and advances the reform efforts begun in the aftermath of the Deepwater Horizon tragedy. This request advances the President's vision of maintaining and expanding responsible oil and gas production on our OCS as part of an all-of-the-above approach to addressing our Nation's energy challenges, while providing the funding necessary to be the world leader in offshore safety and environmental oversight. The resources provided by the Congress over the past 2 years have been instrumental in laying the foundation and building a framework for a revitalized and enhanced offshore regulatory regime. This request continues the development of that framework, allowing us to continue the critical tasks that the President, the Congress, and the American people have rightly demanded of us.

Let me be clear: the employees of the former Minerals Management Service (MMS) were, with isolated yet well-publicized exceptions, an extremely committed group of public servants that dedicated their lives to their communities and their Nation, often foregoing much higher salaries they could have earned in the oil and gas industry. The need for reform did not stem from the actions of these dedicated professionals. It arose from outdated regulations, an inability to match the pace and scope of the offshore industry's growth, and leadership that was often forced to focus on one of several fundamentally different priorities to the detriment of the others. The reorganization of MMS by Secretary Salazar into BSEE, the Bureau of Ocean Energy Management (BOEM), and the Office of Natural Resources Revenue was designed to address these issues and allow the employees of each agency to apply their expertise with clarity of mission. The BSEE employees I have met in the past 3 months have made it clear to me that they believe in, and are passionate about, our mission, and I am fully confident that we have the right core of people in place to start this agency off in the right direction.

Overseeing safety and environmental regulations on the OCS includes issuing drilling permits, and managing the orderly development of the Nation's offshore oil and gas resources. A great deal of attention has been paid to our pace of permitting recently, and I greatly sympathize with the people who depend on these permits for jobs. It is in our country's interest to have a robust offshore oil and gas industry, and I am pleased to see a constant stream of new rigs coming into the gulf and an industry becoming increasingly optimistic about both the short and long-term outlook for their industry. However, I will not measure success for this agency by the rate at which we issue permits. Permitting is an essential part of our safety mission: we issue permits only when companies have demonstrated that they can conduct their proposed operations safely and responsibly. We will not rush permits out the door; we will conduct thorough reviews that ensure that the applicant is meeting all the enhanced safety standards put in place after the Deepwater Horizon explosion and oil spill, and that they can respond effectively in the event of a worst

case scenario. Those who believe that the pace of permitting should automatically be the same as before the Deepwater Horizon are ignoring the lessons of that disaster. I will commit to rooting out inefficiencies and making the permitting process as straightforward and understandable for the industry as possible, and these efforts, when coupled with increased hiring and training of engineers, scientists, inspectors, and other personnel, may very well enhance the permitting process. But our primary responsibility is ensuring safe and responsible operations on the OCS.

In March 2011, the Director of the former Bureau of Ocean Energy Management, Regulation and Enforcement came before you to discuss the reforms that agency had implemented to address the many safety, environmental protection, and regulatory oversight weaknesses highlighted in many reviews of the Deepwater Horizon spill, including those identified in the final report of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (Commission). The Congress responded by passing the fiscal year 2012 Consolidated and Further Continuing Appropriations Act that provided BSEE with new resources needed to institutionalize these fundamental reforms and implement additional regulatory measures needed to improve the safety of offshore drilling, as well as to enhance protection of the ocean and coastal environments. I would like to update you on the progress our agency has made in the last year.

#### RECRUITMENT OF KEY POSITIONS

Although BSEE began operations as an independent agency only a few months ago, the recruitment for key management positions began last year after the reorganization effort received congressional support and resources. As a result, all key senior management positions have been filled. As part of our commitment to provide more comprehensive oversight of offshore oil and gas operations, we have increased the number of inspectors by 50 percent since April 2010, and the number of engineers, who also perform critical safety functions, by nearly 10 percent. There are still a considerable amount of positions yet to be filled, including additional inspectors, engineers, regulatory specialists, environmental specialists, and other critical disciplines. While recruiting is a time consuming process, we are confident that we will continue to show significant strides in building out the new organization.

#### REGULATORY CHANGE

We are continuing to update and enhance Federal regulations and ensure compliance through our offshore regulatory programs. We plan to update the Interim Drilling Safety rule, which was issued shortly after the Deepwater Horizon spill, in the near future to increase regulatory clarity while maintaining the same enhanced level of safety. Also, the Safety and Environmental Management Systems (SEMS) rule, which was finalized in September 2010, will be enhanced with the completion of the “SEMS II” rule. We are currently addressing comments received on the SEMS II proposed rule. We are also reviewing recent recommendations from the National Academy of Engineering as we continue to update regulations and enhance safety requirements.

#### PERMITTING

With significant new safeguards designed to reduce the chances of a loss of well control, and a new focus on capping and containment capabilities in the event that one occurs, the permitting environment is completely different now than it was before Deepwater Horizon. Comparing the pace of permitting pre- and post-Deepwater Horizon does not consider the current reality that applications must now meet a suite of new requirements that receive extremely close scrutiny by the Bureau’s engineers.

We have worked very hard to help industry better understand the requirements and improve the efficiency of the application process. Perhaps most significantly, BSEE held permit processing workshops for industry, which has improved the quality and thoroughness of applications. We published a permit application completeness checklist to make it clear to industry what information is required and to reduce the frequency with which operators submit incomplete applications. We have established priorities for reviewing permit applications—assigning the highest priority to permits for ongoing operations or emergency operations. We have begun to balance workloads for our engineers by taking some permit applications and moving them around to different districts. We have also allowed authorized users of our on-line permit application system to track the status of their applications. This answered the call from many operators for greater transparency in our permitting process. As a result of these steps, and the industry’s increasing familiarity with the process, permit review times have decreased significantly in the past year. Rigs that

had left the Gulf of Mexico are returning, new rigs are being contracted, and we are starting to see a small inventory of unused drilling permits develop.

While staying focused on our primary objective—ensuring that enhanced safety requirements are met—we plan to continuously monitor and improve our permitting processes throughout the upcoming year, to give industry increased confidence in the timeliness of the process, while rebuilding the American people’s confidence that these permitted operations can be performed safely and responsibly.

#### INSPECTION AND COMPLIANCE PROGRAM

BSEE continues to expand its capacity to maintain a robust and fair inspection and compliance program. With the additional resources provided by the Congress, BSEE has been able to add 28 new inspectors in the Gulf of Mexico region since the Deepwater Horizon spill, and we are continuing our efforts to hire additional inspectors. BSEE’s inspectors now witness far more activity on drilling rigs than before the Deepwater Horizon explosion and spill, including critical tests of blowout preventers (BOP).

BSEE has also begun to set up its new National Offshore Training and Learning Center (NOTLC) and has put two groups of new inspectors through a core curriculum in offshore inspections. We are also supplying our inspectors with new equipment and tools, including handheld computers, to make our inspection process more efficient and effective. Both of these initiatives were initiated using the 2010 oil spill supplemental funding, but will need base resources to continue. Those resources are specifically requested in fiscal year 2013.

#### ENVIRONMENTAL ENFORCEMENT

The Environmental Enforcement program was established as a separate division within BSEE to elevate the importance and visibility of the program, both internally and externally, to a level on par with safety and regulatory compliance.

This program will ensure compliance with all applicable environmental requirements, ensuring that operators keep the promises they make at the time they obtain their leases, submit their plans, and apply for their permits. The funding requested in fiscal year 2013 will support the full build-out of this critical function.

#### FISCAL YEAR 2013 BUDGET REQUEST SPECIFICS

BSEE’s fiscal year 2013 request is \$222.2 million; an increase of \$24.8 million more than the fiscal year 2012 enacted level. The request is offset by \$52.5 million in eligible OCS rental receipts, \$8.4 million in cost-recovery fees, and \$65 million in inspection fees, resulting in a net request of \$96.3 million in direct appropriated funds. These additional resources are essential to effectively protect our Nation’s natural resources as well as to address industry’s need for an efficient, effective, transparent, and stable regulatory environment.

BSEE’s fiscal year 2013 budget fully supports the President’s “Blueprint for a Secure Energy Future” by enabling the safe and environmentally responsible development of the Nation’s vast offshore energy resources. Until offshore renewable energy facilities are constructed, BSEE will focus its resources on conventional energy programs. Funds will be used to recruit expert engineers, scientists, and oil spill response specialists to support the development of strong scientific information and timely and thorough review of permits. The fiscal year 2013 budget request increases funding for operational offshore safety, oil spill response initiatives, environmental enforcement, and the development of modern electronic systems to increase the efficiency and effectiveness of offshore inspection and oversight activities.

The fiscal year 2013 budget includes funding to maintain the gains made to date, and proposes the following specific changes:

*Critical Funding Needs for the Environmental Enforcement Division (+\$4,177,000; +14 FTE).*—BSEE will further develop and manage an expanded environmental oversight role arising out of efforts to reform offshore operations and regulations as recommended by many external national investigative reports.

*Research and Development for Offshore Drilling Safety (+\$2,000,000; 0 FTE).*—BSEE will utilize this funding to perform additional, and more in-depth, research relating to safety systems and operations such as well cementing, BOP research, methods of shallow gas containment, and well control methods.

*Operational Safety (+\$4,495,000; +29 FTE).*—Funds will support ongoing re-organization efforts identified as critical to the success of BSEE in strengthening post-Deepwater Horizon regulatory and oversight capabilities. It represents a cross section of staffing for newly identified efforts and increased ac-

tivities such as development of regulations, safety management, structural and technical support, and oil spill response.

*NOTLC for Inspection Program (+\$3,685,000; +11 FTE).*—This will provide base funding for the NOTLC. NOTLC supports the BSEE's goals by providing upfront and ongoing learning and development opportunities to BSEE staff.

*e-Inspections for the Enforcement Program (+\$2,300,000; 0 FTE).*—This multi-faceted initiative would allow BSEE to replace the existing outdated paper-based process with a modern electronic system for conducting the inspections mandated by the OCS Lands Act.

*Wellbore Integrity (+\$1,395,000; +9 FTE).*—The requested funding will provide resources needed for BSEE to meet current requirements to evaluate whether operators have submitted adequate information demonstrating access and deployment capabilities for surface and subsea containment.

*Sustain Administrative Operations (+\$5,000,000; 0 FTE).*—Funding is needed to sustain the necessary level of support services for both BSEE and BOEM and to adjust the base to provide sufficient administrative services to both bureaus

*Fixed Costs (+\$1,772,000; 0 FTE).*—This request fully funds increased personnel-related costs and other fixed costs such as rent.

*Inspection Fees (-\$3,000,000; 0 FTE).*—This request partially offsets programmatic funding increases by increasing industry inspection fee revenue. This is not an increase in the amount of the fees, but rather increased revenue attributable to a full year collection at the current fee levels. The additional revenue will defray the cost of inspection and oversight activities.

*Offsetting Collections (-\$1,800,000; 0 FTE).*—BSEE anticipates a net increase in offsetting collections including rental receipts and cost recoveries. These collections reduce the need for direct appropriations and offset the cost of programmatic funding increases.

In addition to its continued focus on operational and environmental safety and compliance, the fiscal year 2013 request will further the completion of the reorganization of the former MMS and establish a base operating level consistent with the recommendations from the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling and the National Academy of Engineering's report on the Deepwater Horizon tragedy.

In fiscal year 2012, the Congress made a commitment to offshore safety and environmental protection by providing the necessary resources to complete our reorganization, hire additional people, and provide the necessary oversight to allow for the continued growth of offshore energy development while giving the American people confidence that their Government is doing everything it can to prevent another catastrophe like the Deepwater Horizon. The fiscal year 2013 request builds on these efforts by providing necessary training for our employees, and the tools to increase the efficiency of our processes and operations. As the Nation looks to expanding domestic energy development, we must provide the leadership and the expertise to ensure offshore oil and gas development operations are conducted in a safe and environmentally responsible way. BSEE provides that leadership and expertise, and we very much appreciate your commitment to the Bureau's mission and success.

Thank you again for the opportunity to be with you today.

Senator REED. Thank you very much, Director Watson. We'll initiate 6-minute question rounds to give my colleagues a chance to ask questions. I anticipate at least one or two rounds. We have a great many questions.

#### OFFSHORE WIND ENERGY

Let me begin with Director Beaudreau. By the way, thank you, gentlemen, for your excellent testimony. Director Beaudreau, you mentioned the accelerating approval of offshore, wind in particular, along the Atlantic coast.

We have made some significant investment both with Federal dollars and local dollars in terms of preparing Quonset Point, one of our former Navy bases, as a potential site for application. We have applications for 9 State projects, in State waters, we have an application for a project offshore in Federal waters.

We've also done a lot of planning, especially the area management plan, which has drawn nationwide attention as one of the

best, comprehensive approaches to evaluating offshore potential in areas of development. And, again, it's been recognized nationally.

But we seem to be falling behind other States in terms of approvals. The next big step for us is to release the draft environmental assessment. Can you give us an indication when that environmental assessment will be completed?

Mr. BEAUDREAU. Yes, Sir. You're absolutely correct about the work that the State of Rhode Island has done to promote the development of offshore energy. That work will feed and has fed directly into BOEM's process in evaluating the wind energy area in the shared area between Massachusetts and Rhode Island. What we call the area of mutual interest.

One example is the Special Area Management Plan, which was a comprehensive environmental assessment that is relevant to our process under the National Environmental Policy Act in evaluating the area. That analysis and the good scientific work sponsored by the State of Rhode Island will feed directly into our environmental assessment, as will all of the work that the State task force has done.

It helped us define what the potential conflicts might be, including the Cox's Ledge area which is a particular area of sensitivity both environmentally and for fishing interests.

In light of all of that work, work already done by my agency, and work done by the State of Rhode Island, we anticipate issuing a draft of the environmental assessment this spring, late this spring.

Senator REED. One of the reasons I am being critical of getting the environmental assessment out, is that it looks like August of this year, 2012, is, the time where the final environmental assessment will be issued, which would put us back on track with some of the other States along the Atlantic coast.

And if that's the case, would allow us to begin a leasing process at the end of the calendar year 2012, or early in 2013. Again, the fear is if we don't, we just fall behind, and that's not just a question of where the towers go in the water. It's also a question of the landside operations, where they might be situated.

So I would urge you again to expedite—Secretary Salazar has committed to expedite this draft environmental assessment. And then with similar speed, finalize the environmental assessment so we can begin the leasing process.

Mr. BEAUDREAU. Yes, Sir. This is absolutely a high priority for the Secretary and for my agency.

#### INSPECTION FEES

Senator REED. Let me just turn to Director Watson. And, I do anticipate a second round. Last year we included in, for BSEE, the inspection fee program. Can you tell us what improvements you're making with these fees? I think Director Abbey said it very well in terms of the proposed fees this year.

It makes sense to basically help defray the cost of inspections and review to immediately rebound to the benefit of the drillers because they're the ones who presumably get quicker approvals, better inspections, better protection for the environment and less problems down the road.

So can you comment, Director, about how you have been ensuring that these fees are being used well and wisely?

Mr. WATSON. Yes, Sir. The fees are focused on our safety program, primarily our field operations and our permitting operations.

The expense of these operations is mostly in the cost of our work force. We're increasing the size of that work force at a pretty steep rate for a small agency. We have already increased the numbers of inspections—inspectors—by a significant number.

We started at about 55, and I think we're up to 91 now. We're headed up to more than 100 and into about the 150 range that we're going to need for inspectors. And as you increase your number of inspections, you also need helicopters to get those inspectors offshore which are costly as well.

And then, turning to the permit side, we are adding almost 100 engineers. These are people who are plan reviewers for the information that's submitted to get a permit. And they are a combination of structural engineers, petroleum engineers, and some geophysicists and geologists to review those permitting applications.

So we are still challenged to bring those people into the work force, but we have an aggressive outreach program. We did get some incentives for hiring these people in the fiscal year 2012 appropriations which will be very valuable. And so, I'm optimistic about that program.

Senator REED. Just a quick—because my time has expired, the initial feedback from the industry is positive in terms of the more expeditious permitting process, the better sense of the professional skill of the inspections, is that what you're sensing?

Mr. WATSON. Well, my experience is the industry is looking at the bottom line, how quickly can they get a permit. But they are also focused on the competencies of our people. I haven't heard any disparaging remarks about our competencies.

On the permitting side, I think there's been a combination of efforts by the industry to provide more comprehensive, better-prepared applications than say a year ago. And on the BSEE side, I think we're also better at doing these new safety standards, at reviewing them.

And the numbers kind of bear this out. Just between last March and September, our average was about 97 days to get a permit processed. That was the average. And then between September and today, it's gone to 62 days. So it's right around 2 months right now.

And I think we can probably make some more improvements. But as I said in my opening statement, I'm not about the number of days it takes. I'm still about safety and environmental protection.

Senator REED. Thank you very much.  
Senator Murkowski.

#### OIL AND GAS PRODUCTION

Senator MURKOWSKI. Thank you, Mr. Chairman. Gentlemen, thank you for your testimony this morning.

I want to try to better understand some statistics that are out there. Yesterday, the President released his, or he discussed the 1-year progress report on energy within the administration. He called it his blueprint for secure energy future.

And in that report, he notes that oil production is up overall. That's a statement that has certainly been made. He doesn't disclose where that increased production comes from. Whether it's on Federal lands, private, or State.

I mentioned in my opening comments, the Department of the Interior's own numbers would seem to indicate that onshore oil production is down 14 percent from last year, and offshore production down 17 percent. And yet, yesterday, when Secretary Salazar commented on the President's blueprint, he stated the fact of the matter is that we're producing more from public lands, both oil and gas, both onshore as well as offshore, than any time in recent memory.

So I'm trying to understand our data here. Because I think that this is important. People really do want to understand what the situation here is in this country. So I guess we've got a situation where either the data from the Department of the Interior is wrong, or it has not been communicated adequately or appropriately to the Secretary.

So the question that I have is, who's right here? When you peel this back, are we seeing an increased production on Federal lands and offshore as well, or not?

Mr. ABBEY. Well, let me take a stab at this, Senator Murkowski, and then others may contribute.

But, no doubt, the statistics would show that the United States oil and gas production is up, and last year more oil was produced in this country than at any time since 2003, according to Dr.—

Senator MURKOWSKI. And do we, do we dissect that as just State, Federal—

Mr. ABBEY. I can.

Senator MURKOWSKI. Okay.

Mr. ABBEY. And, you know, no doubt the aggressive development of shale gas and shale oil has led to a shift to private lands in the East and to the South where there are fewer amounts of Federal mineral estate in those sections of the country.

As far as natural gas, last year, there was more natural gas produced from BLM-managed mineral estate than in decades. Oil production was down somewhat last year. But we are moving forward again now offering up additional parcels for leasing. We're processing more applications for permits to drill than in the past several years.

And so, we should see an increase in production of both oil on public lands as well as natural gas. But, again, natural gas production was up.

Senator MURKOWSKI. So it isn't accurate—Right. So, I'll grant you that. And I also recognize that—where that natural gas production is primarily coming from is on the State and the private side.

But is it an accurate statement then to state that a 14-percent decrease onshore from last year, and offshore, down 17 percent for oil?

Mr. ABBEY. Well, again, the statistics will speak for itself.

Senator MURKOWSKI. But this is where the confusion is because the statistics are being used to suggest that there is this incredible increase in oil and gas production. But we all know that oil, you've



got oil production, and you've got gas production, and we're seeing remarkable, remarkable opportunities with natural gas within our shale formations.

And that's good. I support that absolutely. What I'm trying to understand is whether or not our oil production, offshore and onshore, is up or down?

Mr. ABBEY. The oil production from onshore, Federal minerals, was down last year from previous years. I will say this though. Where the industry decides to produce, or where they decide to develop, is up to them.

For example, we have approved 7,000 applications for permits to drill that are not being drilled. We have more than 25 million acres of lands that we've leased that are not being developed. So a decision is being made by the market.

Senator MURKOWSKI. I understand that. And I will, in probably my next round here, ask about some of those incentives or disincentives that we impose that kind of pushes, those that are in the exploration and production realm, to go from Federal lands to State lands.

I want to ask very quickly, and this is to you, Director Abbey. I mentioned it to the Secretary last week, a couple different times. This relates to the Legacy Well situation in Alaska.

#### LEGACY WELLS

For members of the subcommittee, it's somewhat an interesting situation. About 40 years ago, there was exploration by the Government, by the Navy primarily, in the National Petroleum Reserve, they drilled some 137 different wells, looking around, and, then moved on.

The problem that we face is they moved on without properly abandoning and caring for those wells. Now, decades afterwards, we're having some of the casings collapse. We've got erosion issues coming in. And it's not only unsightly, but it's an environmental scar. And it's something that has been difficult for Alaskans to accept because on the one hand the standards for—the environmental standards are exceptionally high—and I think appropriately so.

We want to make sure that we're taking care of the land there. But on the Federal Government's side, they can come in. They can explore. They can leave, and their environmental responsibility is not attended to.

If you were on the private side, you would be fined—I think the fines that we're talking about could be in the realm of \$40 million. The revenues that have been received from the National Petroleum Reserve-Alaska are certainly sufficient to help clean this up, but we're on track for cleaning up these at about the rate of 1 per year.

It's going to take us another 135 years to clean it up which is certainly not acceptable. So I asked the Secretary, and I would ask you, Director Abbey, whether or not we can get a commitment to be coordinating between BLM and the Alaska Oil and Gas Conservation Commission to not only provide the Commission with an inventory of the exact number, the associated costs for plugging them, and then a plan.

An action plan, so that we can have a reasonable level of assurance that we will move forward, that the Government will move

forward, in keeping their commitment to Alaska and to the land up there.

Mr. ABBEY. My response would be similar to what the Secretary shared with you. We are committed to working with the State of Alaska to identify where the highest-priority needs are for cleanup.

We have spent millions of dollars to date in cleaning up some of those legacy wells—

Senator MURKOWSKI. And they're expensive, we acknowledge, yes.

Mr. ABBEY. Very much, very expensive. This year we are—we do have sufficient funds to clean up an additional three, but as you suggest, and I will admit, that's a pretty slow progress toward dealing with the challenge that we face.

Senator MURKOWSKI. Well, we need to be working on this together, so I appreciate that. Thank you, Mr. Chairman.

Senator REED. Thank you, Senator Murkowski. Senator Tester, please.

#### OIL AND GAS PRODUCTION

Senator TESTER. Yes, thank you, Mr. Chairman. And, once again, thank you all for being here.

As I mentioned in my opening statement, the number of rigs operating in the United States this year is the highest number in probably 8 or 10 years. The United States has more rigs operating right now, and correct me if I'm wrong, than the rest of the world combined.

Our domestic production is at an all-time high. And, you know, maybe the public lands is down some, and I want to get into that a little bit. But the fact is, if it's up on State and private, we got more rigs operating in the United States than the whole rest of the world combined.

And I talked to a person from eastern Montana today where they've got a bunch of permits, and they can't get any rigs because they're all tied up. I don't know, you know, I just kind of want to get your perspective on all of this because there's about 32 million acres of Federal land that's leased right now.

As you pointed out there, I think there's 7,000 applications, permits to drill, that have been issued, and not drilled? Can you give me—give me some insight into why that is. Give me some insight into what you're seeing as trends on the Federal lands.

Mr. ABBEY. Well, Senator, I'd be happy to. Again, there's a lot of factors that come into play relative to a decision that would be made by the industry on where they choose to drill.

As it relates to the number of applications for permits to drill, we issued 4,200 last year. That was more than the number that were submitted by the industry. We had a little backlog from the previous year, and we were able to address some of the backlog.

But we issued 4,200 applications for permits to drill last year. At the end of the year, we had more than 7,000 that were not being drilled. As I mentioned, there are several factors for that. Sometimes, it's financing. Another factor that comes into play is that the industry themselves have chosen to drill elsewhere where it's more economical.

But it is a choice that they have to make. It is a choice that they make every day. We are moving forward as expeditiously as possible to streamline our review processes without forsaking the need to insure safety as well as environmental diligence on the drilling operations.

We're increasing our inspections for all drilling. But much of the easy plays are located right now on the private mineral estate.

#### WELL INTEGRITY INSPECTIONS

Senator TESTER. Okay. And this goes to, I think, Senator Murkowski's last question, or last point, and that is as we push to open up lands in a responsible way, not sacrificing one resource for another, we also have to consider things like the casing, how it's cemented in.

And, quite frankly, I hope we're thinking about what happens when the wells usefulness is gone. I hope we're thinking about that upfront. So, can you give me some sort of idea on what the thought process is to make sure that this land's being leased responsibly, and that the development is being done in a responsible way so that we don't have a bunch of wrecks like Senator Murkowski was talking about?

#### ONSHORE OIL AND GAS LEASING

Mr. ABBEY. Well, let me start by saying that in 2009, when Secretary Salazar and I both came into our new positions, we inherited an onshore oil and gas program that was on the verge of collapse.

And I say that because more than 50 percent—or close to 50 percent of all the parcels that were being offered for lease by BLM were being protested or litigated. That's unacceptable. There were literally hundreds of leases that had been awarded by the Department of the Interior, specifically, BLM, tied up in protests and litigation.

And so the millions of dollars that we had collected from the oil and gas companies for their leases that they purchased, were placed in suspense accounts until those protests and litigation could be resolved. Again, that was unacceptable.

The rules that were in place to govern the oil and gas operations, and to ensure production verification of the oil and gas that was being extracted from these public assets, were more than 20 years old. Technology had advanced significantly in that 20-year period, but no one was paying attention to updating those rules.

We had EPA and other fellow agencies criticizing the National Environmental Policy Act (NEPA) analysis that was being performed by BLM, primarily as it related to air quality documents.

We had sportsmen, we had other public land stakeholders criticizing the leasing everywhere and anywhere mentality that was going on at the time, and certainly, very much a part of BLM culture.

Because there were concerns about the environmental damage that was being—that was occurring as a result of not doing a very good job of looking at these lands before we committed those lands through leasing.

So we took it upon ourselves not to ignore the challenge or the problems, but to address them. And one of the ways that we have been able to address them is to insure that there is a better opportunity to look at these lands prior to committing them through leasing.

And we've done that through our leasing reforms. The primary purpose for our leasing reform is to make sure that the lands that we are going to be leasing, are the right ones to lease, and they have the greatest chance to be developed in a timely manner.

Senator TESTER. Did you say that 50 percent of the leases, when you took over, were being either litigated or protested? Is that what I heard you say in this answer?

Mr. ABBEY. Close to 50 percent—

Senator TESTER. So where are you at, now?

Mr. ABBEY. Close to 50 percent of the parcels that we were offering were being protested or litigated.

Senator TESTER. Okay. And what—

Mr. ABBEY. At this point in time, it's around 35 percent.

Senator TESTER. Okay, okay. My time is up. We'll save some for the next round. Thank you, Mr. Chairman.

Senator REED. Thank you very much, Senator Tester. This is a very, I think, useful line of questioning. Just as Director Abbey points out, there are a significant number of leases that are capable of being drilled, but not being drilled. Those are the decisions of the private entrepreneurs, the companies, onshore.

#### OFFSHORE LEASING

Offshore, Director Beaudreau, is that the same situation where you have a significant number of leases all ready, approved, and yet the drilling activities are not commencing?

Mr. BEAUDREAU. Ah, yes, that's correct. There's a significant percentage of the leases that have been issued by the Interior Department offshore that are not currently subject to an exploration or development plan.

And we've tried to develop, both through our leasing process and postleasing processes, to try to encourage prompt and diligent development of those leases to bring them into exploration, bring them into production.

As Director Abbey indicated, there are a number of commercial factors that weigh into industry's decisions about when and where to drill. We're trying to line up our leasing process and our incentives to influence those decisions so that we can have prompt development.

Senator REED. Thank you.

#### ONSHORE INSPECTION FEES

Director Abbey, in the President's budget, we've mentioned there's a request for additional inspection fees that will be comparable to the increases that we've provided to BSEE and the Director is using, Director Watson, for improving his program.

Can you indicate how you can improve your program with these fees?

Mr. ABBEY. I'd be happy to. And, thank you for the question. As Senator Tester alluded to, it's important that if we are going to be

leasing these parcels of public lands for oil and gas development, that we have sufficient inspections to insure that it's being done responsibly.

You know, we—it is our goal to inspect drilling operations that are considered a high risk. And those high-risk operations are those with the most violations, but also those that are producing the most volumes of gas or oil.

We test for blow-out preventer equipment, setting and cementing casings. We also test for plugging operations and well-completion operations. The additional monies that we would get from the inspection fee would provide sufficient funds to add another 46 inspectors to our work force that would again allow us another opportunity, or greater opportunity, to be onsite when the drilling is actually taking place.

#### HYDRAULIC FRACTURING

Senator REED. One of the other complicating aspects is the fact that the new technology, the fracking technology, has raised at least issues which are being evaluated by State authorities, by other agencies, and it's, I would think, something that you are looking at more closely now in terms of your inspection program; is that accurate?

Mr. ABBEY. It is. You know, fracking is not new by any means. About 90 percent of the wells that are being drilled today on public lands are using the fracturing technology.

So our inspections have always included looking at the fracking operations as they were occurring. But again, the additional fees would provide us opportunities to be onsite more often than where we are right now.

#### ROYALTY RATES

Senator REED. The Secretary has also indicated recently his intention to raise the onshore royalty rate from 12.5 to 18.75 percent. Can you tell me how these rates, the present rate and the proposed rate, compare to State rates? Because State rates is probably the comparable point.

Mr. ABBEY. Well, it varies somewhat. Let me just suggest that our primary goal is to make sure that the American taxpayer is receiving a fair return for the assets that are being developed. That's the least that we can do.

At the same time, as we go forward we have analyzed what some of the States—well, many of the States actually—are charging relative to royalty for production that are occurring within or around State lands.

We've also done some analysis of what some of the other countries have—are charging relative to royalties or similar types of fees that are assessed oil and gas companies.

Even though our budget was based upon an assumption that an increase of royalties would go to 18.75 percent for both oil and natural gas, let me just reassure the members of this subcommittee that that decision has not been reached.

We're continuing to look at the full range of statistics that we have been able to compile, the analysis that we're continuing to

perform, prior to making any decision to increase the royalties for oil and gas production on these public lands.

#### ONSHORE OIL AND GAS PRODUCTION

Senator REED. Well, thank you very much. And I know Senator Murkowski is going to get into this, and she's raised a very important question about the difference between production figures on private lands and public lands.

And I think implicit in all your answers has been just that there are commercial reasons why even if the lease is available, it's not being utilized. Can you kind of list the three or four general, number of rigs? Is there an insufficient number of rigs?

Mr. ABBEY. Well, no doubt—Well, I don't have the figures. But I do know that the availability of rigs is an equation that comes into consideration by the companies relative to where they're going to be developing, or drilling.

Let me just say right up front. It is quite—it is a lot cheaper to drill on private land than it is on public lands. All they have to do is cut a deal with the private landowner.

When you come before BLM with a proposal to drill on public lands, there are a lot of factors that we evaluate. Again, we have to look at the appropriateness of leasing certain parcels for oil and gas development or any particular use. We have to adhere to NEPA. We have to adhere to consultation not only with Native Americans, but with the Fish and Wildlife Service to ensure that the proposals that are before us can be adequately mitigated.

So there are an awful lot of rules and regulations that the companies would have to adhere to. But each of those rules and regulations are intended to make sure that the production goes forward to the degree that it can be allowed as appropriate.

But also the leasing reforms that we have applied are to provide greater certainty to the industry themselves that if they lease a parcel of land, that they're going to be able to develop that parcel of land. And I can tell you in 2009 that was not the case.

Senator REED. Well, thank you. My time has expired. Senator Murkowski, please.

#### ONSHORE ROYALTY RATES

Senator MURKOWSKI. Well, thank you. And I'll follow on because you've given me a little bit of assurance by saying the decision has not been made on this issue of increasing the royalty rates onshore.

You have stated, and rightly so, that it is more costly to develop on the public lands. And so, as we look to a royalty rate increase as has been suggested, that too then adds to that cost.

And again, to my earlier point, I think it causes developers to look to develop on State and private lands before they would turn to our public lands. I do think it's important to recognize the study that was commissioned by the Department to look at the royalty rate structures on our Federal lands and compare them to other States, as you've noted, to other countries.

There's a consensus coming out of the report that says that they—that a rate increase is not warranted. They compare Wyoming to other onshore areas and conclude that Wyoming's competitive edge is on shaky ground, and Alberta and British Columbia

are aggressively seeking to attract investment by offering incentives for lower royalty rates that encourage development.

So I really hope that the Department is looking very critically at your own analysis and working to insure again that we are not putting additional hurdles in place for development on Federal lands, additional costs on top of the costs that are already in place.

So I am glad to hear you make the statement that it has not been—a conclusion has not been reached. Do you have any idea when you might make that determination, where you're going with that?

Mr. ABBEY. Well, Senator, we really don't—or least, I don't, at this point in time. I do know that we had conversations as recently as yesterday with the Office and Management and Budget regarding proposed rules as it relates to royalty increases.

You know, Wyoming is doing quite well. You cited that in this study and said that they're losing their competitive edge.

Senator MURKOWSKI. Your study, not mine.

Mr. ABBEY. But nonetheless, there are a lot of factors that we have taken into consideration relative to what we will ultimately propose for any royalty rate increase.

I will say this to you that the 12.5-percent royalty rate that's in place right now for both natural gas and oil has been in place for decades. And so, I do think it was prudent that we conducted this study. That we are doing the analysis to determine what is a fair return to the American taxpayer.

#### OUTER CONTINENTAL SHELF INSPECTION PERSONNEL

Senator MURKOWSKI. Let me ask about the timeliness of where we are with OCS permitting. And I guess I'll bring you into the conversation, Director Watson.

Can you tell us how the Department is doing with respect to hiring the additional personnel that you need to conduct the inspections and process the permits?

As I mentioned in my statement, in the last Interior bill, we moved forward the new fees to help with this effort, provide additional authorities to not only increase the level of competition, but really to try to get additional funds for those personnel responsibilities.

Where are we with that? I'm still hearing from folks that they feel that the agency is still understaffed, and that is causing what they consider to be ongoing delays. Where are we?

Mr. WATSON. We began with about 60 inspectors and a modest number of engineers that do the permitting. And we have a target that is based on where the industry is projected to go in terms of the number of applications that we would expect to get, plus all of the new standards that we've implemented and the workload that's required.

And it comes out to you need about a total of 150 inspectors, and you need about 230 engineers. And so, we are on a process of hiring inspectors and engineers. In the area of inspectors, we've gone up from about 60 last year to 91 this year.

And on the engineers, we've added about 10 percent. So we're needing to add more engineers.

Senator MURKOWSKI. You've got a long ways to go.

Mr. WATSON. We do have a long way to go in engineers. But, as you know, the appropriation just came out in December. It was vital that we had some ability to incentivize those engineers to work for the U.S. Government instead of for the oil companies. They're paid very well by the oil companies especially when the price of oil is what it is today.

So we are in the process of implementing that pay incentive. And we also are doing some aggressive outreach to connect with new graduates from the engineering schools. We're even working with the American Petroleum Institute and other industry organizations to assist us with those people that may want to work for the Government because of some of the benefits and perhaps some of the stability that we can provide that the industry typically doesn't.

So I'm optimistic. It'll take a couple of years for us to reach our goal. But I think we will make a big stride this year.

Senator MURKOWSKI. Well, as you all know, the congressional intent was that part of these new fees be used to expand the capacity so that we could expedite the orderly development of offshore there.

And I do appreciate the timelines and I also recognize that we just can't snap our fingers and have these folks in place. But I—you will be able to count on me to keep inquiring with you on a regular basis to see how we are doing, not only in getting the bodies in these positions, but again making sure that it's going towards the goal which is a more orderly and expedited processing for these OCS permits.

So it's not only getting the bodies in, but making sure that we're seeing greater movement there. My time has expired, Mr. Chairman.

Senator REED. Thank you very much, Senator Murkowski. Senator Tester.

Senator TESTER. Yes, thank you, Mr. Chairman. I want to talk about fracking for a little bit.

#### HYDRAULIC FRACTURING

A current complaint from the industry is there's too many cooks in the kitchen. The Department of Energy (DOE), United States Geological Survey (USGS), and the EPA are all in the process of studying fracking. I've heard that there's maybe as many as 10 agencies that are involved in the process.

I think the budget gives \$13 million to USGS. I think there's about \$45 million for fracking research in total in the different budgets. Duplication is something that I'm always worried about. People doing the same work in different agencies, and we can get a little better bang for the buck.

I just want to get your perspective on what's going on with the research effort. And is there coordination between agencies so that there isn't overlapping research.

Mr. ABBEY. Again, duplication is always a concern for all of us, I believe, as we go forward during these lean times. I'm aware of two studies that we are assisting with. We're not—only with data.

One study by EPA, and then a second study that's being conducted by the USGS within the Department of the Interior. Our participation, like I said, is fairly limited to providing statistics and



data that they are then taking into account as part of their analysis.

As it relates to BLM, we are proposing a new rule relative to fracking. The components of that rule are based upon three primary recommendations. It came to us from the DOE Task Force on Fracturing Technology.

The three components that we're focused on are public disclosure of the chemicals that are being used on drilling operations on public lands. Many States have such disclosure policies in place right now, and we want to make sure that the standards that are going to apply to public lands, are similar to what's being applied on State lands.

The second component of our proposed fracking rule will address well-bore integrity, to make sure that the casings that are being used during the drilling operation are secure. They're going to protect groundwater.

And then the third component is water management, both looking at the source of the water that's being used because there's a significant amount of water that's used in fracking operations in most circumstances. And then, second, what occurs with the disposal of that wastewater after a fracking operation ceases.

Making sure that the disposal is consistent with local and State law, not Federal law, but local and State law. So those are the three components that we've incorporated into our proposed rule. We anticipate releasing a draft rule pertaining to fracking as early as April.

Senator TESTER. I want to take it one more direction, and that is, when I talk to the industry, the industry says, fracking is going on so deep that it can't impact the potable water up above.

When I talk to folks, other folks, they're saying that their water is being impacted by the fracking. I don't know which is the truth. USGS has estimated that some aquifers in the Bakken are losing about 1 to 2 feet per year due to increased energy production.

I don't know why that is, if it's because of fracking or some other reason. But water's very, very important. And I just wondered, can you give me any idea if, number one, the aquifers in the Bakken are indeed losing that kind of—that they're being diminished by 1 to 2 a year?

And, second, why is that? And, third, is there something we can do about it?

Mr. ABBEY. Well, I would refer you to USGS for the answer to your specific question relative to what is causing that depletion. I do know that many fracking operations require an extensive amount of water. That water has to come from somewhere.

And so energy companies are securing water rights wherever they're operating in order to have access to such water so that they can continue with the fracking operation. But I would also give acknowledgement to the industry for they understand the potential impact, and certainly the long-term impacts of continuing the operations that are currently taking place with the amount of water.

And they're doing, or at least proposing to do, a better job of re-using water. And actually treating water onsite so it can be used there on additional or new fracking operations.

Senator TESTER. Well, it is a big issue. I mean, there was an amendment on the floor yesterday that I think failed because some people didn't want to encourage more fracking. The Bakken play is because we have the ability to frack. We're getting natural gas because we have the ability to frack. We like to see it done.

But by the same token, 10 years from now, we don't want to look back and say, "Oh, my God! What have we done?" So I would hope that the research that's being done is being done in a coordinated fashion and very timely.

#### WELL CLOSURE

I want to talk about well closure for BLM wells, for wells on BLM land. Could you compare the procedure to what happens on state or private lands in a State like Montana when it comes to well closure?

Mr. ABBEY. Well, again, we take plugging and abandonment quite seriously because it's the last time we actually have an opportunity to look down the hole before the cement is placed.

And so, we give that one of the highest priorities as part of our inspection program—is that when there is going to be a well that's going to be closed and abandoned—that we have our inspectors out there almost 100 percent of the time to make sure that the process is completed based upon the engineering that had gone into that design and approval process.

Senator TESTER. Is that the—can you give me any idea—you may not have knowledge—what goes on the State or private lands as far as well closure?

Mr. ABBEY. I really don't. I do know that there should be some similarities, but some States do a better job of prioritizing inspections than others. I won't cite any examples relative to who does that better than others, but nonetheless, you know, we are responsible for managing these wells on Federal lands, and that's where our focus is right now.

Senator TESTER. All right. Thank you very much.

Senator REED. Thank you, Senator Tester. I have a few more questions and I will then obviously recognize my colleagues for their additional questions.

#### OFFSHORE LEASE AUCTIONS

Mr. Beaudreau, I understand that you're going to use a new auction process format for offshore wind, alternate energy, unlike what you do for oil and gas in the gulf, for example.

And it raises a question of why the different auction procedures, first question. Second, we've got to get that information out to potential applicants in a very expeditious way otherwise they might not be prepared when the auction occurs.

And, frankly, they also, deserve the opportunity of, evaluating, and commenting on the procedures to insure that they are fair to all potential parties.

So, could you comment on the reason for the new procedures and also commit to getting the proposal out quickly so that relevant parties can participate?

Mr. BEAUDREAU. Yes, the reason for the new procedures is that, strictly speaking, offshore wind energy development is fundamen-

tally different than oil and gas. You have a finite area that is being made available. You want to make sure that you get as much efficiency out of that area as possible.

Unlike oil and gas where you purchase a parcel. You assume the risk for the parcel. You drill a well. If it's a dry well, you go someplace else. Here, we have a number of interested companies. We have a number of interests that we need to take into account in considering how to lease the finite area.

That includes the efficiency of their project. The likelihood that this particular operator can actually bring a viable project online, and the best configuration of multiple projects within the limited area.

And so that creates a little bit more complex process. That said, we are very actively evaluating alternatives for this leasing process with the idea of, while addressing those multiple factors that distinguish it from oil and gas, keeping it as simple as possible.

And there's a number of reasons for that. We have gone through an extensive process to make this area available. We want to encourage the development of offshore wind, and so we want to keep our auction process as simple as possible, while at the same time, getting the area into the hands of operators who will be able to stand up real projects.

With respect to the auction process and familiarity among operators with that process, you're absolutely right. That is essential. We put out a description, an auction format information request last fall, and had a comment period provided to operators and got a lot of useful feedback from operators about the different factors and alternatives we could employ in the auction format.

And so we've been extensively engaged with operators through that process. And we are planning into the run-up to lease sales, coordination with operators, to make sure they understand exactly how a lease process will unfold, exactly what would be expected of them, because we want an efficient lease sale.

And we want it to work, and we want it to work right out of the box.

Senator REED. Do you have an idea of when you will be prepared to sort of publish a final, or at least final for comment, proposal?

Mr. BEAUDREAU. Yes. We've done all of the comment and so now we're working on finalizing what the auction format will be.

You know, each auction will have to be tailored a little bit to the region, but we hope to have all of that in place for competitive leasing later this year.

#### OFFSHORE WIND INSPECTION

Senator REED. Very good. Now, assuming you've got turbines and transmission lines operating in the water, will BOEM employees conduct the on-site inspections? Or, will BSEE step in and take over?

Mr. BEAUDREAU. Yes. So in the near term, part of what we're trying to do with the additional funding that we've received is hire structural engineers who can help us evaluate construction and operation plans which is a key component down the road to getting steel in the water.

Eventually, when those operations are up, steel is in the water, BSEE will have a role in conducting safety inspections and compliance with respect to those operations.

Senator REED. Director Watson, you're collaborating right now for the hand off, I presume?

Mr. WATSON. Yes, Sir. The two Bureaus were just recently created, but we have a lot of inter-dependencies, and there's still evolution going on. I think right now our priority is with the oil and gas safety and establishing our environmental enforcement division.

But we'll be ready when the time comes to take on the wind work.

Senator REED. Just a final question. You know, you don't have the same dangers that we saw with the oil rig exploding, et cetera, but you have the problems of hurricane damage, et cetera.

Have we clearly set out the responsibility for the leaseholders in terms of their obligation to repair and to remediate? You know, there's no oil fund for this process, I presume.

Mr. BEAUDREAU. No, that's right. And there are other mitigation factors around the impacts on avian resources, marine mammals. That is why we're doing these environmental analyses so we can develop mitigation measures and requirements to ensure that, one, the operations go up that can provide energy from renewable sources, but, two, we're managing the potential impacts.

Senator REED. Thank you very much. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. I want to add a couple more questions to the inquiry from Senator Tester on fracking.

#### HYDRAULIC FRACTURING

One of the concerns that I'm hearing from folks is that the concern that these will be overlapping or duplicative regulations that are coming out of BLM on top of what they already face within the States.

Can you speak to that as an issue? Give me some assurance there that we're not just adding on additional, Federal regulations, on top of what the States are doing, and how you will work to eliminate any such redundancy?

Mr. ABBEY. Again, as I mentioned earlier, there's going to be three components of our fracking rule: disclosure of chemicals, well-bore integrity, and water management.

The similarities that exist would be in the disclosure of chemicals. Many States now are requiring—

Senator MURKOWSKI. Right.

Mr. ABBEY [continuing]. As part of fracking operations, for the companies to disclose what chemicals are being used as part of their operations.

We will be requiring that, but we also hope—

Senator MURKOWSKI. Will that information be shared publicly, or will there be provisions that will allow for protecting any trade secrets that might exist?

Mr. ABBEY. The information would be available publicly unless there's some rationale and justification that the companies would provide us to keep that trade secret from being made public.

Senator MURKOWSKI. So that would be considered on a case-by-case basis?

Mr. ABBEY. It would be considered on a case-by-case, and we have a process already in place to make that type of determination.

Senator MURKOWSKI. Okay. All right. Let me ask about onshore inspection fees.

#### ONSHORE INSPECTION FEES

Currently, BLM collects more than \$32 million for the processing of the APDs, and this fiscal year 2013 budget proposes new authority to collect an additional inspection fee that apparently totals \$48 million.

How did you establish these fees? Are they based on actual inspection costs? Where did they come from?

Mr. ABBEY. Basically, they are based on actual costs, or what our estimates of actual costs would be. The fee itself would be implemented in accordance with the number of wells that are on a particular lease.

And, for example, if there's a lessee with a lot of wells on that particular lease, they would pay more inspection fees than a smaller operator would.

Senator MURKOWSKI. So, has there been any assessment on the impact to small businesses that may be on the Federal lands? When we're talking offshore, we don't worry about that because you don't have any very small operators there.

But, has there been any kind of an assessment there that looks at what the impact may be on those smaller businesses?

Mr. ABBEY. We have done that analysis and that assessment and, you know, quite frankly though, the highest risk we have sometimes are with smaller operators. They just do not have the capital to do everything that's required to ensure environmental protections for the drilling that's occurring or the production that's occurring.

So there's a necessity for us to get out there on the site to make sure that those operators are complying with all the laws and rules of governing their operations. So we can't ignore them. But we have taken into account—or taken into our analysis the economic effects or impacts to operators.

Senator MURKOWSKI. As you have done the analysis, have you looked at kind of the cumulative impact of these additional fees that we're talking about? You've got the existing APD fees. You're talking about new inspection fees, increasing royalty rates, perhaps.

Are you concerned that what might result is lower bonus bids coming out, less production on Federal lands, which then results in less revenue to the Treasury? Has that been factored into the analysis as well?

Mr. ABBEY. It is. And we understand the cumulative effects on the industry itself based upon everything that we are doing to ensure environmentally responsible drilling on these lands.

And to make sure that we're making appropriate parcels of public lands available for such extraction. Well, that is a factor that we've also taken into account as we review the royalty rate options before us.

We are looking at the cumulative effects—that all the other actions that we're also taking have on the industry.

Senator MURKOWSKI. Okay. Got one more question, Mr. Chairman. This is it for me.

BUREAU OF LAND MANAGEMENT/OFFICE OF SURFACE MANAGEMENT  
MERGER

But, the Department yesterday had announced its analysis of this merger, the proposed merger between the OSM and BLM. It generated a fair amount of discussion and controversy within the Energy Committee when that was announced.

I do appreciate what the Department of the Interior has done to avoid the violation of the statutory responsibilities under the Surface Mining Control and Reclamation Act, but the analysis, as I understand it, fails to quantify how this merger is actually going to generate any savings or efficiencies.

And we had asked for an assessment of the costs and the benefits of the proposal. But, from what I can tell, the Department has failed to include any of that. I am of the mind that the Interior Department needs to go back and actually calculate whether the consolidation of administrative functions is really worth pursuing.

I know that you have been involved in this probably more so than most others out there. What can you tell us about this new proposal versus what was originally laid out there, and about the fact that we haven't been able to demonstrate that we're going to see any cost savings here?

Mr. ABBEY. Well, again, I think the jury is out relative to how much cost savings there actually will be. But—

Senator MURKOWSKI. You do agree that it is an important part of what this was all about?

Mr. ABBEY. It is. But we also believe that there will be efficiencies gained based upon the actions that the Secretary approved yesterday. And by that, and what you read, is that BLM will be providing administrative support to OSM.

Where they were required to hire similar skills in positions that we already had in place right now, they would no longer need those type of positions because those services would be provided by the BLM.

Some of the revenue collections functions would then be transferred to the Office of Natural Resource Revenue (ONRR). Again, gaining some efficiencies relative to the savings of positions. But the OSM would remain an independent entity within the Department of the Interior performing their mandated functions.

All we are trying to achieve are some administrative efficiencies, some cost savings, and to allow the OSM to focus their limited dollars on the important work that they do perform on behalf of this Nation.

Senator MURKOWSKI. So, are you suggesting then that the cost benefit analysis will still be coming to us? That, in fact, there is an ongoing assessment in terms of what cost savings might be achieved that we might be able to learn that later?

Mr. ABBEY. No, that's not what I'm implying. Basically, what I'm saying is that we're going to learn how much efficiencies there are,

or cost savings there are, as we go forward and implement the actions that were approved.

Senator MURKOWSKI. Well, I'm leaving here to go to another Appropriations subcommittee where I'm going to be inquiring with the Secretary of the Air Force about where they're going to achieve certain cost savings, and they're kind of going into the same thing.

Well, we'll see if we get the cost savings that we're hoping for. My argument to them was, you made that argument to me in 2005 with the Base Realignment and Closure round. We didn't achieve the cost savings. Now, you're going back and you're doing the exact same thing.

So count me a bit as a skeptic if we're waiting to see whether there's any efficiencies that are gained. I think you know that there's a lot of consternation about this specific merger. So I would hope that we would be focusing on how we see those savings, how we gain those efficiencies.

Mr. ABBEY. Again, I think that there will be some savings. I just could not give you the exact amount of savings at this point in time.

There will be fewer people that would be employed. The systems would be consistent, or at least the systems that we would have in place in BLM, that would allow us to provide the support that OSM would require, are already in place. So it wouldn't require us to do much adjustment or to increase that type of capacity.

And, again, we would be benchmarking against what OSM is currently doing and improving our own performance and operations within the BLM.

Senator MURKOWSKI. Mr. Chairman, thank you.

Senator REED. Thank you, Senator Murkowski.

Senator MURKOWSKI. And thank you, gentlemen, for your testimony.

Senator REED. Senator Tester.

Senator TESTER. Yes, thank you, Mr. Chairman. Just a very quick follow up on what Senator Murkowski was talking about.

You said there were going to be fewer people. Is there duplication that will be eliminated?

Mr. ABBEY. There is. I mean, that's why there will be less people because there will be duplication eliminated.

Senator TESTER. Okay. And will there be a higher level of accountability at least for us in order to know who to look at it, where the buck stops?

Mr. ABBEY. Yeah. You have my telephone number relative to the support function—

Senator TESTER. Well, I mean, part of the problem that I find is when it comes to accountability, I'm not talking about your agency, necessarily, is that there is duplication in work being done. And when it comes to a problem, when it arises, that there's—well, too many cooks in the kitchen.

So you can't nail anybody down. Would this, from your perspective, would this help with accountability?

Mr. ABBEY. I do. Again, there's a lot of opportunities for us to improve our performance.

Senator TESTER. Okay.

Mr. ABBEY. In these lean times that we're all in, we need to be looking at every opportunity that we have to improve our performance, to create the efficiencies that the American taxpayers are demanding, and to reduce costs, because there are no new dollars coming our way.

Senator TESTER. All right. Thank you. That was just brought up. I'm glad Senator Murkowski brought it up because I think ultimately in the end, I think money is important but for us, I think what's equally—well, it is equally important in my opinion is—if something goes upside down and there's more than one agency dealing with it, people slip through the cracks.

#### ONSHORE RENEWABLE ENERGY LEASES

But that's not what I want to talk about. In your budget this year, \$73 million was permitted to construct renewable energy projects on public lands. The agency has a goal of 10,000 megawatts at the end of the year.

The Department has recently sent out a request for information on proposing competitive leasing on public lands for renewable energy. It's a proposal similar to a bill that Senator Risch and I have, S. 1775, which directs the agency to pilot competitive leasing for renewable energy on public lands.

BLM's request is a bit different, for information, it's a bit different? It does not include revenue sharing for states or communities or ecosystems which are most impacted by the development and has minimal sideboards for mitigation or avoidance of natural resource damage, and it doesn't return funding to streamline the process, as S. 1775 does.

I believe it's because the BLM does not have the authority to do so today. I am optimistic to see the agency moving forward, but leasing is only a part of the equation. I would like to have you expand on how your agency plans to address the broader issue of impacts to communities, natural resources, if the permitting is expanded.

Mr. ABBEY. Well, first and foremost, we're quite intrigued by your legislation. Not only encouraging competitive process, but also, potentially, the return of some of the revenues back to mitigate for the impacts associated with such development.

So we look forward to working with you, Senator, and others in this Congress to pass common sense legislation that would allow us to meet our common goals.

As we go forward with greater emphasis on renewable energy development in using public lands to achieve that goal, we are quite confident that by calendar year 2013 we will have approved 11,000 megawatts of renewable energy generated from public lands.

That would include wind, solar and geothermal, primarily. We are also moving forward expeditiously through our land use planning process and our NEPA process to actually designate—in the case of solar, solar energy development zones, where we would steer development, do our best to steer development to areas that have already been screened, analyzed, and cleared for such development.

We would be proposing to do something similar for wind in the very, very near future, so that we could steer development to the



best places where that development could go forward and actually achieve our mutual goal of diversifying the Nation's energy portfolio.

At the same time, we understand that these are large-scale projects. They're large foot prints on these public lands. Therefore, we need to make sure that there is appropriate mitigation to offset the lands that are being dedicated for that particular type of use.

We will work very closely with the communities. We are working very closely with all public land stakeholders, with the industry itself, as well as environmental groups, to come up with an appropriate mitigation for such a large-scale commercial development. And I think we're seeing some successes.

#### GEOTHERMAL DEVELOPMENT

Senator TESTER. That's good. I want to flesh out geothermal a little bit as long as you brought it up.

Mr. ABBEY. You bet.

Senator TESTER. I think it's an incredible opportunity to provide baseload power. It is very costly at this point in time.

Senator Murkowski and I have a bill which would expand our knowledge about geothermal energy and its potential.

Can you speak specifically, you touched on it, but specifically on your efforts to expand geothermal production and the barriers that you're facing at this point in time to deploying this technology?

Mr. ABBEY. Well, quite honestly, the footprint associated with geothermal is a lot less than with wind and solar. It also has probably the highest potential for future development than probably solar or wind as it relates to the amount of public lands that would be dedicated or made available for that type of particular use.

We're very optimistic about the future of geothermal. You know, the prices are not necessarily competitive when you're looking or competing against coal and some of the other conventional energy sources at this point in time. But we do believe that geothermal will be a major part of our Nation's energy portfolio in the years to come.

Senator TESTER. Are you facing any barriers at this point in time other than money?

Mr. ABBEY. No, we're not.

Senator TESTER. Okay. Well, thank you, Mr. Chairman. I think a three-member committee with a three-member board, this works out pretty damn nice. So thank you all very much for your time.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator REED. Thank you, Senator Tester. I want to thank the witnesses for their excellent testimony and for your skillful leadership of your agencies. I also want to thank my colleagues for what I concur with Senator Tester was a very productive and very thoughtful hearing.

There may be additional questions. I would ask all of my colleagues to submit them within 1 week, by March 21, and for you gentlemen to respond as quickly as possible to any written questions.

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

## QUESTIONS SUBMITTED TO ROBERT V. ABBEY

## QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

## NATIONAL ENVIRONMENTAL POLICY ACT REVIEWS

*Question.* Bureau of Land Management (BLM) is now just completing work on the Solar Programmatic Environmental Impact Statement, which has been a 4-year effort to categorize Federal land into Solar Energy Zones (SEZs) where solar development is encouraged, areas off limits to solar development, and areas where solar development will be allowed only in situations where a variance is awarded.

In theory, this process was supposed to identify zones of BLM land where solar development is appropriate and the permitting process can be done expeditiously.

However, I am concerned that the benefits of this process are still unclear.

First, I don't understand how it will expedite permitting. BLM has not conducted comprehensive field studies of the SEZs, so solar development proposed within the zones will still be subject to a multi-year period of field studies, consultation with Fish and Wildlife Service (FWS), substantial species mitigation expenses, and likely another full EIS.

Second, BLM has already permitting numerous projects in the only large zone in California, known as Riverside East, and experts suggest that the transmission capacity to this zone will be used up by the projects already permitted and further development in this area is unlikely.

What incentives does BLM propose that will ensure that development of solar power on public lands in California is centered on these zones?

*Answer.* The Supplement to the Draft Solar Programmatic Environment Impact Statement (EIS) describes in detail proposed incentives for developers to site new projects in SEZs—including greater certainty of applications being approved and shorter permitting times. This will be further refined in the final EIS.

BLM has taken a number of important steps through the Supplement to the Draft Solar Programmatic EIS to facilitate future development in SEZs in a streamlined and standardized manner. Utility-scale solar energy development projects proposed in SEZs will be required to comply with National Environmental Policy Act (NEPA) and other applicable laws, including, but not limited to the Endangered Species Act and the National Historic Preservation Act, and applicable regulations and policies. Nonetheless, much of the environmental analysis completed for the Supplement to the Draft Solar Programmatic EIS will benefit future development in SEZs by minimizing the level of detailed analyses required for individual projects. In addition to this work, under the Supplement to the Draft Solar Programmatic EIS BLM is proposing to undertake a variety of additional activities that could help steer future utility-scale solar development to the SEZs. For example, these include faster and easier permitting in SEZs; improvement of mitigation processes; facilitation of the permitting of needed transmission to SEZs; encouragement of solar development on appropriate non-Federal lands; and economic incentives for development in SEZs. For further details please see the Supplement to the Draft Solar Programmatic EIS, section 2.2.2.3 incentives for Projects in SEZs at: [http://solareis.anl.gov/documents/sup/Supplement\\_to\\_the\\_Draft\\_Solar\\_PEIS.pdf](http://solareis.anl.gov/documents/sup/Supplement_to_the_Draft_Solar_PEIS.pdf).

## WEST MOJAVE SOLAR ENERGY ZONE

*Question.* The Conference Report to the fiscal year 2012 Interior, Environment, and related agencies appropriations bill states: “. . . the Secretary is instructed to complete a report evaluating the possible Solar Energy Study Areas in the West Mojave that respect designated off-road vehicle routes and provide the report to the Committee on Appropriations within ninety days of enactment of this Act.”

What is the status of this report?

*Answer.* BLM's California State Office is currently reviewing a draft report that includes a summary of BLM's approach and progress in the evaluation of solar energy development in the West Mojave. This evaluation is part of the Desert Renewable Energy Conservation Plan (DRECP). BLM is evaluating off-highway vehicle (OHV) access and other recreational resources as part of the environmental analysis. Recreation and OHV specialists at the BLM State offices, districts, and field offices are involved in this analysis. Some of the alternatives will include potential energy development impacts to OHV Open areas and to designated trails in the West Mojave. BLM is aware of the importance of access to multiple-use areas on public lands and is working with its Federal, State, and local partners to maintain multiple uses within the DRECP planning area.

When does BLM intend to create a SEZ in the West Mojave to encourage development in this area of lower ecological value?

Answer. Planning and analysis of renewable energy development in the West Mojave is currently underway. Draft environmental documents are expected to be released for public review in mid-September 2012. The final documents are expected to be released in mid-March 2013, and BLM anticipates making a final decision on the plan in late May 2013.

DRECP is the largest landscape planning effort in California, covering approximately 22.5 million acres of Federal and non-Federal land in the Mojave and Colorado (Sonoran) deserts of southern California. Solar, wind, and transmission development are all under consideration for the West Mojave in the DRECP. Alternatives will consider different configurations of development in the West Mojave on both Federal and non-Federal land. One possible outcome of the DRECP could be the designation of an additional SEZ in the West Mojave.

#### PRIORITY PERMITTING

*Question.* When this administration took office in 2009, more than 200 applications had been filed to develop renewable energy projects on BLM land in California, but no projects had been permitting, and only two were under formal NEPA review. Objectively speaking, the process for permitting was fundamentally broken.

Over the past 3 years, this administration has fixed a broken system. BLM now creates a list of 8 to 12 “priority projects” each year on which to focus its work. The projects on this list propose to develop less environmentally sensitive lands in a manner less likely to end up in court, and have developers who have done the necessary work lining up transmission agreements, power purchase agreements and conducting field studies to be considered, for lack of a better term, “ready to go.”

Bottom line: BLM has prioritized the permitting of the best projects, and it has been able to permit many good projects expeditiously as a result. The proof is in the pudding. Very few of the projects in California permitted through the priority list process have been challenged in Court. (Brightsource’s Ivanpaw, arguably the most controversial project permitted by BLM, was one of the two projects already under formal NEPA review when Obama took office.)

BLM is now just completing work on the Solar Programmatic Environmental Impact Statement, which attempts to categorize Federal land into SEZs where solar development is encouraged, areas off limits to solar development, and areas where solar development will be allowed only in situations where a variance is awarded.

How does BLM plan to integrate its highly successful “priority projects” approach to permitting with this new approach?

Answer. Over the past 3 years, BLM has implemented a program to prioritize the processing of renewable energy applications. These priority lists were developed in collaboration with FWS, the National Park Service (NPS), and the Bureau of Indian Affairs with an emphasis on early consultation. The screening criteria for priority solar and wind projects, developed through BLM policy memoranda issued in February 2011, assisted in evaluating and screening these utility-scale projects on BLM-managed lands. The process of screening for projects is about focusing resources on the most-promising renewable-energy projects. One of the likely outcomes of the Supplement to the Draft Solar Programmatic EIS is that some SEZs would be established. Projects located within the SEZs would be given priority for processing, all other factors being equal, over projects outside these zones. However, even if SEZs are established, there will almost certainly be legitimate reasons for developing certain projects outside of these zones, and BLM will work to ensure that permitting timelines are reasonable for all meritorious projects. As described in the Supplement to the Draft Solar Programmatic EIS (Appendix A, Section A.2.1.1), BLM will develop and incorporate into its Solar Energy Program an adaptive management and monitoring plan to ensure that data and lessons learned about the impacts of solar energy projects will be collected, reviewed, and, as appropriate, incorporated into BLM’s Solar Energy Program in the future.

#### DEPARTMENT OF DEFENSE LAND

*Question.* A recent study by the Defense Department (DOD) found that four military bases in California could produce 7,000 MW of solar power on marginal base lands. The lands cannot be used for training and have little ecological value. However, some of these base lands were “withdrawn” long ago. I understand that BLM and the Interior Department continue to assert that these lands should be returned to BLM management if they are developed for solar, even though these lands are often surrounded on all sides by the base. Realistically, I think Interior’s position will prevent the DOD from opening its bases to solar development if it means giving up control of lands in the middle of military bases.

Will BLM agree to work with the DOD to settle, within 3 months, its legal dispute with regard to management of withdrawn lands developed for solar energy?

Answer. While the development of renewable energy on the public lands is a national priority, providing opportunities for renewable energy development on DOD lands (including BLM withdrawn lands), is also important. We have established a collaborative process with the DOD to address renewable energy development opportunities on BLM-withdrawn land. The Department of the Interior (DOI) and DOD in April 2011 formed an Interagency Land Use Coordinating Committee (ILUCC) to help facilitate that dialogue. The Committee is co-chaired by DOI Deputy Assistant Secretary Sylvia Baca and DOD Assistant Deputy Under Secretary John Conger. The ILUCC members include not only BLM, but also FWS, NPS, Office of the Solicitor, and the individual DOD services. Several subgroups have been formed under the ILUCC to address various areas of collaboration, including a subgroup that is focused on resolving authorities for the siting and permitting of renewable energy projects on BLM withdrawn lands.

BUREAU OF LAND MANAGEMENT SOLAR SUPPLEMENTAL DRAFT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT

*Question.* Director Abbey, last October BLM issued its Draft Supplemental Solar Programmatic Environmental Impact Statement (PEIS), which includes large amounts of “variance” lands outside the solar zones. It is my understanding that while applicants are strongly encouraged to pursue projects within the identified solar zones, BLM will consider permitting development in these “variance” areas. While some flexibility to consider lands beyond the zones may be necessary, I find it highly problematic that an estimated 50,000 acres of land that were donated or purchased with Land and Water Conservation Fund dollars have been included in the variance lands. Given that these lands were intended to be preserved in perpetuity, I do not believe they should be open for development. Can you tell me what is the process by which BLM will consider and grant permission for solar projects to be constructed on “variance” lands?

Answer. The process for considering solar projects on “variance” lands has been delineated in the Supplement to the Draft Solar Programmatic EIS in detail. However, no final decision has been made. In addition, there might be market, technological, or site-specific factors that make a project appropriate in a non-SEZ area. BLM will consider variance applications on a case-by-case basis, based on environmental considerations; consultation with appropriate Federal, State, and local agencies, and tribes; and public outreach. If BLM determines a variance application to be appropriate for continued processing, BLM will require the applicant to comply with NEPA and all other applicable laws, regulations, and policies at the applicant’s expense. Applicants applying for a variance must assume all risk associated with their application and understand that their financial commitments in connection with their applications will not be a determining factor in BLM’s evaluation process.

Why have donated and LWCF-acquired lands been included among the “variance” lands and what steps are being taken to avoid their development?

Answer. Comments received on the Supplement to the Draft Solar Programmatic EIS have requested that donated and LWCF-acquired lands be identified as exclusion areas for utility-scale solar energy development. BLM is currently considering this request. However, no decision has been made yet. We would be pleased to brief members of your staff if you so desire.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

*Question.* Director Abbey, thank you as well for taking time to appear. While reading your testimony, I was most interested in what steps you take to increase the percentage of leased onshore lands which are currently producing. We have 38 million onshore acres leased, which is a slight decrease from the previous year, when 41 million acres were leased. On these 38 million acres, only 32 percent, by your estimate, are currently producing.

What is the prime deterrent to production on Federal onshore lands? It certainly is not a shortage of companies able to do the work. In fact, production on private lands has increased drastically—enough to cover the 15 million barrel shortfall from 2010 to 2011. In your opinion, what is holding back the huge amount of companies who want to work onshore from doing so on Federal lands?

Answer. The Bureau of Land Management (BLM) strives to achieve a balance between oil and gas production and protection of the environment. Facilitating the efficient, responsible development of domestic oil and gas resources is part of the administration’s broad energy strategy that will protect consumers and help reduce

our dependence on foreign oil. BLM is working on a variety of fronts to ensure that development is done efficiently and responsibly including:

- implementing leasing reforms;
- continuing leasing activities in the National Petroleum Reserve in Alaska;
- continuing to process drilling permits in a timely fashion; and
- improving inspection, enforcement, and production accountability.

Oil and gas drilling and development are market-driven activities, and the demand for leases is a function of market conditions. Market drivers include prevailing and anticipated oil and gas prices, bidder assessments of the quality of the resource base in a given area, the availability/proximity of necessary infrastructure, and the proximity of the lease to local, regional, and national markets and export hubs. The shale formations that currently have high industry interest for development, such as North Dakota's Bakken shale, Texas's Eagle Ford shale and the Marcellus and Utica shales of the Eastern United States, are primarily in areas with a high proportion of non-Federal land. These areas have seen increased development recently due to a favorable mix of the factors noted above. As drilling priorities shift due to changes in technology or markets, an operator may choose different areas for development. Further, BLM lands are primarily gas-prone. Recent national rig counts (by Baker Hughes) indicate that rigs drilling for gas are at an "all-time low" (by percentage) and the gas is selling at "a record discount to crude." (Wall Street Journal, May 14, 2012).

Approximately 38 million acres of Federal land are currently leased for oil and gas development. Approximately 12 million acres are producing oil and gas, and active exploration is occurring on an additional 4 million acres. BLM has approved approximately 7,000 drilling permits that are not being used by industry.

*Question.* You mention that you plan to take steps to increase production on leased lands, and I see that one step would be a proposed \$4 per-acre fee on nonproducing lands, which I do not support. Do you have any plans to increase regulatory clarity to make the process or permitting and oversight more straightforward? Do you plan to increase the minimum bids for onshore lands or shorten the time leases may be held without production?

*Answer.* The purpose of the nonproducing lease fee is to encourage diligent development of leased parcels. The nonproducing lease fee will provide financial motivation to either put leases into production or relinquish the leases so they can be released.

As part of BLM's ongoing efforts to ensure efficient processing of oil and gas permit applications, BLM will implement new automated tracking systems expected to significantly reduce the review period for drilling permits and expedite the sale and processing of Federal oil and gas leases.

The new system for drilling permits, which is expected to be fully online by May 2013, will track permit applications through the entire review process and quickly flag any missing or incomplete information. This will enable operators to communicate with the BLM more promptly to address deficiencies in their applications.

To expedite the sale and processing of Federal oil and gas leases, BLM will launch a new National Oil and Gas Lease Sale System, which will streamline the phases of competitive oil and gas lease sales by electronically tracking BLM's leasing process from start to finish. This new system will replace numerous stand-alone systems and provide a consistent, easy-to-use electronic process for both the oil and gas industry and BLM employees. BLM estimates the National Lease Sale System will be ready to begin testing in a pilot State by December 2012.

The Mineral Leasing Act establishes the national minimum acceptable bid and the primary term of an oil and gas lease. The act provides the Secretary of the Interior with the authority to establish a higher national minimum bid amount. However, the act does not provide authority to the Secretary to modify the primary term of an oil and gas lease.

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QUESTIONS SUBMITTED TO TOMMY P. BEAUDREAU

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

*Question.* Director Beaudreau, thank you also for taking time to appear before this hearing today. In your testimony, you mentioned the efforts that the Bureau of Energy Management (BOEM) is making to increase offshore production, in light of the President's stated desire to increase production. You mention that you aim to open 75 percent of technically recoverable assets to drilling, and that you have taken steps to increase the percentage of currently leased lands that are producing.

I see that you have scheduled the final lease sale under this 5-year plan and that you are already looking forward to the next 5-year plan, under which you aim to open 75 percent of technically recoverable assets. Since we currently produce on only 2 percent of the total land in the Outer Continental Shelf (OCS), what effect will this have on the amount of land being produced on—that is, is an increase to 75 percent of technically recoverable assets as large a step as the President has stated?

Answer. The proposed Five-Year Oil and Gas Leasing Program for 2012 to 2017 focuses on encouraging exploration and development where the oil is—and the Gulf of Mexico still has the greatest, by a large margin, untapped resource potential in the entire OCS. The Gulf of Mexico is the crown jewel of the OCS, and will remain so for the foreseeable future as developments in seismic and drilling technology have opened new resource frontiers in the gulf. The Gulf of Mexico, in particular the deepwater, already has several world class producing basins, and just in the past year there have been a number of significant new discoveries.

The 75 percent represents the portion of BOEM's estimated total "undiscovered technically recoverable resources" on the OCS that underlie areas being considered for oil and gas leasing in the proposed program. Our geological and geophysical data indicate that those resources are not evenly dispersed across the OCS and that a relatively small area may have very high concentrations of potentially recoverable resources.

According to BOEM's findings, the Central Gulf of Mexico is estimated to hold more than 30 billion barrels of oil and 133.9 trillion cubic feet of natural gas of undiscovered resources. This is nearly double the resource potential of even the Chukchi Sea. The Western Gulf of Mexico is just behind the Chukchi Sea with more than 12 billion barrels of oil and nearly 80 trillion cubic feet of natural gas. BOEM derived the 75-percent figure from an evaluation of the undiscovered technically recoverable resources estimated in the proposed lease areas as a function of this total estimated amount.

*Question.* You also mentioned the steps you have taken to increase production on the lands which are currently leased, including a proposed \$4 per-acre fee on non-producing leases, which I do not support—you have raised the minimum bid on deepwater acres, and you have shortened the time that a lease may be held without any production occurring. What has been your feedback from industry on these two steps? What effects do you believe that these steps will have?

Answer. While BOEM implements these measures for offshore leases, we have continued to see robust industry interest in acquiring leases that include these underlying terms. The increased minimum bid and new lease terms were in place for Western Gulf of Mexico lease sale 218, held in December 2011. The bidding activity in that sale demonstrates that these changes are not having a detrimental impact on industry's interest in acquiring leases in the gulf.

A \$4 per-acre fee on nonproducing Federal leases would provide a financial incentive for oil and gas companies to either get their leases into production, or relinquish them so the tracts can be leased to and developed by new parties. In general, industry has not been supportive of the fee, citing concerns over delays that they argue are out of their control. However, the administration believes that this legislative proposal is important to encourage energy production on lands and waters leased for development. The \$4 per-acre fee would only apply to new leases and would be adjusted for inflation annually. The minimum bid on deepwater acres encourages prompt development and production, and helps to ensure that the American public receives fair market value for these shared resources. BOEM plans to use the minimum bid as a way to limit the sale size, rather than arbitrarily adjusting the size of the sale. This allows the market to determine which tracts are leased. The minimum bid strategy used will be consistent with the goal of maximizing the economic value of OCS resources.

As you mention, BOEM has taken several specific steps to provide incentives for diligent development and to encourage operators to bid on tracts that they are more likely to develop. These steps include:

*Increasing Rental Rates To Encourage Faster Exploration and Development of Leases.*—In the Gulf of Mexico, during the initial term of a lease and before the commencement of royalty-bearing production, the lessee pays annual rentals which either step-up by almost half after year 5—for leases in water 400 meters or deeper—or escalate each year after year 5—for leases in less than 400 meters of water. The primary use of step-up and escalating rentals is to encourage faster exploration and development of leases, or earlier relinquishment when exploration is unlikely to be undertaken by the current lessee. Rental payments also serve to discourage lessees from purchasing tracts they are unlikely to actually develop, and they provide an incentive for the lessee to drill the lease or to re-

linquish it, thereby giving other market participants an opportunity to acquire these blocks. In March 2009, in addition to implementing escalating rental rates, BOEM raised the base rental rates for years 1–5.

*Tiered Durational Terms To Incentivize Prompt Exploration and Development.*—Industry maintains that producing oil is a lengthy process that takes years between the time a lease is awarded and the time energy begins flowing from a well on that lease site. In order to address this concern, BOEM implemented tiered durational terms to incentivize prompt exploration and development for leases in the Gulf of Mexico for certain water depths (400–1,600 meters): a relatively short initial lease followed by an additional period under the same lease terms if the operator has already drilled a well. In addition, BOEM maintains lease terms graduated by water depth in order to account for technical differences in operating at various water depths. Bureau of Safety and Environmental Enforcement also recently informed lessees of a decision from the Department's Office of Hearings and Appeals that reaffirms the requirement that lessees demonstrate a commitment to produce oil or gas in order to be eligible for lease expiration suspensions.

*Increased Minimum Bid.*—In 2011, BOEM increased the minimum bid for tracts in at least 400 meters of water in the Gulf of Mexico to \$100 per acre, up from \$37.50, to help ensure that taxpayers receive fair market value for offshore resources and to provide leaseholders with additional impetus to invest in leases that they are more likely to develop. Analysis of the last 15 years of lease sales in the Gulf of Mexico showed that deepwater leases that received high bids of less than \$100 per acre, adjusted for energy prices at the time of each sale, experienced virtually no exploration and development drilling.

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QUESTIONS SUBMITTED TO JAMES WATSON

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

*Question.* Thank you for making time today to appear before this hearing. I realize that you only assumed office on December 1, 2011, but I understand that you have already taken time to visit Port Fourchon, a vital supply and support hub for our offshore industry. I am hopeful that we will develop a close working relationship and that you will bring new and effective leadership to the Bureau of Safety and Environmental Enforcement (BSEE).

Reading through your testimony, a few points caught my attention. First, you mention that the new standards for inspection are much more stringent, reflected in the fact that the timeline for permit approval is now longer and that you have hired more inspectors and engineers. I understand that these steps were taken to account for increased difficulty in permitting, but despite this, I continually hear from industry about the difficulty that they face not only in permit approval, but also the submission process which occurs prior to any technical review of a permit application.

Would it make the permit submission process more streamlined if you were to hire more administrative personnel? I understand that already work is being shifted from district to district to alleviate excessive workload—could this be a function of understaffing on the administrative side of things?

*Answer.* Permit reviews are addressed by engineers in the Bureau's district offices. BSEE is hiring and training new engineers to reduce review and approval time and improve upon the efficiencies that we have achieved over the past year. The variation in workload that we see among our district offices in the Gulf of Mexico region is a result of the geographic distribution of oil and gas activity in the Gulf of Mexico. The bulk of the activity in the gulf is occurring in the areas overseen by our New Orleans and Houma District offices. When appropriate, we shift certain high-priority permits from the New Orleans and Houma District offices to other offices that have the ability to provide assistance. Permit applications are submitted and reviewed electronically, so engineers in any district have access to all submitted applications. Administrative personnel are essential to operations in our regional and district offices, and provide vital support to our engineers who are educated and trained to review or approve permit applications.

*Question.* I also hear that many of these submissions are being returned for resubmission 8 or 9 times—because of small grammatical errors or the use of footnotes. I understand that you have instituted a workshop for permitting, might it be helpful to these companies to have a workshop focused purely on the guidelines for submission, so that we may avoid these problems. Might it also be beneficial to rewrite the submission process so that permit applications are judged on their technical merits more heavily than their grammar?

Answer. As you point out, BSEE has held permitting workshops for industry that were attended by more than 200 offshore industry personnel. In addition, the Bureau has also published an Application for Permit to Drill (APD) submission checklist for operators to provide clear guidance to operators about the requirements for submitting a complete APD. Because of these efforts, as well as industry's increasing familiarity with the new safety requirements instituted after the Deepwater Horizon event, permit review times have decreased significantly over the past year and the number of applications returned to applicants for being incomplete or incorrect has also declined. We return submittals to applicants for substantive reasons, not for grammatical errors. The Bureau will continue to work with industry to make the permit application and review process as clear and efficient as possible, while continuing to ensure that every application meets all safety requirements.

*Question.* I also understand that you plan to update the Interim Drilling Safety rule to increase regulatory clarity, and that you are currently reviewing comments on the Safety and Environmental Management Systems II (SEMS II) rule to increase regulatory clarity and provide for a more streamlined, but still safe, process moving forward. What details can you give me about the changes you are making, and what affects you expect these changes to have?

Answer. The Final Drilling Safety Rule will respond to the comments received on the Interim Final Rule and is expected to be published in the Federal Register in the near term. These changes will provide a considerable amount of clarification and simplification of the regulations featured in the Interim Drilling Safety rule.

The SEMS II Proposed Rule proposes to expand, revise, and add several new requirements necessary to ensuring industry uses robust SEMS programs and to facilitate oversight. The comment period for the SEMS II Proposed Rule closed on November 14, 2011, and BSEE is currently reviewing the comments.

*Question.* I know that your agency, as well as the others testifying today, is actively involved in developing and implementing a long-term restoration plan for the Gulf of Mexico. I am sure you are aware that the Mabus report on America's gulf coast highlighted the need for developing quantifiable performance measures to track progress in the Gulf of Mexico recovery efforts, including an assessment of baseline environmental conditions. The subsequent Gulf Coast Ecosystem Restoration Task Force report echoed these recommendations and further noted the need for a robust data collection regimen. In light of the budget pressures facing your agency, how does the fiscal year 2013 budget support these important baseline environmental data collection activities? Are you considering more cost-effective, technologically advanced data collection systems, such as unmanned, persistent propulsion marine robotic vehicles?

Answer. Baseline environmental data collection responsibilities fall under the Bureau of Ocean Energy Management's (BOEM) Office of Environmental Programs, and are not BSEE functions. The environmental program under BSEE focuses on environmental compliance and enforcement efforts and relies upon BOEM for necessary environmental analyses.

BOEM's fiscal year 2013 budget request for environmental assessments includes an increase of \$700,000 to support environmental data collection for baseline information on species, habitats, and ecosystems. These studies and other scientific information form the basis of environmental assessments and environmental impact statements required under the National Environmental Policy Act prior to development. This increase in funding will enable BOEM to initiate one or two new high-priority baseline characterization and monitoring studies. These studies will expand the scientific basis for informed and environmentally responsible policy decisions at BOEM and the enforcement of environmental regulations by BSEE.

With respect to advanced data collection systems, BOEM has historically used the best-available technology in its studies and will consider emerging technologies when looking at future analyses.

*Question.* The Interior Department administratively issued new guidance for removal of idle iron—unilaterally changing previous regulations for the decommissioning of offshore platforms and wells. Would the Department of the Interior support amending the new idle iron guidance to either allow for structures to be reefed in place or provided an extension of time to remove structure that will eventually be placed in the Rigs-to-Reefs program?

Answer. The regulations regarding decommissioning facilities and wells (subpart Q of 30 CFR 250) have remained the same since October 30, 2002. The Notice to Lessees and Operators (NTL) No. 2010-G05 was issued on September 15, 2010 to clarify the decommissioning regulations, provide clearer definitions, and allow operators to submit plans for the use of wells and structures that are potentially no longer useful for lease operations. BSEE is currently reviewing plans on a case-by-



case basis and working with operators on schedules for decommissioning and future use of wells and structures.

BSEE supports the reuse of obsolete oil and gas facilities. About 12 percent of all platforms decommissioned annually in the Gulf of Mexico are used as artificial reefs through State-sponsored programs. The NTL 2010-G05 does not prevent an operator from reusing a structure. A proposal to reuse a facility as a reef is a complex multi-step process that must comply with several State and Federal regulations as well as engineering and environmental reviews. Consequently, not all structures are good candidates for artificial reefs. The Bureau's policy was developed in accordance with its mission and allows for sound adaptive management. We are in close communication with the State artificial reef coordinators, industry, and our Federal partners to ensure that the reuse of obsolete oil and gas facilities remains a viable alternative in the decommissioning process.

*Question.* It is my understanding that the Federal Fishery Rebuilding Plan for Gulf Red Snapper is based on the critical marine habitat provided by older oil and gas structures in the Gulf of Mexico. Has the Interior Department discussed or coordinated with the National Oceanic and Atmospheric Administration (NOAA) or the National Marine Fisheries Service (NMFS) on the potential devastating impacts to marine life from its idle iron directive?

*Answer.* The Department of the Interior, through BSEE, has coordinated, and will continue to coordinate with NOAA's NMFS on the decommissioning program and the possible impacts on marine life. The Department, in coordination with NMFS and Louisiana State University's Coastal Marine Institute, has also funded numerous studies regarding the habitat provided by Outer Continental Shelf facilities and the potential impact of decommissioning facilities on fisheries.

#### SUBCOMMITTEE RECESS

Senator REED. If there are any of my colleagues that wish to have statements submitted for the record, they will be accepted for the record without objection.

And with that, again, let me thank you, and conclude the hearing.

[Whereupon, at 11:04 a.m., Wednesday, March 14, the hearing was concluded, and the subcommittee recessed, to reconvene subject to the call of the Chair.]



**DEPARTMENT OF THE INTERIOR, ENVIRONMENT,  
AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2013**

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**WEDNESDAY, APRIL 18, 2012**

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

The subcommittee met at 9:34 a.m. in room SD-124, Dirksen Senate Office Building, Hon. Jack Reed (chairman) presiding.

Present: Senators Reed, Feinstein, Johnson, Tester, and Murkowski.

UNITED STATES DEPARTMENT OF AGRICULTURE

UNITED STATES FOREST SERVICE

**STATEMENT OF TOM TIDWELL, CHIEF**

**ACCOMPANIED BY SUSAN SPEAR, ACTING DIRECTOR, STRATEGIC  
PLANNING BUDGET AND ACCOUNTABILITY**

OPENING STATEMENT OF SENATOR JACK REED

Senator REED. Good morning. I would like to welcome everyone to this hearing on the fiscal year 2013 budget request of the United States Forest Service (USFS).

And on behalf of the subcommittee, I would like to welcome Tom Tidwell, Chief of the USFS. Chief, thank you. And he is joined by Susan Spear. Thank you, Susan.

We appreciate you appearing before us to discuss the issues pertaining to the USFS.

As you may know, Rhode Island is not home to any national forest, yet. But the reality is that 55 percent of my State is actually forested land. It is in State or private ownership. That's a huge amount given we are the smallest State in the country, and also have the second-highest population density.

So, forests are important to every State, including Rhode Island. We recognize the USFS's main role is to maintain our national forests, but they also support outdoor recreation, habitat, access to open space in every State in the country, including Rhode Island.

Again, we thank you for your service, and believe it is important everywhere. And the hearing today is to ask you questions about your budget, and to see what we can do to provide you the resources necessary.

## FISCAL YEAR 2013 BUDGET REQUEST

As I turn to this budget, I note that the administration's request for all USFS programs totals \$4.849 billion in new budget authority. That amount is \$255.1 million or a 5.6-percent increase more than the fiscal year 2012 enacted level.

What looks like a large increase though has to be put into perspective. It is important to note that this subcommittee provided an additional \$240 million in prior-year funding to cover firefighting needs for fiscal year 2012.

So on an apple-to-apples basis, that means that the administration's budget request is really only \$15 million more than the fiscal year 2012 level, well within the kind of request we've seen for other departments under our jurisdiction.

## WILDLAND FIRE MANAGEMENT

Overall, the requested funds will continue wildland fire management (WFM) programs at \$1.971 billion, a level that's essentially flat when compared to the fiscal year 2012 request. Within that amount, fire suppression's portion is fully funded at the 10-year rolling average of \$931 million.

USFS has also set aside \$24 million from within its fire program to begin building its next-generation airtanker fleet, an action that is long overdue and something that I hope we can discuss at greater length this morning.

## NATIONAL FOREST SYSTEM

The request includes \$1.62 billion for national forest system operations, an increase of \$69 million, or about 4 percent. Much of that increase is actually due to a major budget restructuring to create a \$793 million Integrated Resource Restoration (IRR) program, a program which this subcommittee started as a pilot in fiscal year 2012, while the budget requests full funding. We will talk about whether the time is right for full funding or whether the pilot still has to be pursued.

This request also includes an 11-percent increase for land acquisition and Forest Legacy programs for a total of \$118 million. Funding for construction of roads, trails, and facilities is cut by 12 percent, for a total of \$334 million.

## STATE AND PRIVATE FORESTRY

And, finally, State and Private Forestry programs are slated to receive a 1-percent cut for a total of \$251 million.

The budget request includes a number of proposed changes to State Forestry Grants including a new \$18 million competition to fund landscape-scale restoration projects, which I also expect we will have a chance to discuss today.

I look forward to hearing a more in-depth discussion of these matters with you, Chief, and Ms. Spear, after you have had the opportunity to share your testimony.

With that, let me recognize and acknowledge my Ranking Member, Senator Murkowski. Senator.

## STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Mr. Chairman, and good morning. And, Chief, good morning to you. Ms. Spear, welcome also.

Before I comment on a couple of concerns that I have with the USFS budget request, I would like to raise a recent court decision that I believe has the potential to severely hamper the ability of the USFS to get work done on the ground.

*SEQUOIA FORESTKEEPER VS. TIDWELL*

Chief, I think you clearly know what I'm talking about. On March 19, the Federal District Court in California found in *Sequoia ForestKeeper vs. Tidwell* that the USFS's use of categorical exclusions under the National Environmental Policy Act (NEPA) violates the Appeals Reform Act and enjoined the USFS from using these exclusions nationwide without providing for notice, comment, and appeal.

This will mean that simple, routine tasks that have no environmental impact will be subject to full notice, public comment, and appeal. I think we're already seeing some absurd consequences.

For example, Mr. Chairman, the USFS Web site lists a decision to replace a campground bathroom that is now subject to notice, comment, and appeal due to the *Sequoia ForestKeeper* case decision even though the USFS explicitly found that it will have no impact on the environment.

So if a project as routine as replacing a bathroom in a campground is now subject to appeal, it's hard for me to imagine any USFS action that some group could not appeal or delay. And, in a time of extremely tight resources, I think this will cause waste within the Agency.

We will lose enormous amounts of time. It will increase the costs of getting necessary work done, and it concerns me. I'm particularly concerned how this decision will affect activities on the Tongass National Forest in Alaska.

## CATEGORICAL EXCLUSION IMPACTS

In a local press account in the Juneau Empire earlier this month, the region 10 regional forester indicated that a categorical exclusion was used during the exploratory drilling process associated with Greens Creek.

And I hope that you'll be able to explain to me the impact that this court decision may have on mining activities on the Tongass National Forest, not only at Greens Creek, but at the Niblack and Bokan Projects as well.

I'm told that compliance with the court's order could add 140 days to the permitting process where categorical exclusions have been used. These added delays will have even more harmful impacts in Alaska where the field's season is shorter than it is in the lower 48.

I do hope, Chief, that you can assure me today that USFS plans to appeal the court's decision in *Sequoia ForestKeeper vs. Tidwell*, and that you're doing everything possible to mitigate the impacts of this decision.

## INTEGRATED RESOURCE RESTORATION

Now, turning to the budget, I'm concerned that, once again, USFS is proposing to collapse several different budget activities, including timber, into one large pot called IRR.

This subcommittee explicitly rejected the same proposal last year and instead gave you the authority to pilot the concepts in regions 1, 3, and 4. The clear intent of the pilot was for USFS to prove that the concept had merit before the committee would consider it again.

At this point, I don't think we've got the information from these three regions that would provide for an informed judgment on the merits of the proposal.

There are many constituencies from the environmental community to industry that are skeptical of the big bucket approach to the budget, and I think that we need some clear data from the regions before we approve the consolidation of budget activities.

And I certainly understand the Agency's desire for flexibility. The Congress and the public require the accountability, and I'm concerned that we're going to lose that with this proposal.

## AIRTANKER MODERNIZATION

I do applaud USFS for including \$24 million in its budget for modernization of the large airtanker fleet. However, I am troubled by the lack of specifics within the budget about how these funds are going to be spent.

Likewise, I appreciate that USFS issued a large airtanker modernization strategy, but again, I'm concerned about the lack of details. It does contain general description of several aircraft, but no indication of how and when the Agency intends to make its selection or whether it plans to purchase its own aircraft or continue to use the existing model of contracting for industry aircraft.

So I do hope that you can give us some additional details on USFS plan for this. Again, Chief, I welcome you and thank you for your service, and look forward for the opportunity for questions and answers here this morning.

Thank you.

## PREPARED STATEMENT

Senator REED. Let me ask if any of my colleagues have opening statements. And, of course, all statements will be made part of the record. But if anyone wants to make statements now is the time to do so.

Also, I have been informed that Senator Blunt regrettably could not attend this hearing in person, but has submitted a prepared statement for the record.

[The statement follows:]

## PREPARED STATEMENT OF SENATOR ROY BLUNT

Thank you, Chairman Reed and Ranking Member Murkowski, for holding this hearing today. I appreciate this opportunity to examine the budgetary needs of the United States Forest Service (USFS) in order to make sure taxpayer dollars are spent on programs that reflect our Nation's priorities.

Additionally, I would like to thank Chief Tidwell and Director Spear for being here today.

USFS manages more than 193 million acres of public land. The Mark Twain National Forest in Missouri represents a significant part of that mission. The Mark Twain National Forest consists of 1.5 million acres spanning 29 Missouri counties.

USFS announced that more than \$40 million would be dedicated to projects under the Land and Water Conversation Fund, including the Mark Twain National Forest. This includes almost \$1 million to connect existing national forest lands to the Ozark National Scenic Riverways, with the stated goals of protecting watershed quality and providing maximum benefit for both resident and migratory wildlife species.

While, of course, conservation activities with respect to forests are critical, I would hope that USFS focuses their efforts on the opportunity to increase harvest levels, without compromising forest health, and improve the Federal Government's return on its investment.

Over the last 5 years, annual saw timber harvests in the Mark Twain National Forest averaged about \$2.1 million for the 17.2 million board feet sold, according to Forest Industry and Analysis data.

However, timber sale proceeds cover only about 7 percent of the Mark Twain National Forest's annual budget of \$28 million.

With annual saw timber growth of more than 210 million board feet worth an estimated \$21,273,000, the National Forest System is missing a significant opportunity to capitalize on these resources.

I hope that USFS takes these types of considerations into account when allocating, spending, or establishing new management plans.

We need to both protect and utilize our natural resources to boost contributions to the GDP and create jobs. I look forward to your testimony, and thank you again for being here.

Senator REED. Senator Johnson.

#### STATEMENT OF SENATOR TIM JOHNSON

Senator JOHNSON. Yes. Thank you, Chairman Reed, and Senator Murkowski, for holding this hearing today. And thank you, Chief Tidwell and Ms. Spear for being here to discuss the administration's request for USFS.

I've appreciated your attention to forest health in South Dakota, and I look forward to continuing this discussion today in the context of the fiscal year 2013 budget. Thank you.

Senator REED. Senator Tester.

#### STATEMENT OF SENATOR JON TESTER

Senator TESTER. Well, thank you, Mr. Chairman. I appreciate you holding the hearing, and along with the Ranking Member, once again, thanks for being here, Chief. And, Susan, thank you very much for both of your time and your service to this great country.

#### H.R. 1581

I just want to touch on one thing that you might be able to address in your opening statement. It deals with a bill in the House—H.R. 1581. It's a bill that, quite frankly, I think is a direct attack on our hunter and our fishermen in this country as far as access.

One of the huge assets we have in this country is our Federal lands, particularly in the West. And the ability to utilize those Federal lands in a way that makes sense is critically important.

What H.R. 1581 is going to do is release a lot of pristine, back-country land, good elk, good fisheries, just incredibly prized elk habitat and blue ribbon fisheries.

Montana has one of the highest percentage of hunters and anglers in the Nation and it amazes me that some over in the House want to take away these opportunities. They want to talk about

second amendment on the one hand, and in the other hand, take away the opportunity to use rifles in the wild.

I would like to have you address that, if you can, in your opening statement, on what USFS thinks about extreme proposals like H.R. 1581, and what you think we ought to do about it.

Thank you very much, Mr. Chairman. Thank you both.

Senator REED. Thanks, Senator Tester. Chief Tidwell, please.

#### SUMMARY STATEMENT OF TOM TIDWELL

Mr. TIDWELL. Mr. Chairman and members of the subcommittee, it is a privilege to be here to discuss the President's fiscal year 2013 budget request for the USFS.

I want to thank you for the support that we have received from this subcommittee in the past, and I look forward to working with you in the future.

The President's budget request, as you've already noted, reflects some very difficult choices we need to make to help reduce the deficit while investing in long-term economic growth and job creation.

Our budget request supports these priorities through three key objectives. The first is our focus on restoration. This budget request would restore and sustain another 2.6 million acres of forest and grasslands by increasing collaborative efforts and building support for restoration activities, which helps create thousands of jobs each year.

It requests full funding for the Collaborative Forest Landscape Restoration Fund that you gave us last year. We have been able to identify an additional 10 projects that are now moving forward because of what you were able to provide us in last year's budget. So I want to thank you for that.

The fiscal year 2013 budget also requests permanent authorization for stewardship contracting, which is an essential tool that we need to have available, along with our timber sale contracts, to be able to do this restoration work.

It also allows us to continue to apply the science, as developed by USFS research, to address the increasing frequency of forest disturbances. These range from longer fire seasons, record insect and disease outbreaks, and invasives to the floods and the droughts that we are experiencing.

#### INTEGRATED RESOURCE RESTORATION

The budget request proposes an IRR budget-line item to align our budget structure with the work. I know that we need to first demonstrate through our pilot and the pilot regions, that this approach will not only increase our productivity and efficiency but also for us to be able to show not only the outputs that will be produced, but also how the outcome of this is going to help us address the watershed conditions across all our lands.

Once again, I want to thank you for this pilot authority.

#### WILDLAND FIRE MANAGEMENT

The second key objective with our budget request deals with WFM. It includes a level of preparedness that will continue our success in suppressing close to 98 percent of the wildland fires that



we take on during initial attack. It does request the 10-year average for suppression.

This is the area where you see a large increase, Mr. Chairman, as you have mentioned, in our budget request. It will also reduce the threat of wildfire to homes and communities by reducing hazardous fuels on a million acres in the wildland urban interface (WUI).

#### AIRTANKER MODERNIZATION

It does request an additional \$24 million to begin modernizing our large airtanker fleet. These funds will be used to pay for what we anticipate will be the additional contract costs to bring on what we call our next generation of large airtankers.

#### AMERICA'S GREAT OUTDOORS INITIATIVE

The third objective is through the America's Great Outdoors Initiative, where we will increase support for community-based conservation. This enables us to continue to support recreational opportunities that improve on our quality of life, which we enjoy in this country, but it will also help maintain more than 223,000 jobs and about \$13 billion in annual spending by recreational visitors.

#### INCREASING EFFICIENCIES

It will help America to reconnect with the outdoors by increasing conservation education, volunteer opportunities, and increasing youth employment opportunities. We also request a slight increase in LWCF funding, in our Forest Legacy Program, to use conservation easements and land acquisition to protect critical forests and acquire public access while reducing our administrative costs of managing the national forests and grasslands.

We will continue to work together with our States to use both State and private funding programs to promote conservation and to help keep private forests forested.

We also encourage biomass utilization and other renewable energy opportunities while working to process oil and gas permit applications and energy transmission proposals more efficiently.

We also propose a framework for reauthorization of the Secure Rural Schools Act, which I believe is vitally important to continue. Especially in these very difficult economic times that our counties and boroughs are currently facing.

#### PREPARED STATEMENT

We have also included some actions to increase our efficiencies. Over the next 2 years, between 2013 and 2014, we will reduce our overhead costs by more than \$100 million. This is an ongoing process of always looking at everything we do in order to increase our efficiencies; to make sure that we're doing everything that we can to get as much work done on the ground as possible through the appropriations.

[The statement follows:]

## PREPARED STATEMENT OF TOM TIDWELL

Mr. Chairman and members of the subcommittee, it is a privilege to be here today to discuss the President's budget request for the United States Forest Service (USFS) for fiscal year 2013. I appreciate the support this subcommittee has shown for USFS in the past, and I look forward to working together with members of the subcommittee in the future to ensure that stewardship of our Nation's forests and grasslands continues to meet the desires and expectations of the American people. I am confident that this budget will allow USFS to meet this goal while demonstrating both fiscal restraint and efficient, cost-effective spending.

Our Nation can and should take steps to reduce the deficit and make Government leaner and more efficient in the 21st century. The fiscal year 2013 budget that the President is proposing reflects the difficult choices we need to make to help reduce the deficit while investing in long-term economic growth and job creation. To make the strategic investments to grow the economy and tackle the deficit, this budget makes difficult cuts to programs. It also reflects efficiency and improvements to reduce our administrative costs. It is designed to appropriately fund programs that matter to Americans.

## BUDGET CONTEXT

USFS manages 193 million acres of public lands on 155 national forests and 20 national grasslands in 44 States and Puerto Rico. We also work effectively with States, tribes, local governments, communities and private forest landowners to support the sustainable stewardship of the 423 million acres of private forest, 68 million acres of State forests, and 18 million acres of forestlands on Indian reservations in the United States. USFS management is based on peer-reviewed science; we lead the way for the Nation and, indeed, the world in cutting-edge research on a full range of conservation issues, including bioenergy, ecological restoration, wildland fire management (WFM), forest pests and diseases, and sustainable outdoor recreation.

Our mission is to work with the American people on all lands to sustain all the benefits needed and wanted from their forests and grasslands. For example, approximately 80 percent of the Nation's freshwater resources originate on forests, and Americans get more than one-half of their water supplies from sources that originate in the Nation's forests. USFS management, combined with assistance to private landowners, helps to protect the single greatest source of drinking water in the Nation.

Jobs are maintained and created through the work of USFS. Millions of Americans have forest-related jobs, from forest restoration work to recreation use, wood products, grazing, and energy and mineral development. In 2010, the National Forests attracted more than 170 million annual visitors, and recreation use, which alone sustained nearly 223,000 jobs while contributing \$14.5 billion annually to the U.S. economy.

Water and jobs are only some of the benefits Americans get from their forests and grasslands. These lands provide a whole range of ecosystem services— clean air, clean water, fertile soil that provides timber, forage, energy, food and fiber, fish and wildlife habitat, carbon storage, and opportunities for outdoor recreation just to name a few. These critical services to people are now at risk due to declining forest health, such as bark beetle infestation in the West. Regional drought, invasive species, loss of open space, catastrophic wildfires, devastating outbreaks of insects and disease, and the overarching challenge of a changing climate are degrading our Nation's natural infrastructure—the forests and grasslands that Americans depend on for so many services, values, and benefits.

By making targeted investments in the landscapes most at risk, we can restore healthy, resilient forests and grasslands, provide recreational and hunting access, and provide forest products for the benefit of all Americans. Our fiscal year 2013 budget request is designed to do just that by working with partners across borders and boundaries at a landscape level. Our focus on landscape-scale conservation dovetails with broader administration priorities, including the President's America's Great Outdoors Initiative, the Secretary's "All-Lands" vision, and the Department's high-priority goal for enhancing water resources. Landscape-scale conservation is designed to maintain and enhance the resilience and productivity of the Nation's forests and grasslands through targeted investments in natural infrastructure. Our investments will put Americans back to work, maintaining and creating jobs and economic opportunities for both rural and urban Americans.

## FISCAL YEAR 2013 BUDGET REQUEST AND PRIORITIES

The fiscal year 2013 President's budget requests \$4.86 billion for USFS, an increase of \$15.5 million more than the 2012 appropriated level. This budget responds to the public's desire for the conservation and stewardship of the Nation's forests and grasslands. Through strategic partnerships, we accomplish more work that yields benefits for all Americans, while sustaining forest and grassland ecosystems for future generations. In these tough economic times, this budget balances spending on priorities against reductions. It establishes spending on conservation principles and natural resource development needed by the public and for the Nation's economy. USFS managers will continue to scrutinize spending and programs to ensure the public's investment is used wisely toward safely achieving key outcomes and shared priorities.

USFS's fiscal year 2013 President's budget prioritizes USFS funding in three themes:

- restoration;
- communities; and
- fire.

Our priorities are designed to respond to the needs of the American public. The President's budget aligns with the Secretary's "All Lands" vision to meet the challenges of ecological restoration through collaborative approaches to address forest mortality and live tree density, invasive species and watershed degradation. The budget request will engage communities and help Americans reconnect to the outdoors, expand on recreation benefits and create a wide range of opportunities for economic expansion to retain and create jobs. The budget request also fosters partnering with communities and cooperating agencies to reduce the threat of wildland fires to people, property and watersheds.

## RESTORATION THEME

With the current threats from insects and disease, wildfire, urban development, and impacts of a changing climate, active restoration is a key component of our fiscal year 2013 budget strategy. To achieve our restoration goals, we engage a broad set of partners in active forest management at large, landscape scales and apply peer-reviewed science related to forest disturbances, fire management, and the effects of a changing climate. Our restoration efforts are guided by a continuous cycle of assessing, implementing, and adapting based on information from inventory and monitoring efforts. This strategy will yield a variety of forest products and restore the structure, function, composition, and processes of healthy, resilient ecosystems across the Nation.

Restoration means jobs and economic opportunities. In order to maintain forest-related jobs we are requesting permanent authority for stewardship contracting. This authority allows the agency to accomplish collaborative restoration work at a landscape scale. Current authority for stewardship contracting expires in September 2013.

## LANDSCAPE SCALE RESTORATION PRIORITIES

Through active forest management, USFS is restoring ecosystem structure, functions, and processes in order to improve the health and resilience of ecosystems across large landscapes. Through the proposed Integrated Resource Restoration (IRR) program, we expect to continue to collaborate using an inclusive process to find common ground across the many stakeholders and to leverage our investments for broader conservation impacts. IRR blends a cross-section of forest management activities, such as forest thinning to reduce hazardous fuels, decommissioning roads, and removal of fish passage barriers—all of which lead to improved forest and grassland health and watershed function. The Watershed Condition Framework, released in 2011, will help managers prioritize IRR activities. This framework provides a nationally consistent approach for classifying watershed conditions and allows us to track the number of watersheds that move to an improved condition in the long term.

In fiscal year 2011, we restored or enhanced more than 4.9 million acres of both public and private lands. We will continue to invest in and accomplish restoration on the ground. In fiscal year 2013, through IRR we propose to restore or sustain 2.6 million acres on National Forest System lands; provide 2.8 billion board feet of timber; decommission more than 2,000 miles of road; and restore or enhance 2,750 miles of stream habitat. By focusing on restoration outcomes, the IRR program empowers USFS managers and local communities to find the best, most-efficient way to meet their ecological, economic, and social objectives. For example, a landscape

thinning project may be accomplished under a combination of timber sales and stewardship contracts which reduces the threat of catastrophic wildfire, improves forest and watershed health and resilience, and removes unneeded erosion prone roads. These outcomes help reduce risk from threats like fire, insects, and diseases; provide clean, low-cost drinking water to communities; and maintain local infrastructure and jobs by creating economic opportunities such as uses for biomass and other forest products.

Our Forest Health Management program provides insect, disease, and invasive plant survey and monitoring information on forest health conditions on Federal and non-Federal (cooperative) lands and provides technical and financial assistance to prevent, suppress, and control outbreaks threatening forest resources and watershed conditions. Forest Health Management helps to implement the States' Forest Action Plans and focuses on the highest-priority areas and on high-priority pests, as identified by mapping and surveys. In fiscal year 2013, Forest Health Management will continue to utilize science, active land management, and technology transfer expertise to restore and sustain forest landscapes, across urban, private, State, tribal, and Federal forests, and create private sector jobs because of the expertise required to carry out this work.

The Collaborative Forest Landscape Restoration Program is a high-priority program that embodies our integrative, collaborative, landscape-scale restoration focus. In fiscal year 2011, Collaborative Forest Landscape Restoration projects implemented treatments to restore ecosystem resilience and adaptive capacity while generating forest products to help support local infrastructure and economies. Forest vegetation was improved or established on more than 26,000 acres; 121 million board feet of timber was sold; and approximately 268,000 green tons of woody biomass was made available for biomass or bioenergy-related production. Cooperators played a substantial role in fiscal year 2011 by providing more than \$8 million in additional funding. The fiscal year 2013 request supports the community-based Collaborative Forest Landscape Restoration projects chosen in fiscal year 2010 and fiscal year 2012. The Collaborative Forest Landscape Restoration Program is creating job stability by supplying a reliable wood and biomass supply for forest products and bioenergy production; improving forest health and wildlife habitat; and reducing fire suppression costs in overgrown forests.

#### RESEARCH PRIORITIES

USFS houses the world's largest forestry research organization. We conduct research that develops new technologies and brings cutting-edge science to bear on the sustainable management of the Nation's forests and rangelands. Long-term research from our experimental forests and rangelands contributes to an understanding of the impacts of forest disturbance on the natural and cultural resources of U.S. landscapes. This knowledge assists public and private land managers in identifying strategies to mitigate and adapt to forest stressors. Rigorous, applied research is also key to supporting new and emerging markets with innovations that enhance and diversify the forest products industry. Private investment in the forestry sector relies on USFS research. Finally, our social science research is critical to appropriately aligning agency activities with society's values and priorities for the Nation's natural resources and public lands.

The proposed funding will maintain essential levels of research in our high-priority and strategic program areas to ensure that we develop, apply, and deliver new knowledge and technologies that support sustainable management objectives. One high-priority program is Forest Inventory and Analysis, which provides the resource data, analysis, and tools needed to assess current status and trends of forests; management options and impacts; and threats such as fire, insects, and disease. In fiscal year 2011, USFS's Research and Development deputy area implemented the Forest Inventory and Analysis annual forest sampling in all 50 States (though we have not been able to sample interior Alaska), providing accessible data for 96 percent of the Nation. The data provides important information for private forest landowners to use in developing management objectives for sustainable management of private forests. In fiscal year 2013, Forest Inventory and Analysis will continue in all 50 States and seven reports will be published.

#### PLANNING, MONITORING, AND ANALYSIS PRIORITIES

Restoration efforts are guided by a continuous cycle of assessment, project planning and implementation, and adaptation based on information from inventory and monitoring. Consistent with the USFS's priority of landscape-scale conservation, our proposed Planning Rule emphasizes a collaborative, science-based approach with broad-scale monitoring strategies at the regional and national level for the National

Forest System. USFS managers collaborate with a wide variety of stakeholders to consider all interests affected or influenced by land management planning and project level implementation decisions. We are integrating and improving monitoring databases to enhance efficiency and transparency. These monitoring data provide baseline information from which managers plan the mix of goods and services for individual national forests and frame objectives for planning and subsequent restoration activities. The data helps managers set conservation objectives to sustain the health, diversity, and productivity of the National Forest System.

This budget proposes consolidation of the Land Management Planning and Inventory and Monitoring programs to form the single, integrated program of Land Management Planning Assessments and Monitoring. This new budget structure highlights the connectedness of these activities under the proposed Planning Rule. High-priority resource issues include watershed and ecological conditions; habitat needs for a number of species; visitor use and recreation objectives; forest disturbances; and other local, regional and national objectives. USFS units completed 58 plan assessments in fiscal year 2011—an initial step for determining the need to revise or amend land management plans in response to changing ecological, social, and economic conditions.

#### COMMUNITIES THEME

Communities continue to be a priority for USFS in fiscal year 2013. We are committed to engaging communities across the Nation to reconnect with the outdoors, expand recreation benefits, and harness the many economic opportunities our land management activities create in a way that supports diverse employment in forest-dependent communities. As part of the President's fiscal year 2013 budget, we request reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 for 5 years. The fiscal year 2013 proposal supports rural communities through assuming enactment of the fiscal year 2012 President's proposed reauthorization through mandatory funding.

We continue to develop successful collaboration with municipalities, nongovernmental organizations, and private companies at many levels. Through approximately 7,800 grants and agreements in fiscal year 2011, we engaged a wide circle of partners in land management projects and activities, leveraging agency investment for an additional \$616 million in partner contributions. In fiscal year 2013, this collaboration will continue to expand recreation opportunities, reconnect people with the outdoors, and use land management activities to create employment and sustain communities. Our budget request includes proposed language that would authorize the Secretary to enter into agreements with interpretive associations (including scientific, historical, educational, and other societies, organizations, and associations) to enhance visitor awareness and knowledge of the Nation's natural resources and cultural heritage, and to enhance and leverage our collective interpretive efforts. Based on our current efforts, we know that increasing collaboration with local communities can move conservation efforts from a scale of thousands of acres to hundreds of thousands of acres. The President's fiscal year 2013 budget strategically allocates resources to support exemplary local stewardship and collaboration models and to catalyze new partnerships and innovations.

#### LANDSCAPE SCALE CONSERVATION PRIORITIES

Restoration projects across broad Federal landscapes, such as the Collaborative Forest Landscape Restoration Program, are not sufficient alone to address the restoration needs and challenges of today. USFS's approach to land management focuses on landscape-scale outcomes through cross-boundary landscape conservation. We consider current and desired resource conditions across all ownerships—putting national forests and grasslands in the broader social, economic, and ecological context of the entire landscapes. Considering the well-being of communities adjacent to national forests, as well as urban populations that depend on forest-derived ecosystem services such as water filtration, is a top priority.

In fiscal year 2011, our State and Private Forestry programs competitively allocated \$19.8 million to State Foresters, supporting 72 projects in 47 States. These allocations enable USFS to leverage more than \$21 million in partners dollars and in-kind contributions. In fiscal year 2013, we propose to build on the success of our recent redesign of State and Private Forestry by combining funds into a Landscape Scale Restoration Program to continue our work with the State Foresters and engage multiple landowners across boundaries. This program helps address challenges like forest fragmentation and the conversion of forestland due to urbanization and other land uses. Through competitive grants, it will implement innovative projects

that address the greatest threats to forest sustainability, as identified by States in their Forest Action Plans.

The Forest Legacy Program is an incentive-based approach that uses easements to permanently protect non-Federal forest lands vital for wildlife habitat and rural jobs. The focus is on forest lands at risk of conversion to other (non-forest) land uses. To date, more than 2 million forested acres have been protected from conversion, ensuring a robust natural infrastructure to support rural jobs in the forest sector.

Through Land Acquisition, we work to consolidate non-USFS properties within or adjacent to national forest boundaries. These acquisitions protect critical ecosystem connectivity, enhance visitor access, and reduce expenditures associated with boundary management and fire suppression. This request includes up to \$25 million for support of the Federal Interagency Collaborative Land and Water Conservation Fund Initiative. This interagency partnership with the Department of the Interior will guide acquisitions in support of objectives set by the America's Great Outdoors Initiative, achieving targeted, coordinated Federal acquisitions that are locally driven and supported by local governments. The request also includes up to \$5 million to acquire land to open up additional access for recreational purposes, specifically to increase priority recreation access to National Forest System lands. USFS will use the funds to acquire parcels that provide access to National Forest System lands whereby access is not currently available or is impeded.

Just as we recognize the importance of conserving working forest lands in rural areas, we also support the creation of community forests that connect urban populations to nearby outdoor areas. Through the Community Forest and Open Space Program, we fund cost-share (matching) grants for the acquisition of community forests that provide public recreation and watershed benefits. Such benefits include enhanced drinking water quality, wildlife habitat, forest management jobs, and opportunities for wildlife viewing, hunting, fishing, and other outdoor experiences readily accessible to urban populations. In October 2011, USFS issued regulations to ensure a consistent and transparent program. We are in the process of soliciting applications to award the first projects.

#### RECREATION AND TRAILS PRIORITIES

USFS lands are a public treasure providing unparalleled outdoor recreation opportunities. Population growth and loss of open spaces contribute to ever-greater demand for high-quality recreation opportunities. Annually, more than 170 million visitors enjoy activities such as camping, picnicking, skiing, fishing, and hunting. The Recreation, Heritage and Wilderness Program provides the interpretive, outreach and infrastructure needs vital to connecting Americans to the great outdoors.

In response to the America's Great Outdoors Initiative, we are improving recreational access and expanding opportunities for youth and diverse populations. The Youth Conservation Corps creates jobs, as do expanded opportunities for private sector outfitters, guides, ski areas, and resorts. Through the Federal Interagency Council on Outdoor Recreation, we are implementing actions to eliminate redundancy and create seamless programs between the Federal agencies to increase recreation opportunities.

Our Trails program ensures public safety and backcountry access through the operation, maintenance, rehabilitation, and improvement of National Forest System trails, serving a wide constituency of visitors at a relatively low cost. In fiscal year 2013, we are prioritizing the designation of trails for motorized use, consistent with the Travel Management Rule. Our trail system also accommodates nonmotorized uses such as cross-country skiing, hiking, hunting, fishing, wildlife viewing, horseback riding, and mountain biking. In fiscal year 2011, partners contributed approximately \$7 million and maintained almost 5,500 miles of national and scenic trails. Through strengthened partnerships in fiscal year 2013, we will emphasize trail stewardship activities and youth programs.

Our proposed legislative language to make permanent our authority on administration of rights-of-way and land uses would ensure timely customer service, reduce the potential liability to the United States associated with uses on National Forest System lands under an expired authorization, and enable us to accept new applications to expand our support for local and regional economies. Special uses enable a wide range of public services that support thousands of jobs, from large-scale energy and communication transmission to small-scale outfitters and guides. Processing these permit applications is time intensive and expensive. Recovered funds will remain at the local office of collection to enable more-timely service to permit holders and applicants. The existing authority expires on September 30, 2012.

USFS assists in developing and sustaining urban forest infrastructure within cities, as well as connecting urban residents—especially youth—to recreation experiences in national forests. With more than 83 percent of all Americans living in metropolitan areas, USFS Urban and Community Forestry Program supports the active management of forests and trees in more than 7,000 communities, reaching 194 million people in fiscal year 2011. This program seeks to optimize benefits from urban forests by planting trees for carbon sequestration and energy conservation objectives. USFS research and development helps to create more livable and desirable urban areas and improve urban ecosystem services, like cleaner city air and water, through leading science and new technology. In New York City, for example, USFS's iTree tool provided baseline information about trees that has been a critical foundation for the MillionTreesNYC campaign. The Conservation Education program—through initiatives like “Children’s Forests” and “More Kids in the Woods”—builds on both long-term and new partnerships. In fiscal year 2011, more than 5 million children and families participated in environmental education, recreation, and related literacy programs on public lands and waters, increasing their understanding of the natural world and its benefits.

#### FACILITIES AND ROADS MAINTENANCE PRIORITIES

Maintenance of physical infrastructure—including the best and safe use of over 40,200 buildings for administrative, recreation-related, and other uses, approximately 373,000 miles of roads (102,000 miles are closed, but provide options for future use) and 6,200 bridges—is an important priority in fulfilling USFS mission. Maintaining our facilities saves money over time and provides for safe, pleasurable, and accessible sites for the public’s enjoyment while recreating. In fiscal year 2013, strategic investments in facilities and infrastructure maintenance will reduce our agency’s environmental footprint and save money by lowering energy costs. This budget request proposes deferring new facilities construction when other cost-effective and reasonable options exist.

This budget request also prioritizes road maintenance to ensure we protect water quality, meet Highway Safety Act standards, and meet the need for motorized use, as identified on USFS motor vehicle use maps. We also emphasize replacing deficient bridges, upgrading stream crossings, and providing a transportation system to and from timber and stewardship project sites that support local jobs and our collaborative restoration priorities.

#### FIRE THEME

Our final priority for the fiscal year 2013 budget request reflects the President’s commitment to a responsible budget for WFM. We will continue to partner with States, communities, and other Federal agencies to maximize our suppression capabilities and support community efforts to reduce direct threats from wild fires.

Wildland fire is a natural and necessary component of restoring ecosystem resilience in fire-adapted ecosystems. In many places, drier conditions and longer fire seasons, along with invasive species like cheatgrass, have further altered the timing and pattern of fire, making fires bigger and harder to suppress. Addressing these challenges will reduce fire risk to communities and maintain and create jobs through activities that restore ecosystem resilience.

The cost and complexity of both fuels treatments to reduce fire risk and wildfire suppression have gone up due to growing numbers of housing developments adjacent to wildlands and other factors. In this context of more costly fire management, we continue to refine our use of decision-support tools. These tools help us allocate resources more efficiently and to adopt appropriate risk management principles. Further, we responded to the Federal Land Assistance, Management and Enhancement (FLAME) Act of 2009 by collaborating broadly to develop the new National Cohesive Wildland Fire Strategy. The strategy is designed to:

- Restore and maintain resilient landscapes at a regional and sub-regional scale;
- Create fire-adapted communities; and
- Respond to wildfire effectively through partnerships among local, State, tribal, and Federal fire organizations.

The Nation depends on USFS to take proactive measures to reduce the threat of wildfire. By working proactively to re-establish fire-adapted ecosystems, we can reduce the costs associated with catastrophic wildfire. The proposed budget for fiscal year 2013 would direct fire management resources toward the highest-priority areas while maximizing cost-effectiveness. We are ready to protect life, property and community, and public safety.

## FUELS REDUCTION PRIORITIES

The Hazardous Fuels budget line item for fiscal year 2013 focuses on treatments in the wildland-urban interface (WUI) and other high-priority areas with a target of 1 million acres vital to protecting lives, property and public infrastructure. The priority for these funds is in WUI communities that are working to achieve firewise standards, have demonstrated local investment, and that have developed a community wildfire protection plan. The agency will continue to emphasize the importance of community wildfire protection plans by prioritizing hazardous fuels treatments in WUI areas that are identified in these plans. This funding is also used for grants that encourage woody biomass utilization and to facilitate market development for the biomass removed from the landscape through fuels treatments.

Biomass for energy is an important byproduct of hazardous fuels reduction and restoration work. Currently one-quarter of all renewable energy consumption comes from wood. Biomass utilization is important because it helps diversify the forest products industry and creates new markets that ensure alternative uses for material that would otherwise be piled or burned at the treatment site. With active management, America's forests can sustainably supply woody biomass for fuels and high-value chemicals and help meet national energy, environmental, and employment goals.

In fiscal year 2013, USFS plans to reach out to municipal water providers and pursue additional investments to protect water supplies. For example, three of the five major Front Range water utilities (in Denver, Aurora, and Colorado Springs) have invested nearly \$34 million in forest thinning treatments to reduce wildfire risks. Our strategy is to attract investments from all Front Range cities and to substantially increase amounts invested by those cities and other partners through matching USFS funds.

The hazardous fuels management efforts compliment restoration activities conducted through Integrated Resource Restoration and the Collaborative Forest Landscape Restoration Program to reduce fuels, restore forest landscapes, and protect communities. These projects leverage partner investments through innovative collaboration to restore landscape resilience across 50,000 acres or more. Contracted services for fuels reduction in core forest zones provide jobs, as do the forest products and woody biomass utilization activities that result from fuels removal and reduction.

## PREPAREDNESS PRIORITIES

The second way we are responsibly addressing WFM with this budget request is through our preparedness program, which ensures the capability to protect life, property, and natural resources while assuring an appropriate, risk informed and effective response to wildfires, consistent with land and resource management objectives.

The preparedness program pre-positions resources as needed to ensure an appropriate, risk-informed, and effective wildfire response. This budget also includes \$24 million to pay for the increased costs of modernizing the firefighting large airtanker fleet. We are soliciting bids for modern airtankers to complement the remaining 11 in our fleet.

## SUPPRESSION PRIORITIES

The suppression program combined with the FLAME Wildfire Suppression Reserve Fund, meets the funding level at the 10-year average cost of suppression for fiscal year 2013. Wildland fires continue to be larger and more difficult to suppress due to many factors including longer fire seasons, fuel accumulation, and the increased size and complexity of housing developments adjacent to or in forested lands.

In fiscal year 2011, USFS contained more than 97 percent of the fires we managed during initial attack. Wildfire response decisionmaking is evolving based on risk-informed analysis that reduces exposure to wildland firefighters while ensuring that high-value resources are protected. The results of these decisions allow us to manage fires more cost-effectively while achieving agency land management objectives by enabling fire to play its natural role in restoring landscapes. For fiscal year 2013, the suppression, preparedness and FLAME budget request continues to emphasize our efforts related to strategic risk assessment and programs to improve wildland fire operational decisions and meet overriding objectives of maintaining public and firefighter safety. These efforts are expected to result in significant increases in the effective and efficient use of agency resources.



For the few fires that escaped initial attack, the percentage that exceeded expected containment costs fell from 39.7 percent in fiscal year 2010 to 20.8 percent in fiscal year 2011, a notable achievement in responsibly budgeting for fire suppression. Implementing the agency's broader restoration goals will lead to further progress. Given the highly variable nature of fire seasons from year to year, the FLAME Wildfire Suppression Reserve Fund ensures our ability to cover the cost of large, complex fires that escape initial attack.

#### GAINING EFFICIENCIES AND COST CONTROL MEASURES

We must be efficient and effective in meeting our mission and delivering services to the American people. We have been gaining efficiencies and managing costs and our workforce to achieve our mission in the past and will continue to do so. We are making difficult choices to work better and leaner to live within constrained budgets. USFS's fiscal year 2012 target for cost savings is \$44 million. Reduced travel accounts for \$14 million of these savings. An additional \$30 million is achieved through new acquisition management procedures including the use of strategic sourcing, competitive and/or performance-based contracts, and ongoing training of contracting staff to better manage contracts.

Our efforts to gain efficiency in fiscal year 2012 and this fiscal year 2013 budget request focus on implementing the President's Executive order, "Promoting Efficient Spending". We identified reduced spending levels in travel, information technology, printing, fleet and promotional items. We have planned a \$100 million reduction in cost pools over the course of fiscal year 2013 and fiscal year 2014. We are also implementing the Department of Agriculture (USDA) Administrative Solutions Project to reduce redundancies and take advantage of existing resources across USDA. We will also continue our strategic investments in safety and cultural transformation for our employees. These efforts will enable employees to spend less time on operational functions and more time on priority work in a safe, healthy, and productive manner. We expect these efforts to result in costs savings in the future. We also estimate that our workforce will be reduced by nearly 1,500 full-time equivalents between fiscal year 2011 and fiscal year 2013. This level of reduction is within our average annual attrition rate. We will continue to manage our workforce and organizational changes to provide service at the local level.

#### CONCLUSION

USFS's fiscal year 2013 President's budget aligns with priorities set by the administration and USDA while balancing the need for fiscal restraint. The magnitude and urgency of forest restoration work, along with the demand for safe, accessible outdoor recreation opportunities, are growing in a context of declining budgets. This means that the agency will face unprecedented fiscal challenges in the next few years. USFS must act strategically and tackle fiscal challenges directly, focusing our resources on continuing to provide services and goods to the American public.

Through landscape-scale conservation, our three funding priorities of restoration, communities, and fire will pass on to future generations the water, wildlife habitat, renewable resources, scenic beauty, and other natural riches that Americans enjoy today from their forests and grasslands.

Mr. TIDWELL. Again, Mr. Chairman, I want to thank you for this opportunity to be here, and I look forward to answering your questions.

Senator REED. Well, thank you very much, Chief. We will hear from Senator Feinstein. Senator Feinstein, do you want to make a brief comment, as our colleagues have, before we begin the questioning?

Senator FEINSTEIN. I would like to talk about firefighting, so I will wait my turn. Thank you very much.

Senator REED. Thank you, Senator Feinstein.

Again, Chief, thank you for not only your testimony today, but your leadership. We'll do 8-minute rounds, and I'll anticipate we will do at least two, for those who want to stay for the second round.

Senator Feinstein, Senator Murkowski, and I, all have mentioned the issue of fire suppression. One of the annual challenges we have is to ensure you have the appropriate resources to deal with fires.

You might begin by letting us know what your sense is for this fire season, given the weather, modeling and other data that you have, as to will you have the resources, do you expect a very challenging fire season this year?

#### FIRE SEASON 2012

Mr. TIDWELL. Mr. Chairman, our predictive services, when they put out their last report the first of April, indicates that we will have a fire season similar to what we had last year. That is based on getting some favorable weather that will continue to occur in the Northwestern part of the country and also through the Central part.

If that does not occur, then we anticipate that we will probably have a more active fire season than we did last year. We are prepared with the resources, the crews that are in place, the large helicopters, and we are moving forward with acquiring some additional large airtankers under contract, to better enable us to deal with this fire season.

A lot will depend on the weather. But we have already seen some very active fire behavior here in the East. We had the tragic fire out in Colorado just a few weeks ago in March. Today, we have a very large fire burning here in Virginia, on the George Washington and Jefferson National Forests. We have a Type 1 team that we have had to deploy under that fire today.

We are seeing an active fire season right now, and a lot will depend on how the weather develops over the next 30 to 60 days; that will determine just how difficult this season will be.

Senator REED. Thank you. Along with Senator Feinstein, I'm interested in your aircraft modernization program.

In February, you released a strategy, a large airtanker modernization strategy; there's been several strategies, but what we need is a plan. Specific numbers of aircraft, whether they'll be acquired, or they'll be leased. To what extent will you have to rely upon Air National Guard C130J's to supplement, or helicopter supplements.

Can you describe the plan you have in place, for this season, for the aircraft, the number you'll have available, the types of availability, and the adequacy of that plan?

#### AIRTANKER MODERNIZATION

Mr. TIDWELL. Well, our plan not only for this year but for the future is to move forward and acquire additional contracted aircraft. For this year, we expect to bring on three additional aircraft to supplement what we currently have. This will give us 14 large airtankers for this year.

We are also bringing on two water scoopers down from Alaska to augment the fleet down here, and we will also have one very large airtanker that will be available.

In addition to that, we have brought on some additional, Type 1 helicopters. These are helicopters that can carry almost as much water as the large airtankers can retardant.

They are very effective and a little more expensive, but we have brought on additional large helicopters for this year.

As we move forward, we expect to bring on 10 additional aircraft next year. These will all be contracted aircraft. This is what the \$24 million part of our request is for. We anticipate that the new aircraft will be a faster aircraft, and they will have a little larger capacity.

It will be a little more expensive than what our current costs are. We are going to need \$24 million to be able to cover the additional costs for probably up to an additional 13 planes next year.

For next year, I anticipate we are going to be in much better shape. This year, we are down and we will be down at least 4 large airtankers from what we had at the start of last season, but we are bringing on those additional large helicopters.

#### MODULAR AIRBORNE FIREFIGHTING SYSTEM

In addition to that, we will probably have to rely and depend on the Modular Airborne Firefighting System (MAFFS) units again, like we did last year.

We have been using those MAFFS planes for 40 years. Even in the past when we had the large number of large airtankers we would often hit periods of time during an active fire season where we needed to rely on that additional capacity.

It works out very well because they are ready to go early in the season. They are ready to go late in the season, and we have continued to appreciate the partnership we have with those units. I can assure you that we are in constant communication to make sure that if those planes would not be available, that we would know about it ahead of time, and then we can make additional plans.

All indications are that those units are ready, and ready to fly when we need them. We will probably have to rely on those a little bit more than we have in the past.

Senator REED. My final question with respect to this issue of the aircraft is that I think the number in this year and next year is roughly 13?

Mr. TIDWELL. I expect we will probably have 14 this year.

Senator REED. Fourteen. But your long-term strategy calls for somewhere between 18 and 28.

Mr. TIDWELL. Yes.

Senator REED. So the obvious question is, how do we get from 14, let's say, to double that literally in the timeframe you're talking about with your strategy?

#### AIRTANKER LONG-TERM STRATEGY

Mr. TIDWELL. With the request for proposals that we put out a few months ago, we anticipate to bring on 3 additional aircraft this year, and then up to 10 additional aircraft next year. Those will all be contracted.

An ideal situation would be at this time next year, I would be reporting to you that we have 23 to 24 aircraft that are available for the 2013 fire season.

Senator REED. And that would be based on the \$24 million incremental funding?

Mr. TIDWELL. Yes.

Senator REED. Very good.

Just a final question I have, and I might revisit this one, and that's the integrated resource restoration.

You know, last year's appropriations bill provided the flexibility to conduct your pilot in three regions. This year's budget with full funding without essentially the results of the pilot, in a way, might be anticipating the results.

We would like to see the results. So, can you comment very briefly?

#### INTEGRATED RESOURCE RESTORATION

Mr. TIDWELL. Mr. Chairman, we will be sending up our plan that not only lays out how those funds are allocated, but how they will be used, and how they will be able to account for what is produced from those funds throughout the year.

At the end of the year, I look forward to when we can come up here and actually show what we have accomplished by having the flexibility that this fund affords.

I recognize that we need to first show you that this is a better way through the pilot. At the same time, I would not be proposing this if I did not think it was a better way, and if I did not have the confidence that we can demonstrate that this will be better.

So I understand I first need to prove it, and we will be doing that and I look forward to working with you.

Senator REED. Thank you very much.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Just to follow on that, Chief. If I understand what you are saying, you are asking within this budget request for the full-on IRR proposal. And yet, you say you are not going to be in a position until the end of this year to basically be able to show the accomplishments.

Mr. TIDWELL. Yes.

Senator MURKOWSKI. So this is kind of a "trust me" moment. And I think you heard last year from this subcommittee that we were willing to move forward with the pilot, but we wanted to see step by step.

So, since we're in this "trust me" time, can you tell me how, whether or not, you've issued any guidance to the field on how to implement the authority, what performance measures you are using currently to evaluate the pilot, and then, how we'll be able to assess whether or not this pilot is actually more effective than how the regions operated under the current budget structure?

Can you give me a little bit more than just say, wait until the end of the year?

Mr. TIDWELL. Yes, Senator.

#### INTEGRATED RESOURCE RESTORATION DIRECTION

As soon as the bill was passed, we sent out directions to the three pilot regions about how to move forward with using the Integrated Resource Restoration budget line item, and then allocated their percentage of those funds to those three regions.

At the same time, we laid out that they need to be able to track our accomplishments: the amount of timber that's harvested, the number of acres that are going to be restored, watershed conditions improved, the number of miles of stream that are restored, and the miles of road that are decommissioned.

In addition to that, we set up a watershed condition framework. We had taken every one of the watersheds across all of the national forests and grasslands, and developed criteria that puts them in a specific category so we know what their current condition is.

These three regions would then be able to track how they actually made a change and improved the condition in those watersheds in addition to the outputs that we will be tracking.

This will be part of the plan that we will have up here hopefully in the next few weeks to be able to share with you. Then, at the end of the year, to be able to come up here and show what work we were able to get done.

And then also to compare with what we have done in the past, in these same regions, with the same level of funding.

Senator MURKOWSKI. And I think we'll all look forward to seeing that plan when you bring it up then.

Let me ask you a little bit about this lawsuit out there, the *Sequoia ForestKeeper* decision that deals with the categorical exclusions.

As you heard in my opening comments, I think that this could have some considerable repercussions within the Agency. Can you tell me what the current legal status of the case is, and whether or not the USFS plans to appeal the decision?

#### SEQUOIA FORESTKEEPER VS. TIDWELL

Mr. TIDWELL. There have been numerous discussions with our attorneys about what the next course to look at this, and a decision has not been made on what is the next legal step to take.

Immediately though, we started looking at how we could move forward. We sent out direction to the field that for these projects that would be covered under a decision memo, we wanted them to go ahead and put out a 30-day notice, for notice and comment.

If we don't receive any substantive comments, then we can go ahead and move forward with the project. As you pointed out, that if we do, then we also have to allow for an appeal process that could easily delay these projects up to 140 days like you mentioned.

There are 600 of these projects that were ready to move forward in the next 90 days. Not only on some of the minimal operations that you mentioned in Alaska, but there are more than 200 associated with oil and gas operations, primarily in North Dakota.

More than 90 are hazardous fuel projects that we had planned to move forward with and do that work.

Senator MURKOWSKI. Is that 600 projects across the Nation then in all of these different areas? Whether it's oil and gas, mining, et cetera.

#### IMPACTED PROJECTS

Mr. TIDWELL. Yes. There are 600 total that were planned to go forward in the next 90 days. Of that 600, there are more than 200

that are associated with oil and gas operations, and more than 90 with hazardous fuels. There are at least six in Alaska, just dealing with mining activities.

Senator MURKOWSKI. So, will the USFS notify these permit holders and the contract holders if their operations next season are going to be delayed or cancelled because of this decision out there? How does that work?

Mr. TIDWELL. We will need to do that. I am optimistic that many of these projects, after the 30-day time limit for public notice and comment, will be able to go forward.

As you mentioned, the one project, I would assume that is one that after 30 days, we would not get any substantive comments on it, so we could just go forward with it.

Senator MURKOWSKI. But, we're assuming that that's going to be the case. We get lucky, basically?

Mr. TIDWELL. Well, I need to remain optimistic as much as I can on this. I do expect that there will be some, if not many of these projects that we will probably need to go through the appeal process on, and there will be significant delays.

Senator MURKOWSKI. Well, and you've been able to detail the number of projects. Do we have any estimate on the number of jobs that we're talking about, the number of different economic activities that could be potentially delayed or held up because of this? Have you done that kind of an assessment?

#### ECONOMIC IMPACTS

Mr. TIDWELL. We have not done that yet. That is something we could pull together, especially for the projects because of our short field season in some parts of the country, that we would not be able to implement this year.

If we need to wait 30 days for notice and comment, that will not be a significant impact, and we will be able to move forward with those. We will track the potential job impacts, and we can get back to you on that.

#### PREDECISIONAL OBJECTION PROCESS

Senator MURKOWSKI. I'd appreciate that.

Now, last year, in the Interior, environment, and related agencies bill, section 428, we gave you the authority to promulgate regs, that use the Healthy Forest Act predecisional objection process instead of the process under which the Federal court found that you couldn't use the categorical exclusions.

So I guess the question to you is whether or not you plan to issue these kinds of regulations pursuant to section 428, and whether or not the issuance of these regulations through this section would be an opportunity to perhaps fix what we're dealing with with this court decision?

Mr. TIDWELL. First, we do plan to move forward with rule-making, to be able to use this predecisional objection process, that will actually be a better process. It allows us to have that additional discussion before the final decision is made.

It supports our collaborative efforts very well. Part of the legal discussion that has been going on is if it would also give us an op-

portunity to address the current court order to use common notice and appeals on categorical exclusions.

I am not sure if it will. It may not because the appropriations language was very specific to Environmental Assessments (EA) and Environmental Impact Statements (EIS), and it did not mention categorical exclusions. It is one of the things our attorneys are looking at, and we will have to get back to you on that.

Senator MURKOWSKI. Okay. Can you update the Committee, the subcommittee, when you know?

Mr. TIDWELL. Yes.

Senator MURKOWSKI. I think it is an area where we looked and said, okay, we might be able to get around this, this court decision, which I think you and I would both agree, has the potential to really snarl things up through a process.

And, if in fact, we have allowed for a fix last year, it would certainly seem to me that that would be one way to try to approach the problem. So, if you can just keep us current with that, I'd appreciate it.

Mr. TIDWELL. I will. I look at the predecisional objection process as really a better way. It still provides the opportunity, especially on EAs and EIS.

With categorical exclusions, because of the type of projects that we have to do I have already addressed all of the potential environmental impacts prior to using the categories.

Hopefully, we will be able to find a way forward with this so that those type of projects can move forward rather quickly.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Senator REED. Thank you very much.

We are following the early bird rule so I'll recognize Senator Tester and then Senator Feinstein.

Senator TESTER. Well, thank you, Mr. Chairman.

And, once again, I want to thank both you, Chief, and Susan, for your service.

I want to flush out a little bit more about what the chairman talked about in his questioning about the planes. The number of planes has declined, with tankers from 43 in 2000 to 11 in 2011.

I've had the opportunity over the last year to be all over the West pretty extensively, and, of course, you know, I farm in Montana. So weather is something that I pay particular attention to, and I know that the snow pack is claimed to be average up in the high elevations. I don't know if that's true. I talked to a couple of ranchers this morning and said if there's a lot of snow up there, they haven't seen it.

So, the question becomes that sets us up for a pretty potentially big fire year. I know we do a lot of praying and we say, you know, if it's the same as last year, I mean, if we get decent rainfall, it could be the same as last year. And last year, at least in my neck of the woods, it was a pretty decent fire season from a cost standpoint.

You talked about going from 11 to 14 this year. There's three more tankers that you're going to contract for. When do you anticipate those contracts to be let?

## AIRTANKER CONTRACTING

Mr. TIDWELL. Hopefully within the next 30 days, we will be able to make the decisions on the proposals that were submitted.

Senator TESTER. Okay.

Mr. TIDWELL. Then there will be a period of time that the aircraft will be able to demonstrate that they can meet our standards for retardant and delivery. We are optimistic that we will be able to bring on another three planes this year.

Senator TESTER. Okay. And I am familiar that you said that these planes are going to be faster so they're going to be a little more expensive, and I am familiar with what you're talking about.

The question becomes, is there an analysis to know if the delivery of the product onto the fire is more cost beneficial with these bigger, more expensive planes? Maybe not bigger, but faster planes.

## AIRTANKER DELIVERY STUDIES

Mr. TIDWELL. The information we have from the studies that have been done is that if we have a larger payload, ideally up to around 3,000 gallons, and then deliver it in a way that penetrates the brush and the heavy timber like up in your country, that is the type of delivery system that we need.

Also, with the larger tank, they can split their loads and be able to drop two or maybe three from the same load. So that is where the efficiencies are gained.

We are also moving forward with a study to put additional equipment into these aircraft so that we will be able to collect more information about their effectiveness. Not only how often they hit right where the ground crew are requesting retardant, but how it was delivered.

By this time next year, we are going to have additional information that will help us as we move forward with determining just what is the right mix of aircraft. I want to stress that we are going to need a mix of aircraft. We are going to rely on our current contractors to keep delivering those resources.

We are going to need some additional contractors to come on-board to provide aircraft for us.

Senator TESTER. Okay. And because you talked about a mix, so I do want to talk about helicopters for a second. You said that it was potentially—well, maybe not potentially, I don't want to put words in your mouth—that there will be additional helicopters this year.

Could you tell me what that increase would be, and where we're at, and where it would be after the increase is done?

## FIREFIGHTING HELICOPTERS

Mr. TIDWELL. We are contracting for four additional of the Type 1, which is what we call our heavy helicopter. Last year we had 26 of those, and then we had eight Type 2s that were available for really large fires.

In addition, there is another 90 helicopters that are available for initial attack. By going with four more of the large helicopters, it gives us more capacity than what we had last year.



However, there are additional costs. We had to put another \$4 million into those contracts just to start the season.

Senator TESTER. Okay. So and I know you're going to say, just fine, but can you tell me how confident you are between the airtankers and the helicopters that will be available to shut the unwanted fires down when they occur in a timely basis and effectively deal with the other ones as your management plan dictates?

#### FIREFIGHTING ASSET CONFIDENCE

Mr. TIDWELL. I have a lot of confidence in our firefighters ability to do the job and the mix of resources. I acknowledge we are short of large airtankers. I would feel much more comfortable if we had another four, five, or six of those available this year.

We will probably be quick to call on the MAFFS units to bring on those additional aircraft. With the MAFFS units, we will be well prepared to be able to deal with this fire season.

However, if it becomes much more active than what we currently predict, which it could, there will be times like in years past, when there will be a shortage of resources in the near term during initial attack. And we will have to deal with that just like we have had to in the past.

Senator TESTER. Are you familiar, I talked about a team with H.R. 1581? It appears to me that at a time where you guys are trying to get some stewardship stuff done, I think you've got about a \$6 billion backlog in roads as it is, that we're going exactly in the wrong direction.

Hunter and fishermen interests aside, we're going exactly in the wrong direction for what you guys are trying to get accomplished. Has the Department taken a stand on H.R. 1581 and its impact on outdoor activities?

#### H.R. 1581

Mr. TIDWELL. I don't have a position on that bill yet. I can tell you that there is very strong support to maintain the undeveloped character of our back country, the roadless areas in this country, to provide recreational benefits, clean water, and wildlife benefits that come out of that land.

What I want to focus on is being able to address the restoration needs and the millions of other acres, the roaded part of our country. It is often adjacent to our communities, that we need to restore, to make these areas much more resilient to fires, insects, and disease.

You mentioned our road backlog. There are many places in the country—because of the erosion—that are coming off of the road system, it is limiting some of our management options.

If we could ever get on top of that to the point where we could eliminate those concerns, it would free up and give us more flexibility to do restoration work and the timber harvest that needs to be done on these lands.

Senator TESTER. I agree.

Very quickly. Region 1 has been honored to have the regional forester become the chief or the deputy chief in the USFS. You, in fact, yourself, made this jump.

We have had now four regional foresters leave the region in the last decade and they've been darn good people. You're one of them.

The management and oversight, continuity in that region takes a hit because of that. We are in kind of, between a rock and a hard place, so to speak, because although we'd love to have the regional forester become the person in your position, it does impact continuity.

What steps since Leslie has left are you taking to get a new Director and are you concerned about the continuity in region 1, being intimately familiar with that region, as I am?

REGION 1

Mr. TIDWELL. I am with every region and every station whenever we have a change in leadership. I am very pleased with the work that the regional foresters have been doing for us.

I can assure you that the next regional forester, who I can at least say will do a better job than I did—I will not say she did a better job than the last one.

I will say that the next person will do a better job than I did up there for you.

Senator TESTER. How about the length, the continuity?

Mr. TIDWELL. I would hope in the future that our regional foresters can stay in place a little bit longer than at least the last couple have stayed up there.

I can assure you that the people that will be stepping into those positions have the experience, they have decades of experience in dealing with these resources. When they do step in, they will be ready to go and will be able to continue to provide the leadership that is necessary in our regions.

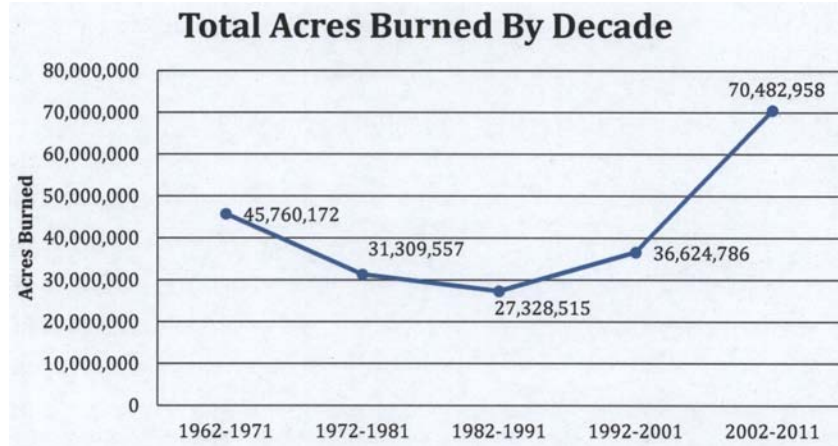
Senator TESTER. I appreciate that. They have been top flight, I agree. Thank you.

Senator REED. Senator Feinstein.

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

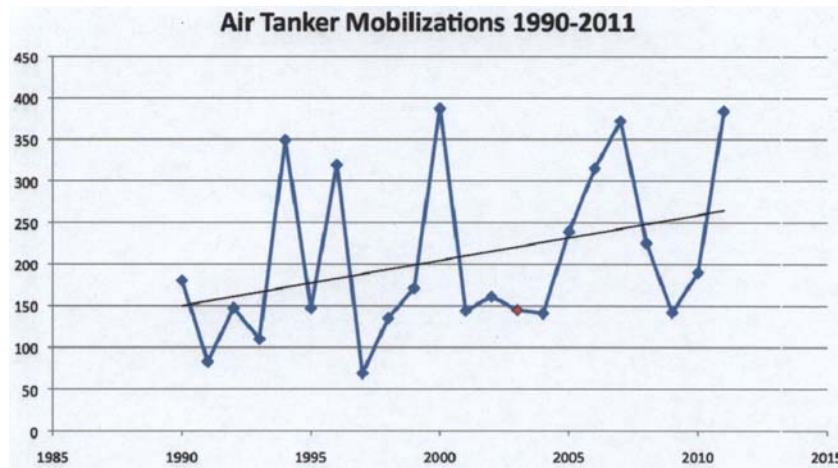
Mr. Tidwell, you know, I think we're all really very concerned about what's happening. The President's budget for you is up about 1 percent. And yet, I want to show you fires.

Here are "Total Acres Burned By Decade". And you can see from 2002 to 2011, 70,482,958 acres.

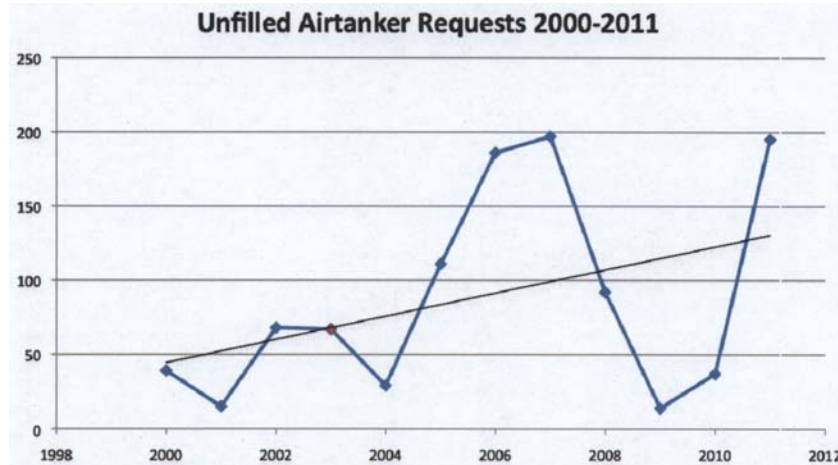


So you can see, there was a decline, 1982 to 1991, and from that point on, acreage burned has gone up. Here are the numbers of times planes were used.

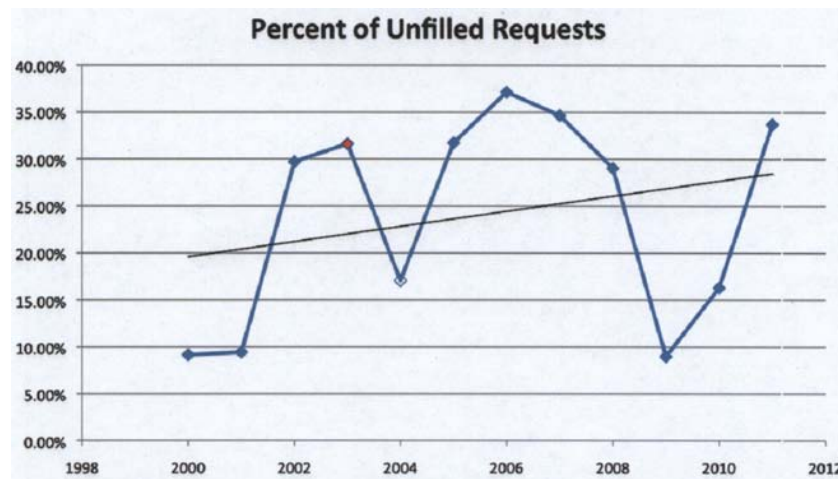
Do we have the one on planes? Could we put that up?



Shows the total number of times airtankers were used between 1990 and 2011.



Shows the number of times a request for a tanker was not filled.



The percentage of unfiled requests compared to the sum of filled and unfiled requests.

Senator FEINSTEIN. Oh, the number of times planes were used. And you see the line going straight up. So we have more acres burned, more need for planes. And I want my staff to bring you down a copy of a letter that you received on March 7 from CAL FIRE. I don't know if you have that in front of you.  
 [The information follows:]

STATE OF CALIFORNIA—NATURAL RESOURCES AGENCY,  
DEPARTMENT OF FORESTRY AND FIRE PROTECTION,  
*Sacramento, CA, March 7, 2012.*

The Honorable TOM TIDWELL,  
*Chief, USDA Forest Service,  
Washington, DC.*

DEAR CHIEF TIDWELL: The California Department of Forestry and Fire Protection (CAL FIRE) and the United States Forest Service (USFS) Region 5 have a long history of cooperative fire protection, including an integrated air attack program. Air attack bases were located throughout the State based on a maximum 20 minute response time to any location, including both State Responsibility Area (SRA) and National Forest lands. CAL FIRE's fleet of 23-Type 3 airtankers, mixed with the assigned Federal Type 1 airtankers, provided a mixture of aircraft to meet our joint initial attack goals, as well as the needs of extended attack and major fires.

The reduction in the number of Federal airtankers from 43 in 2000, to 11 in 2011, has resulted in significant impacts on this integrated system, placing an increasing burden on CAL FIRE aircraft to respond to fires on National Forest lands. Initial and extended attack fires on Federal lands are increasing the flight hours on CAL FIRE's airtankers and reducing their availability for response to new fires.

The USDA Forest Service Large Airtanker Modernization Strategy (Strategy), released on February 10, 2012, is long overdue and is a critical step toward identifying the next-generation large airtanker platform. I have concerns, however, that the Strategy falls short in several areas:

- The Strategy does not reference the individual needs of the States. The Federal aviation program is critical to meeting the fire protection goals of the States as well as those of the Federal agencies, especially in California. Fire fighting aircraft are a very limited resource and, therefore, it is critical that the national strategy include collaboration with the States to ensure the plan provides for efficient and integrated use of all assets.
- The identified optimum number of 18 to 28 aircraft is insufficient to meet the needs of the combined Federal, state and local wild land firefighting missions. As the Strategy indicates, the current drought cycle will continue through the next decade, only exacerbating the already dry fuel conditions and potential for extreme fire behavior. Over half of California's most devastating fires have occurred within the last 10 years. The Federal aviation program must build capacity back to a level that adequately supports the initial and extended attack needs, both nationally and within individual states. I am concerned that during periods of multiple large fires in other Regions, California will be left with an insufficient number of Federal aircraft to meet the normal initial and extended attack workload. This places additional burden on CAL FIRE and local government aircraft and risks additional large fires that threaten lives and natural resources.
- The Strategy identifies a desire to look at dual mission aircraft that can transition from delivering retardant to transporting cargo or fire fighters. It is critical that aircraft identified as airtankers remain dedicated to initial attack response and that retardant systems be designed for the most effective delivery and application of retardant. Switching between multiple functions often leads to a reduction in performance for any given task.
- The Strategy does not adequately address the potential use of very large airtankers (VLATs), especially for the extended attack incidents. The VLAT should be considered to meet your interim needs, and as part of your long-term strategy. Use of the VLAT on extended attack incidents, where large amounts of retardant are required over extended periods of time, could free up other airtankers for initial attack incidents where they are arguably more effective.

CAL FIRE has maintained its own aviation program in California for many years and has worked very closely with our Federal partners. We have a vested interest in an effective national aviation program that supports all of our missions. Unless there are a sufficient number of Federal airtankers, CAL FIRE cannot continue to support extended attack fires on Federal lands without adversely affecting our aviation program.

States stand ready to assist you in developing and implementing a plan for the appropriate number, type and location of Federal airtankers. I look forward to discussing this issue with you and Tom Harbour in the near future.

Sincerely,

KEN PIMLOTT,  
*Director.*

cc: (USFS) James Hubbard, Deputy Chief for State & Private Forestry  
 (USFS) Tom Harbour, Director of Fire and Aviation Management  
 (USFS) Randy Moore, Regional Forester Pacific Southwest Region  
 (CAL FIRE) Andy McMurry, Deputy Director, Chief of Fire Protection  
 (CAL FIRE) Caroline Godkin, Deputy Director of Legislation

#### FIREFIGHTING CAPACITY

Mr. TIDWELL. I do, Senator.

Senator FEINSTEIN. You do.

I've underlined certain parts of it, and I'd like you to follow along. Well, CAL FIRE's fleet of 23 Type 3 airtankers mixed with the assigned Federal type 1 airtankers provide a mixture of aircraft to meet our joint, initial attack goals, as well as the needs of extended attack on major fires.

And then he points out what the reductions are. And he says, initial and extended attack fires on Federal lands are increasing the flight hours on CAL FIRE's airtankers and reducing their availability for response to new fires. And then he talks about your strategy.

I have concern that the strategy falls short in several areas. And the one I would talk of the identified optimum number of 18 to 28 aircraft is insufficient to meet the needs of the combined Federal, State, and local wildland firefighting missions. The current drought cycle will continue through the next decade.

I'm concerned that during periods of multiple large fires in other regions, California will be left with an insufficient number of Federal aircraft to meet the normal initial and extended attack workload.

Now, here's the deal breaker. Unless there are a sufficient number of Federal airtankers, CAL FIRE cannot continue to support extended attack fires on Federal lands without adversely affecting our aviation program.

So what this is saying is if you're going to provide, you know, reduced ability, CAL FIRE is considering stopping fighting fires on Federal land, and we have huge amounts of Federal land in California.

Where do the new helos come from? You're cancelling four helos, three of them in California, is that right?

#### FIREFIGHTING HELICOPTERS

Mr. TIDWELL. Those were the smaller Type 2 helicopters.

Senator FEINSTEIN. But you're cancelling four, right?

Mr. TIDWELL. We replaced those. We actually have eight less of the Type 2 helicopters, and we are bringing on four Type 1s which actually will carry more, have more capacity, and are able to deliver more water per hour than those eight.

Senator FEINSTEIN. How many will be available during fire season in California?

Mr. TIDWELL. Depending on what's going on in California, Type 1 helicopters could be in California.

We move these resources to where the fire season is starting to increase, and we pre-position these large helicopters to be available.

They are not the helicopters that we rely on for initial attack. These are large helicopters that are dedicated to fire suppression,

the large fires. And so we will move those and pre-position them wherever in the country we need them.

Senator FEINSTEIN. You're staying that 30 of these helicopters will be available in California during fire season?

#### HELICOPTER POSITIONING

Mr. TIDWELL. They could be, depending on what's going on in California, and the rest of the country.

Senator FEINSTEIN. Could be.

Mr. TIDWELL. We also have our initial attack helicopters that will be located throughout the State. This is one of the things that we are also looking at, especially as the fire season develops. If we need to bring on additional helicopters over the next 30 to 45 days.

It is one of the things we are considering, to actually bring on some additional helicopters depending on how this fire season develops over the next 30 to 45 days.

Senator FEINSTEIN. Well, I'm concerned because I know CAL FIRE, and they don't say things that they don't mean. And I'm worried that we're on our way to a confrontation which is not going to be helpful.

And, you know, we've got big national forests up in the Tahoe Basin, up in the northern part of the State. You've got the Los Angeles National Forest where if they have a fire there, it impacts subdivisions and a lot of forestry land as well, different forest land.

That you will not have adequate equipment available in the State. You are saying to me that you will, is that right?

Mr. TIDWELL. We will be able to move these resources to California depending on the fire season. If we determine in the next 30 to 45 days that there's a need to bring on additional helicopters, we will do that.

We also have the hundreds of call-when-needed helicopters that we can also bring on.

Senator FEINSTEIN. Are they adequate? Is the supply going to be adequate? Look, hazardous fuels mitigation money is down. We have had a wet winter. You're going to have huge food for fire.

And if what happens with weather is more heat which is suspected, we've got two nuclear power plants down in Southern California, the possibility of rolling blackouts in the summer.

What I'm trying to find out is, will you make a commitment that there are adequate Federal firefighting resources for Federal land in California this next firefighting season?

Mr. TIDWELL. I will make a commitment that we will provide the resources that we have available to address the situation.

I would like to remind the subcommittee that there are times when we have the large airtankers, the large helicopters, the Type 1 crews that are within minutes of a fire.

If it gets started under certain conditions, we are not able to catch that fire during initial attack.

Senator FEINSTEIN. Well, my understanding is that the helos are not available to hit fires when they're small, only after they burn out of control; is that correct?

## FIREFIGHTING WITH HELICOPTERS

Mr. TIDWELL. No. Our helitack crews, their primarily responsibility is initial attack. We have more than 90 helicopters that are just available for initial attack.

As the fire season develops, we can bring on dozens to 100 more on-call helicopters when needed to do initial attack, to drop water and also move crews.

Senator FEINSTEIN. I don't want to go through another Station Fire.

Mr. TIDWELL. Yes.

Senator FEINSTEIN. And you're telling me now that the helicopters will be available on the initiation of what could be a big fire. You're not going to wait until it's out of control.

Mr. TIDWELL. No. Usually, depending if the fire starts near one of our helitack bases, that helicopter is the first resource on the fire.

If it is farther away, then it is the airtanker that is going to be the first resource on the fire, and then the helicopters are usually the second resource on that fire.

Senator FEINSTEIN. Is it your intention in a wildfire, wildland fire on Federal land, to let the land burn or to attack it at its beginning? What is the policy now?

## WILDLAND FIRE POLICY

Mr. TIDWELL. The policy is that when we need to take initial attack, we are going to take initial attack. Our record of being successful on close to 98 percent of the fires that we take initial attack on has held up over the years. I expect we are going to be able to continue that.

There are fires in the back country, where the planning has been completed. If we have the right set of conditions, we will manage that fire in the back country for resource benefits.

But when I say it is managed, it is still suppression actions that are taken to make sure that it is contained within an area that has been basically already addressed through a planning process.

Senator FEINSTEIN. Well, I'm going to follow this fire season very carefully and come back and look at this transcript. Because I am really concerned. And I hope you will give California some attention.

Things are happening weather-wise out there which are very serious, and it's getting warmer, and drier. And as I say, I think the decision was made in the Station Fire, not to attack early. And I think that was a mistake.

Initially, we had more than 1,000 lightning strikes on a given day up north, not last year, but a couple of years ago, which started hundreds of wildfires. And I went with President Bush and flew over and the damage that was done was just enormous. It looked like another planet.

## STATION FIRE

Mr. TIDWELL. Yes, Senator, I worked in that region, and I was up there on those fires when we had that. I think it was one storm,



we had more than 3,000 fires get started there in the northern part of California.

We will continue to work very closely with CAL FIRE along with all the other States. The only way we can deal with wildland fire in this country is for all the cooperators to work together. We will take initial attack, like we did on the Station Fire. We had crews and resources that were on that fire right from the start. Early the next morning, we had a large helicopter dropping close to 2,000 gallons of water every few minutes on that fire.

But you get the right set of conditions, and you get the wind behind it, and there are a few of these that we are just not able to catch during initial attack.

Senator FEINSTEIN. I know that that's true. Have you responded to CAL FIRE's letter of March 7?

Mr. TIDWELL. We have been working with them, having discussions with them, and I will be sending a written response.

Senator FEINSTEIN. Would you please "cc" me on the response, I'd appreciate it.

Mr. TIDWELL. Certainly, Senator.

Senator FEINSTEIN. I'd appreciate it. Thank you. I'm sorry I took so much time.

Senator REED. Quite all right, Senator.

Senator FEINSTEIN. Thank you.

Senator REED. Very important and timely questions. In fact, let me just follow up.

As Senator Feinstein pointed out, not only do we look at a very complicated and challenging fire season ahead, we lost a lot of acreage last year which raises a question about rehabilitation.

And I note, and you may correct me if I'm inaccurate, that there's no line item for rehabilitation in the fiscal year 2012 budget, so how are you rehabilitating some of the lands? Where are you getting the money?

#### LAND REHABILITATION

Mr. TIDWELL. Mr. Chairman, you are correct. We no longer have the budget line item that we have had in the past to deal with restoration following a fire.

So the initial work that is done is through our burn area emergency rehab work, where we do have current year funds that we can use, but a lot of the work has to be done following that.

We will have to rely on using the funds—the fund codes that make up the IRR proposed line item.

We use force management of watershed funds, fish and wildlife funds at times, to be able to do that work. We are going to have less resources to be able to respond in the future.

Senator REED. Let me follow up with a related question. One of the ways that you try to minimize the risk is hazardous fuels reduction. And I looked at the fiscal year 2012 budget, and in the 2013 budget proposal, you are taking \$75 million from hazardous fuels, and you're putting it in the IRR line which we both talked about as perhaps the cart before the horse in terms of the pilot program.

That raises the question of how are you using these limited dollars for fuel reduction mitigation efforts that will help?

## HAZARDOUS FUELS

Mr. TIDWELL. The \$75 million that we proposed to put into the IRR is basically that part of our hazardous fuel money that we have been spending in more of the back country to do the work.

Over the years, we have spent the majority of our funds in the WUI. We have 25 million acres of WUI on the National Forest and grasslands.

We have a system that we have been using for the past years, a model that we follow, to determine the highest-priority areas for distributing fuels funding across the country.

We follow that model to set the priorities and the allocations out to the regions, and the regions then use a similar model to actually determine which forest receives the hazardous fuels funding so that we are putting the funding where we have the highest priority.

Often when there are resources like communities that are at risk from a large wildfire those projects are going to rate out very high. That is why you are going to see us continue to spend the majority of our appropriations dealing with WUI hazardous fuels projects.

They are also the most expensive work. The work we do in the back country, we can treat a lot more acres for a lot less money. So over the last few years, as far as acre accomplishment, we have been getting about 50 percent of our accomplishment in the WUI, and then 50 percent in the back country, even though we have been spending the majority of our appropriated funds in the WUI.

It is just much more expensive to work in communities' backyards.

Senator REED. Yes. You presumably have evaluated the cost benefit, you know, the relative efficiency of this program. Can you share that with us? Whatever analysis you have.

Mr. TIDWELL. We can do that. I can tell you that we continue to learn. We had last year with the Wallow Fire, the largest wildfire of record in Arizona.

We were fortunate that a few years ago, we started the White Mountain Stewardship Project down there that had treated thousands of acres before that fire got started.

Because of that work, when that large wildfire hit those treated areas, areas that had been thinned out, that fire dropped out of the top of the trees onto the ground, and our suppression crews, our firefighters were successful.

It saved thousands of homes. It is tragic that we lost dozens, but because of that work, I would be glad to show you some photos that demonstrate the difference it can make.

We have also learned with the fire seasons we are dealing with now, that we need larger treatments. Some of the work that we did in the past was not large enough. We have to be able to understand that these wildfires, the conditions that we have today, that it is going to take much larger areas that have been treated to really make a difference.

Those are some of the things that we are looking at more now as we move forward. Taking more of a landscape approach so that we are not treating 50 or 100 acres. We need to be treating the thousands, the tens of thousands of acres.

## COLLABORATIVE FOREST LANDSCAPE FOREST RESTORATION PROJECTS

That is our current approach with these Collaborative Landscape Forest Restoration projects across the country. I used the one project down there in Arizona that we are moving forward with as an example.

We are also doing another one, an environmental impact study on 750,000 acres, to be able to address, do the analysis for 750,000 acres under one environmental document. Then we will be able to move forward and do the restoration work across this four-forest area over the next decade or so.

That is what we need to do. That is what we have been learning, and I will be glad to provide you with the information that we have on some of the studies we have been doing on the effectiveness.

Senator REED. Let me turn now to the urban and community forest program. You are looking at a \$3.2 million reduction, and yet you are indicating that you'll maintain the same level of activity.

That would be very good. How do you do that?

## LANDSCAPE SCALE RESTORATION

Mr. TIDWELL. Well, actually, our request is very similar to what we received in fiscal year 2012. But there is a portion of those funds that have moved into our Landscape Scale Restoration proposed budget line item.

This Landscape Scale Restoration proposed budget line item reflects what we have been doing over the last few years. Taking a portion of our State and private funds and setting it aside, so that the States actually compete for those funds.

They get their initial funding, and then there is this other pot of money that we have had them compete for over the last few years. What we have noticed through this is that they have learned to look at how they can put together better proposals, even working across State lines, so that we have been able to increase our efficiency.

## URBAN AND COMMUNITY FORESTRY

When it comes to Urban and Community Forestry, we are requesting a similar amount of money. There is just a portion of it that will be in this other proposed line item that the States will have to compete for just like they have had to over the last few years.

Senator REED. There's another aspect here, and that is with respect to States, particular States that don't have large national forests but have private and State owned forests.

That's the proposal to consolidate the State Wildland Fire Assistance and the Forest Health Management Program, which could leave some States, one of which being mine, unsure of where they stand or not receiving adequate resources for current programs.

Can you comment upon that?

## PROGRAM CONSOLIDATION

Mr. TIDWELL. There is a very slight decrease in what is available for the State Fire Assistance funds.

Once again, we have proposed to put both of the funds into one budget line item just to make it a little easier for us to track just one budget line item.

It is going to be a little easier for the States, instead of having two. Basically, they have done the same type of work, and we feel that it's more efficient to have one budget line item.

Overall, it is a slight decrease from what we requested, what we received in fiscal year 2012. Those funds are still going to be available for Rhode Island and for all the States.

As it has been pointed out so clearly here a couple of times, our fire seasons are becoming not only longer, but more severe, and are becoming a bigger problem for us to deal with. It is essential that we can continue to be able to provide the support to our States and to local fire departments.

Without them, we would not have near the success ratio that we currently do, because we rely on both the State and the local fire department to be the first resources that come onto fires that are on the national forests.

Senator REED. Thank you, Chief. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Chief, let me ask you about the 9th Circuit, Court of Appeals decision that decided that forest roads are point sources that require industrial discharge permits.

Last year in the appropriations bill, language was included that temporarily prevented this ruling from taking place. So the question to you this morning is whether or not insertion of that language actually allowed USFS to get more work done on the ground?

Was that helpful, not helpful? Can you just kind of speak to how that played out?

#### FOREST ROADS

Mr. TIDWELL. Senator, it allowed us to continue to do what we have been doing to address the need for clean water, and that is to follow the use of our best management practices that we have been relying on to address any potential concerns of erosion coming off of logging roads.

It's something we're working closely with Environmental Protection Agency (EPA) as we move forward. They had a court order they had to address. But to be able to work with them to find a way we can continue to use our best management practices to be able to apply that.

Because it has proven to be very effective not only on the national forests but also on the private forested lands, that most I think every State requires the use of best management practices.

And they have been effective to address, the potential concerns and be able to not only meet the intent of the Clean Water Act, but also to address any concerns with the impacts to water.

Senator MURKOWSKI. So if in fact this is actually helped you, is there a reason that you didn't request extension of this authority in the budget this year?

You mentioned you are working with EPA. We understand that we need to do that. But if it's proven effective, why wouldn't we want to continue this?

Mr. TIDWELL. I'm optimistic that through the work of EPA, we will be able to find an administrative path forward to be able to address this. I am optimistic we will be able to get that done.

Senator MURKOWSKI. Can you give me any indication at this point in time that you think you have that administrative authority?

Mr. TIDWELL. We do not have it at this point in time, but we are continuing to work closely with the EPA.

I would be glad to, as those discussions move forward, and a decision is made by the EPA on what steps they are going to take, provide that information to you.

Senator MURKOWSKI. Okay. I would appreciate that because if it appears that that isn't possible, if you've indicated that you think you've actually made some improvements, you've been able to get some additional work done on the ground, then maybe we need to look again to inserting that language.

Let me ask you about Secure Rural Schools program. You mentioned very briefly in your statement a reference to Secure Rural Schools program. Clearly very important to States like mine and to many on this panel.

Can you tell me what the allocation split is? I'm looking at the budget justification here. And it just indicates that, let's see, the fiscal year 2012 proposal assumes the enactment of Secure Rural Schools program for 5 years, funds payments for mandatory funding.

And the proposal revises the allocation split between the schools and roads, economic investment, forest restoration, and fire assistance portions of the program.

Can you tell me where you are going to the Secure Rural Schools program?

#### SECURE RURAL SCHOOLS PROGRAM

Mr. TIDWELL. In the President's request, we identified mandatory funding that could be used for this program.

Senator MURKOWSKI. So where did you identify that from?

Mr. TIDWELL. It is part of the President's budget request.

Senator MURKOWSKI. Okay.

Mr. TIDWELL. It is the overall request, and at the same time, we need to work with you to put together the legislative framework on how to move forward with this program.

We put it in there as mandatory funding this year, it shows the importance, the understanding of the importance of this program, especially in these current economic times, about how we need to be able to find a way to work together to be able to move forward, to be able to continue to provide this funding to the counties and the boroughs.

Senator MURKOWSKI. Okay. Well, I want to understand a little bit further the administration's proposal.

Again, this is something that many of us are very focused on, and want to make sure that we've got the funding piece of it figured out, but also the formula going forward over the 5 year proposal.

Let me ask you about the new forest planning rule. On the 23d of March, you finalized the new planning rule. This is the latest attempt to revise the 1982 planning rule.

Of course, we've seen a series of litigation over the years. The 1982 rule remains in effect. I guess a question to you is whether or not you also similarly expect that this new rule will be challenged and whether you think that this one is one that could actually be held up in a court challenge?

#### PLANNING RULE

Mr. TIDWELL. Senator, I do not know if it is going to be challenged or not. As you mentioned, we have had to deal with this for the last two decades, and the last three attempts were challenged.

We definitely have learned from those previous attempts. From my perspective, we have done the best job of having a very transparent process involving and engaging more members of the public across this country than we ever did before.

To be able to factor in what we heard from all those different meetings, and all the comments that we received, I believe we have the best proposal we have ever put together. It is very balanced. It will save money. It is going to save time.

It will do a better job than what we did under the 1982 rule. I also believe we did an excellent job dealing with the analysis that is required, and that we are optimistic about moving forward and demonstrating how we will apply this.

The other thing we are relying on is that we are putting together a Federal advisory committee to provide recommendations to the Secretary and myself about the directives and about how to move forward with this and also with the collaborative process that is required.

I think by having that committee in place, which will be a very diverse, group of individuals, that will need to spend the time to really look at this. We will be able to bring in not only employees from the forest that are moving forward with the plans, but also members of the community to be able to say, that this is how we're moving forward with it.

Here is how it is working. They can hear directly from them. I am optimistic that this time around, we will be able to demonstrate that this is a better process than in 1982. That if and when there is a court challenge, we will have that additional evidence to be able to demonstrate that this is a better way, while at the same time, addressing the same concerns that have been brought up in the previous litigation on our past attempts.

Senator MURKOWSKI. Well, I think we all know there's been a somewhat tortured history out there going through the courts.

Mr. TIDWELL. Yes.

Senator MURKOWSKI. I was a little surprised that the Chugach National Forest was selected as one of the first eight forests to revise its plan under the new rule because as it stands right now, the Chugach Plan doesn't require revision for yet another 5 years.

So the question is, why was the Chugach National Forest selected when you've got other forests out there that are well past their life of their 15-year plan? Why did you single out the Chugach National Forest?

Mr. TIDWELL. First of all, it is within every 10 to 15 years, and so they will be closed here in a couple of years, but they asked. The forest felt they were well positioned to be able to move forward.

They wanted to use this new rule to make some changes in their current forest plan based on what they are hearing from their communities and from the public.

So they requested that they could be one of the first forests to move forward with implementation. That was one of the things that we factored in as to which ones need, have a pressing need, and the ones that were positioned and had the ability to move forward.

Then, if there was a strong desire. The Chugach National Forest met all of those.

Senator MURKOWSKI. Do you worry that not only the Chugach National Forest, but the others, the other eight, might start revising their plan under this new rule, and then as we saw before, the rule gets thrown out in court.

And you're in a situation where you've effectively wasted a lot of time, clearly, a lot of money, because you have to start all over again.

Do you worry about that course ahead?

Mr. TIDWELL. We do factor that in, and that is where the forests that are currently going, they have been going through planning for the last couple of years. They will probably all, or most of those, will continue under the 1982 rule.

This new rule is so much more efficient, and it eliminates a lot of unnecessary modeling and analysis. So that, under any scenario, we probably are not going to lose any ground. I remain optimistic that because of the work that we did this time around, the additional work, working with our communities, that I feel that we have finally done this.

That this will be a rule that will withstand any challenges, and that we will be able to move forward and revise our forest plans for decades to come. I know, you know, there is a chance it could be challenged.

I feel really strongly about this, and I tell you I would not have this level of confidence if it was not based on just the work that has gone into this. The amount of support across the board, and not everyone is supportive. I understand that.

We definitely have more support for this rule than we have ever had for the previous three attempts.

Senator MURKOWSKI. Well, I guess it remains to be seen. Mr. Chairman, I have one more question, but my time is up.

Senator REED. Take your time. Go ahead.

#### STEWARDSHIP CONTRACTING

Senator MURKOWSKI. Okay. Then this is as it relates to the stewardship contracting and the Tongass. I'm sure you probably anticipated this question.

You indicated in your comments that you're seeking a permanent extension of the stewardship contracting authority, and have indicated that this is a real priority for USFS and its restoration efforts.

Unfortunately, this hasn't been met positively in the Tongass as it relates to the stewardship contracting. Back in 2008, USFS promised to offer four 10-year commercial timber sales at approximately 150 to 200 million board feet.

Those have been modified into two stewardship contracts at a greatly reduced volume. We've yet to see these contracts completed and offered to the industry.

So I'm concerned that with the focus on the stewardship contracting, what is happening is it's coming at the expense of a commercial sales program, and our very small male infrastructure is being squeezed here.

So I would ask you to address that criticism that USFS focus is on, in an area that directs resources away from the commercial sales, whether or not, I guess, the volume of commercial sales that you would anticipate be part of these contracts, and how you see it really operating in the Tongass?

Mr. TIDWELL. Stewardship Contracting is just another tool to augment the work that needs to be done. It is not to replace the timber sale contracts.

I share your concern about the lack of progress we have made with the Stewardship Contracts that USFS has been working on. It is one of the things that I would really like to work with you to maybe look at some of the different options that we may have up there on the Tongass to be able to move forward with that.

I want to be very clear. It is just part of our program. We are currently doing about 20 percent of the restoration work, the timber harvest under Stewardship Contracts across the country.

Ideally, would I like to see a little more of that? Yes. But we are still going to be using the timber sale contract. It is the right tool for certain projects.

However, we are finding the Stewardship Contract to be a very effective tool. I think it does have some use up on the Tongass. Maybe not as much up there as in other parts of the country, but we did have one very successful project last year. It was small.

But I think those are things that build confidence not only in the industry, but in the communities, that this is a good tool.

I am hoping because of the success they had last year on that small project that we will be able to move forward with the Stewardship Contracts, and to make these multiple-year contracts, so that it allows someone to be able to come in and make that financial investment in either maintaining the mill or investing in upgrading the mill.

If they know that there is a long-term contract here and that there is going to be a certain amount of material that is going to be available, it is going to be harvested, they can make sound financial decisions.

That is what we need to be able to do. Senator, I really look forward to being able to work with you to look at maybe a couple of different options I have been thinking about that maybe could help us on the Tongass.

Senator MURKOWSKI. Well, I'd like to take you up on that offer. Again, my concern is that you have a diversion of resources that goes toward the stewardship contracts at the expense of the other projects and how we affect these commercial sales.



So if we can sit down and discuss how some of these options might move forward on the Tongass, I think the people in the region would greatly appreciate it. I would appreciate it.

It's something that, again, in our conversations both in hearing and in my office, I've expressed the concern of those that are really just hanging on by their fingernails out there.

And the assurance of a longer-term contract and some reasonable volume is all they're looking for. They're not looking to take it back to the days of the timber industry 30 years ago. They're more pragmatic about that.

But we need to have some assurance. So if your folks can sit down with us and work through some realistic options, I think that that would be appreciated.

Mr. TIDWELL. Well, thank you.

I look forward to having that opportunity because I do think we have some additional flexibilities, some things we are doing here in the lower 48 that we should be able to have those same flexibilities on the Tongass too. Especially in these very difficult economic times that we are facing.

Senator MURKOWSKI. Exactly.

I would rather the people of Ketchikan and Prince of Wales be able to harvest timber, be able to have jobs in the small saw mills than figure out ways that we're piecing together Secure Rural Schools program funding.

Trying to rob Peter to pay Paul type of an approach. But knowing that that's all we have to offer right now, I think they would rather have the jobs. They would rather have that small industrial base.

Mr. TIDWELL. Yes.

Senator MURKOWSKI. So I look forward to working with you, and thank you, Mr. Chairman, for the additional time.

Senator REED. Thank you, Senator Murkowski. And thank you, Chief, for your testimony. Did you have a comment? Please, go ahead.

#### H.R. 1581

Mr. TIDWELL. Yes. Mr. Chairman, I just need to, for the record, correct an earlier statement from Senator Tester about H.R. 1581.

I did not recognize the H.R. number versus the Senate number.

Senator REED. You didn't? I'm shocked.

Mr. TIDWELL. I apologize to the subcommittee, but we did testify on that bill in the past, and our position is that we strongly opposed that bill. I just wanted to correct the record. Thank you.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator REED. The correction is duly noted. We will keep the record open for 1 week. You may receive additional questions from my colleagues. Any further statements by my colleagues will be submitted for the record.

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

## QUESTIONS SUBMITTED TO TOM TIDWELL

## QUESTIONS SUBMITTED BY SENATOR JACK REED

## STATE AND PRIVATE FORESTRY

*Question.* The fiscal year 2013 budget proposes a \$3.2 million reduction for the Urban and Community Forest program while the budget justification states that the fiscal year 2012 level of activity will be maintained in fiscal year 2013. How will a \$3.2 million reduction result in the same level of activity?

*Answer.* In fiscal year 2012, as in the previous 4 years, 15 percent of funds from selected State and Private Forestry (S&PF) programs, including Urban and Community Forestry (UCF) were used to fund competitive, landscape-scale “Redesign” projects. The fiscal year 2013 budget proposes a Landscape Scale Restoration Program as a new Budget Line Item (BLI) that would formalize the Redesign competitive process. The \$3.3 million reduction is similar to the amount that would have been used to traditionally fund “Redesign” projects, which will now be funded by the Landscape Scale Restoration BLI. As such, the amount proposed in the UCF program is similar to previous years and is expected to have similar accomplishments.

*Question.* Can you specifically detail the initiatives planned for urban forests in fiscal year 2013?

*Answer.* UCF will work with the State forestry agencies and other partners to provide assistance to develop and maintain urban and community forestry programs. These programs protect and maintain urban trees and forests in more than 7,000 communities, representing more than 194 million people. In fiscal year 2013, UCF will continue to support the national strategic tree planting initiative launched in fiscal year 2012 to reduce energy consumption and provide communities with all of the benefits that urban trees provide including:

- improved air and water quality;
- improved human health and well-being;
- green jobs;
- recreation; and
- wildlife habitat.

In fiscal year 2013, UCF will also work with partners to advance the recommendations contained in the Vibrant Cities and Urban Forests Task Force Report, issued in the fall of 2011 and available online at <http://issuu.com/vibrantcities/docs/vibrantcitiesreport>.

*Question.* What are the goals of the proposed Landscape Scale Restoration program and how will States with predominately State and private forest lands, such as Rhode Island, likely to compete?

*Answer.* The goal of the proposed Landscape Scale Restoration Program is to focus and prioritize S&PF resources to better shape and influence forest land use at a scale and in a way that optimizes public benefits from trees and forests across all landscapes, from rural lands to urban centers. This increased focus on “All Lands” projects brings particular attention to implementation of the priorities identified in Rhode Island’s State Forest Action Plan, formally called the State-wide assessment. Over the past 5 years, Rhode Island has been successful in receiving project funding through the competitive process and will continue to compete for project funding which includes projects with universities and nonprofit organization partners, and through project partnerships with adjoining States.

*Question.* Will the Forest Resource and Inventory Analysis program continue to have the same authority to partner with the States under research as it has had in S&PF?

*Answer.* Yes, this program, proposed for consideration under the Forest and Rangeland Research budget line item as Forest Inventory and Analysis (FIA), will continue as a priority research area. FIA will continue to have the same ability to partner with States under research as it had under S&PF.

*Question.* How will you maintain these State partnerships without a distinct funding line?

*Answer.* In the fiscal year 2013 President’s budget, FIA will have distinct funding within the Forest and Rangeland Research budget line item. This is identified as a priority research area in the budget justification with \$66,805,000 proposed for funding in fiscal year 2013. We will continue to work within our authority to diligently maintain these State partnerships. We will also continue measurement of field plots for data collection and provide State reports, but at a slower pace.

## STATE FIRE ASSISTANCE

*Question.* Detail any changes in implementation of the following programs, which are proposed to be consolidated.

*Answer.* The proposed consolidation of the National Fire Plan-State Fire Assistance with Cooperative Fire Protection-State Fire Assistance in the fiscal year 2013 President's budget is expected to have minimal effects on how the program is implemented. States will continue to receive funding, as they have in previous years, for programs and projects such as hazardous fuels reduction, developing community wildfire protection plans, capacity building, training, increasing initial attack capabilities, improving firefighter safety and creating fire adapted communities. The combination of funding from two budget lines into a single budget line will simplify program management and performance measurement in addition to reducing administrative complexity.

## VOLUNTEER FIRE ASSISTANCE

The proposed consolidation of the National Fire Plan-Volunteer Fire Assistance with Cooperative Fire Protection-Volunteer Fire Assistance in the fiscal year 2013 President's budget will have minimal effects on how the program is implemented. States will continue to receive funding targeted for rural fire departments that can be used for improving initial attack capability, providing training and improving firefighting safety. Funds will match financial assistance in 4,500 rural communities (population less than 10,000 people) to build and maintain fire suppression capacity.

## FOREST HEALTH MANAGEMENT—FEDERAL

The proposed consolidation of the Wildland Fire Management Forest Health Management with S&PF Forest Health Management in the fiscal year 2013 President's budget will have minimal effects on programs or funding compared to fiscal year 2012. Major programs in fiscal year 2013 such as gypsy moth suppression, eradication and Slow-the-Spread program; and priority treatments to control invasive pests such as southern pine beetle and western bark beetle are planned at similar levels as fiscal year 2012. The combination of funding from four budget lines to two lines simplifies program management and performance in addition to reducing administrative complexity.

Forest Health Management-Federal Lands will continue to conduct forest insect and disease surveys on more than 400 million acres of forestlands; conduct forest insect and disease prevention, suppression, restoration, and eradication projects; provide technical assistance; and monitor forest health on all Federal lands including those of the Departments of Defense and the Interior, and the Army Corps of Engineers.

## FOREST HEALTH MANAGEMENT—CO-OP

The combination of funding from four budget lines to two lines are similar as stated for Forest Health Management-Federal Lands. Forest Health Management-Cooperative Land funds will continue to provide technical and financial assistance to States and territories to conduct monitoring and treatments such as the Slow-the-Spread program for gypsy moth and for work on sudden oak death, southern pine beetle, and hemlock woolly adelgid.

## FOREST RESOURCES INFORMATION AND ANALYSIS

Historically, the FIA program has been funded from both Forest and Rangeland Research and the State and Private Forestry Forest Resources Information and Analysis program. In fiscal year 2013, FIA is proposed for consolidation under the Forest and Rangeland Research appropriation.

FIA will continue with reduced annual forest inventory data collection in all 50 States. This will result in extending the inventory cycles and State forest resource reports by 1 year for each of the 50 States.

*Question.* What will the effect be of the consolidations for States like Rhode Island that are not at risk of catastrophic wildfire, but still receive base funding in State and volunteer fire assistance?

*Answer.* The proposal to consolidate the State Fire Assistance (SFA) and Volunteer Fire Assistance (VFA) budget line items in the fiscal year 2013 President's budget is not expected to reduce base funding for States such as Rhode Island. The allocation methodology for SFA and VFA funding is reviewed approximately every 5 years. At this time, the different allocation methodologies being considered include base allocations for both State fire assistance and VFA.

## WILDLAND FIRE MANAGEMENT

*Question.* Provide a table of the available aerial firefighting resources on the following dates, detailing at least the aircraft model (tanker and helicopter), exclusive use (EXU) vs. call-when-needed (CWN), type (VLAT, SEAT, Type I, Type II, etc.), and owner (Minden, Neptune, CalFire, etc.):

- August 1, 2011;
- May 1, 2012;
- August 1, 2012 (projected); and
- May 1, 2013 (projected).

*Answer.* The United States Forest Service (USFS) does not maintain records on CalFire or other States' aircraft numbers or availability. Other States including Minnesota, Washington, Oregon, and Alaska contract for or operate airtanker and/or helicopter resources, which provide an interagency aerial firefighting response in those States. The table below shows available contracted aviation assets and Department of Defense supplied Mobile Aerial Firefighting System (MAFFS) capabilities for USFS.

Aircraft	Owner	Contract Type	August 1, 2011	May 1, 2012	August 1, 2012	May 1, 2013
Large airtankers	Minden—2; Neptune—9	EXU	11	11	11	Up to 8
Next-generation large airtankers	To be determined on contract award	EXU—Not awarded as of May 5, 2012.			Up to 3	Up to 13
Type 1 helicopters	Multiple	EXU	26	30	30	30
Type 2 helicopters	Multiple	EXU	41	33	33	33
Type 3 helicopters	Multiple	EXU	61	61	61	61
Helicopters—All types	Multiple	CWN	Up to 378	Up to 378	Up to 378	Up to 378
Water scoopers	Aero Flite	EXU—Department of the Interior contract.	2	2	2	2
Water scoopers	To be determined on contract award	CWN—Department of the Interior contract.			Up to 4	Up to 4
Very large airtanker	10 tankers	CWN	1	1	1	1
Single engine airtankers	Unknown	EXU—Department of the Interior contract.	1	1	1	1
Mobile Aerial Firefighting System: C-130H/J	Air National Guard and Air Force Reserve.	None. Activated by request	8	8	8	8

*Question.* Provide a detailed explanation for how the \$24 million for the next-generation airtankers in the fiscal year 2013 budget will be spent.

*Answer.* The \$24 million will pay for contract costs associated with additional next-generation large airtankers in accordance with our large airtanker modernization strategy. The \$24 million augments existing funding to help account for inflation and anticipated increased cost of next-generation large airtankers.

*Question.* How many new aircraft do you expect to bring online in fiscal year 2013?

*Answer.* USFS will shortly award contracts for up to three next-generation large airtankers, to be operational in 2012, in addition to the 11 legacy P-2V airtankers. This contract may provide up to 10 additional next-generation airtankers in fiscal year 2013. The potential exists to have up to 20 large airtankers in 2013. The P-2V airtankers will continue to be part of our strategy to maintain large airtanker numbers until next-generation airtankers are fully operational.

*Question.* The airtanker Modernization Strategy calls for 18 to 28 next-generation tankers in total, which will require contracting aircraft over the next several years. What is the long-term plan for securing the fleet?

*Answer.* The long-term strategy is a modern large airtanker fleet as outlined in the Large Airtanker Modernization Strategy. It is not the intent of USFS, nor does USFS believe that there is an adequate supply of next-generation large airtankers, to replace our existing legacy (P-2V) fleet in 2013.

The next-generation aircraft are unproven airtankers, some with new-design retardant delivery systems or other new features which will take time to evaluate and modify to fully meet performance standards and airworthiness requirements. Therefore, a legacy airtanker contract will be a necessary part of our strategy to maintain large airtanker numbers until enough next-generation airtankers are fully operational. The current contract for the legacy airtankers ends December 2012. Another contract will be advertised in late 2012 or early 2013, which would include legacy large airtankers and will be structured to provide flexibility to both private industry and the Government. If next-generation large airtankers are available and approved they will be given preference.

*Question.* What are the estimates for how much additional funding this new fleet of aircraft will cost?

*Answer.* Since USFS does not have any long-term contracts for next-generation airtankers, it is not possible to provide this information.

*Question.* If a full complement of next-generation tankers called for in the Strategy is reached, how frequently will the National Guard's mobile airborne firefighting system units be used?

*Answer.* The National Guard and Air Force Reserve C-130s equipped with USFS owned MAFFS 2 retardant delivery systems will continue to provide surge capability to supplement commercial contract airtanker support.

We cannot predict how often MAFFS will be called upon; their activation is dependent on weather, fire activity, and other values which cannot easily be forecast. However, since 2003, MAFFS have averaged more than 250 missions annually.

*Question.* How is USFS ensuring that the limited Hazardous Fuels dollars are targeted to the highest-priority areas?

*Answer.* USFS continues to improve its processes for allocating fuel reduction funds, which prioritizes fuel reduction projects based on national priorities. These improvements include the use of a computer model to assist in making allocation decisions, rather than relying primarily on historical funding patterns and professional judgment. The computer model uses data from various sources and considers wildfire potential, negative consequences of wildfire, program performance with prior year's allocations, and potential opportunities that meet other integrated resources objectives.

The agency annually updates the model inputs to use the best available data and science. USFS also directs its regional offices to use a similar process and finer scale information, to further inform allocations to units and selection of fuel treatment projects based on national and regional priorities. USFS provides annual direction to its regional offices on how to fund fuel treatment projects that best meet national priorities.

*Question.* The subcommittee has made an investment of more than \$1 billion in the last 3 years alone for fuels reduction in USFS. How is USFS showing the return on investment, such as reduced risk to communities or reduced suppression costs?

*Answer.* USFS now requires its field units to complete a standardized report whenever a wildfire burns into an existing fuel treatment, in other words, when a fuel treatment is "tested" by wildfire. This report includes an assessment of how the fire behavior changed, if the fire effects changed as the wildfire burned through the fuel treatment, and if the fuel treatment made management and suppression of the

wildfire easier and safer. These are real world examples of fuel treatment effectiveness.

The initial results indicate that most fuel treatments reduce wildfire behavior and reduce fire severity under all but the most extreme wildfire conditions. As this data set grows and is combined with the latest research, USFS expects to be able to draw conclusions about which fuel treatments are most effective under various circumstances of ecosystems, fuel types, weather conditions, and other variables. The agency also expects to refine its estimates of how fuel treatment effectiveness will decline over time and to evaluate the cost effectiveness of these treatments. USFS takes fuel treatment effectiveness very seriously and continues to improve its measurement and understanding by incorporating the latest research.

#### LAND ACQUISITION

*Question.* Why were the “Crown of the Continent” and “Florida/George Longleaf Pine” ecosystems chosen as the Collaborative Landscape Planning Areas for fiscal year 2013?

*Answer.* These selected projects contain landscapes that are among the most important for conservation, recreation, and restoration in the United States. These projects support American Great Outdoors Action Item 5.2a: Implement an inter-agency process to invest part of the Federal Land and Water Conservation Fund funds in high-yield conservation projects that address shared ecological goals.

The Crown of the Continent project is one of the last remaining intact mountain ecosystems in the coterminous United States and 1 of the 23 last remaining large intact ecosystems in the world. The mixed wetland and longleaf pine habitats of the Florida panhandle and Okeefenokee swamp in southern Georgia protect critical drinking water sources for growing human populations in the region, and provide important habitat for migratory birds and the remaining bear population. Both areas are threatened with development and landscape fragmentation that would impair resource management. Both landscapes also have robust local support and grassroots organization and planning, including local and State government supporters that desire a public-private partnership to address conservation needs.

*Question.* What is the long-term plan for the Collaborative Landscape Planning Areas? Will the same landscapes continue to be the budget priority until they are completed, or will different geographical areas be the focus in fiscal year 2014?

*Answer.* The long-term plan of the interagency work is to maintain the focus in a landscape until the stated conservation goals are as complete as possible. Not all agencies have the same demand in each landscape, but Collaborative Landscape Planning (CLP) will seek to complete as much as possible before moving to a new landscape. There may be new geographical areas considered for fiscal year 2014. Both agencies are waiting on pre-proposals from the field to determine whether or not there is capacity or funding to start working in one or more new landscapes.

*Question.* How do the Collaborative Landscape projects rank vis-à-vis the 14 ranked acquisitions on the prioritized list?

*Answer.* All of the projects, core and collaborative, are important agency priorities. The core projects focus on acquiring the highest priority lands within the National Forest System boundaries that further specific agency goals for forest and grassland restoration, watershed management under the Watershed Condition Framework, and public and private access. The Collaborative Landscape Planning projects are focused on landscapes where the Federal agencies can more effectively coordinate land acquisitions with government and local community partners to achieve the highest priority shared conservation goals. These projects respond to locally supported planning efforts to protect critical ecosystems before fragmentation occurs.

*Question.* The proposed Priority Recreational Access program requires a cost-share and caps projects at \$250,000 each. How were these requirements determined?

*Answer.* A per project cap is proposed to help distribute the opportunity to complete a recreational access project among the nine USFS regions. Two hundred and fifty thousand dollars (\$250,000) is the cap because it equates to each region getting at least two projects. The cost-share proposal would help the appropriated dollars go further and demonstrates a strong show of support from non-Federal partners. The cost-share rate was set at 25 percent, a low percentage and a resultant relatively small amount of non-Federal money to bring to the table (less than \$62,000 for the most expensive project).

*Question.* Are there \$5 million worth of identified Priority Recreational access projects (matching the budget justification’s requirements) that can be accomplished within fiscal year 2013? Provide a list of potential projects detailing at least the location by national forest, total acreage, types of recreation served, cost, and whether the project is a conservation easement or fee title acquisitions.

*Answer.* There is a substantial need for access to National Forest System lands for these purposes as demonstrated in our annual land acquisition programs. USFS has not developed a list of projects. This is an important initiative for potential projects to be proposed by the public and nongovernmental organizations. While we are anxious to issue a Request for Proposals so that we can learn about projects that are new to us, we have already been contacted by several groups. One potential example is gaining an easement for the Seely Lake Community Trail across Montana Department of Natural Resources and State school lands. This trail provides year-round motorized and nonmotorized access for 5,000 acres of hunting and hiking, 16,000 acres for horseback riding, and 32,000 acres for mountain biking. We are confident there will be a number of robust responses from all USFS regions to the Request for Proposals that meet the fiscal year 2013 budget justification requirements.

*Question.* While the proposed Priority Recreational Access program would be funded at \$5 million, the longstanding Critical Inholding Acquisitions account is zeroed out in fiscal year 2013. Why does the new focus area come at the expense of inholdings?

*Answer.* The Priority Recreational Access line item is proposed for only 1 year to focus on unique recreational access problems.

*Question.* Will USFS be able to secure critical inholding acquisitions without a specific line item?

*Answer.* USFS may secure some inholdings with the Priority Recreational Access line item, but projects will be selected based on different criteria than is required for critical inholdings. The criteria for recreational access will rate tracts based on the project's ability to maximize access to areas previously considered inaccessible and that increase visitor use. Recreational Access acquisitions may or may not be inholdings.

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#### QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

*Question.* This year's budget provides you with \$24 million to contract for new firefighting aircraft. And you have publicly stated that you intend to acquire three new planes this year, so that works out to \$8 million per plane acquisition.

*Answer.* The fiscal year 2013 budget request includes \$24 million to acquire new firefighting aircraft. We are estimating contracting for 10 additional next-generation airtankers in 2013. In addition, the three next-generation airtankers that may be awarded and operational in 2012 will be funded utilizing fiscal year 2012 budget appropriated funds.

*Question.* Following this pricing model, will the United States Forest Service (USFS) be seeking \$80 million to purchase the 10 planes you intend to acquire next year?

*Answer.* USFS does not intend to purchase these aircraft. The services will be acquired through contracts operated by the contractor. The \$24 million in fiscal year 2013 will be used to help account for inflation and anticipated increased cost of next-generation large airtankers.

*Question.* Aerial firefighting contractors tell me that the USFS's 5-year contracts, with single year options, are not long enough for them to secure the capital needed to purchase firefighting aircraft.

*Answer.* The next-generation large airtanker contract was lengthened in response to private industry input. It is a Firm Fixed Price Multi-Year contract(s) not to exceed 10 years (a 5-year base period with five 1-year options).

*Question.* What indication do you have from your contractors that they will be able to actually provide the 13 planes by the end of next year?

*Answer.* USFS is skeptical that private industry will be able to design, build, test, and gain approval of the next-generation large airtankers as quickly as they state. These aircraft are generally unproven as airtankers, some with new-design retardant delivery systems or other new features which will take time to evaluate and modify to fully meet performance standards and airworthiness requirements.

However, several of the contractors are represented by an aerial firefighting industry group (American Helicopter Services and Aerial Firefighting Association) which has publicly stated that private industry is "technically capable and financially able to bring about this fleet modernization plan."

*Question.* If the terms of the contract were longer, would that reduce the Federal cost of acquiring these planes?

*Answer.* Private industry has told us that longer contract periods should reduce overall costs during the full contract period. The next-generation contract with a base 5-year period and five 1-year options and an incremental delivery option pro-



vides flexibility for private industry and the Government delivering next-generation large airtankers this year, while providing time for current and new airtanker vendors to secure financing, design, and develop aircraft for 2013 and beyond.

*Question.* Do you have the authority to offer a longer contract?

*Answer.* Under the Federal Acquisition Regulations (FARs) USFS was able to solicit this 5-year base with five 1-year options contract for airtankers. The FARs do not allow for more than 5 years with 5 years of extensions for this type of contract.

*Question.* Chief Tidwell, with the proposed 25-percent cut to hazardous fuels, how many fewer acres will you be able to treat?

*Answer.* The hazardous fuel's program request for fiscal year 2013 is about the same as fiscal year 2012, but we request that \$75 million of that be transferred into Integrated Resource Restoration (IRR). The \$75 million represents the amount hazardous fuels is shifting to IRR in fiscal year 2013. These are hazardous fuel funds that have traditionally been spent outside the Wildland Urban Interface (WUI) and for restoration in previous years. These funds will now be combined into IRR and support integrated restoration and accomplish landscape-level ecosystem restoration which includes hazardous fuel reduction. IRR is designed to help address at the national level the complete scope of restoration activities, highlighting water, fuels reduction and road decommissioning, while also integrating the many other activities that have always been central to the agency's mission.

*Question.* How many fewer acres will be treated in California?

*Answer.* We don't anticipate fewer acres treated in California due to IRR. If fewer acres are treated it will be due to other factors such as cost per acre, weather, and the time needed to complete analysis under the National Environmental Policy Act (NEPA) requirements. Also, the acre target has been reduced due to the increased cost of treating the WUI.

*Question.* It is my understanding that you revoked the 10-percent pay raise for firefighters because retention rates improved.

This reasoning doesn't hold water. If the pay raise worked, and retention rates have stabilized, why roll back the successful initiative?

*Answer.* During March 2009, USFS implemented two retention incentives to address the 13-percent attrition rate affecting the fire program for permanent/career conditional employees. The first incentive implemented converted less than full-time employees in certain positions to a full-time tour of duty. This incentive is still in place and includes a full-time tour of duty for all new employees hired in these positions. The annual cost of this incentive is \$21 million and is funded from our Wildland Fire Preparedness allocated funds.

The second incentive implemented was a 10-percent increase in base pay for primary fire positions for grades GS-5 through GS-8. This incentive required annual approval with the Department of Agriculture (USDA). Approvals were requested and granted for March 2009 through February 2010, March 2010 through February 2011, and March 2011 through February 25, 2012. USFS did not request reauthorization from USDA for this retention incentive after February 25, 2012. The decision was based on the agency's ability to maintain Fire Fighting Production Capability due to the low attrition rate. USFS will continue to monitor our fire management workforce situation and respond appropriately.

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#### QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

*Question.* Can you provide a brief update of the land acquisition program for the Green Mountain National Forest (GMNF) and what priority projects may be secured this year? I have made GMNF land acquisition a priority during my entire time in the U.S. Senate and have seen Federal ownership go from less than 300,000 acres to more than 400,000 acres during that time. Seeing the benefits of GMNF land acquisition helped inspire me to create the Forest Legacy Program (FLP) which has protected more than 2 million acres nationally.

*Answer.* The fiscal year 2013 budget request did not propose specific new land acquisition projects for the GMNF. The GMNF is in the process of completing various land acquisitions including the following:

Recently the GMNF acquired from the Trust for Public Land, a 300-acre parcel (\$318,000), that contains approximately 8 acres of wetlands. It is contiguous to a large block of National Forest System lands to the west and east. The property is also within a bear corridor (a species of high public interest), and provides a swath of currently undeveloped land that serves as an east-west traveling corridor for black bears.

Partnering with the Manchester Land Trust, the GMNF recently acquired a 120-acre parcel (\$350,000) in Manchester and Winhall that contains a significant portion

of Stony Brook, which is a tributary to the Batten Kill River, high-quality northern hardwoods, that provides opportunities for backcountry recreation.

The GMNF also acquired from a private landowner a 4-acre parcel (\$20,000) that consolidates the last block of private land within the section of National Forest System lands in the Town of Ripton.

Under contract is an 80-acre parcel located in the Town of Woodford that is contiguous to National Forest System lands on the south and east and provides the public with opportunities for backcountry recreation.

The GMNF is actively engaged with the potential purchase of a multitude of properties, including two parcels totaling 330 acres that provide public access to a larger block of National Forest System lands and a 36-acre parcel entirely surrounded by National Forest System lands within the Taconic expansion area. In addition, several additional parcels that meet the GMNF Land and Resource Management Plan and National Strategic Plan goals are being negotiated.

In addition we have worked with partners to protect 78,829 acres of important forests across 62 tracts in Vermont, through FLP. Although not in Federal ownership, many of these tracts are strategically located adjacent to the GMNF.

Partnering with third parties, such as the Trust for Public Land, the Conservation Fund and the Manchester Land Trust, the GMNF acquisition program continues to work with local communities to identify and support priority acquisitions.

*Question.* I introduced the legislation which created the Moosalamoo National Recreation Area (NRA) within the GMNF in order to literally put this fantastic recreational resource “on the map”. Since its creation in 2006 however, this NRA has struggled to gain the national recognition that it so richly deserves. Can you tell me what the U.S. Forest Service (USFS) is doing within Vermont, regionally, and across the country to fully implement the New England Wilderness Act of 2006? This act established the National Recreation Area and calls for the Moosalamoo to become a national showcase of integrated forest management, as well as a nationally significant recreational resource.

*Answer.* The GMNF has been working hard to implement the New England Wilderness Act of 2006 as part of the Chief’s 10-Year Wilderness Challenge. For example:

- The GMNF has worked with the Vermont Youth Conservation Corps to remove culverts by hand and decommission roads within wilderness designated by the act.
- The forest has plans to remove larger culverts in designated wilderness that would require mechanized equipment. This work requires NEPA review before restoration of these roads can be implemented.
- USFS is working closely with the Moosalamoo Association by providing Challenge Cost Share Agreements for trail maintenance projects throughout the National Recreation Area. An American Recovery and Reinvestment Act project was recently awarded “Project of the Year” from the Vermont Trails and Greenways Council and received recognition from the USFS regional office for collaboration and partnership success.
- Partnering with the Vermont Youth Conservation Corps and the Vermont Mountain Bike Association, the GMNF recently completed major trail work on the Leicester Hollow—Chandler Ridge Loop Trail in the Moosalamoo National Recreation Area.
- The GMNF continues to inventory and identify the condition of our campsites within the Moosalamoo National Recreation Area.

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#### QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

*Question.* In light of the President’s announcement last week of an Executive order creating an interagency working group “. . . to coordinate the efforts of Federal agencies responsible for overseeing the safe and responsible development of unconventional domestic natural gas resources”, and the inclusion of the United States Department of Agriculture in that working group, how are the activities of individual forests, like those of the George Washington and Wayne National Forests, being coordinated within the United States Forest Service (USFS) and with the interagency working group?

*Answer.* The Executive order, dated April 13, 2012, directs that Interagency Working Group membership “. . . shall include deputy-level representatives or equivalent officials, designated by the head of the respective agency or office . . .” and lists the Department of Agriculture under membership. Individual forest and grassland line officers will continue to coordinate with appropriate officials within USFS through the agency Deputy Chiefs. The agency leadership through the Chief

and the Deputy Chiefs will coordinate with Department of Agriculture officials. Departmental representatives will coordinate with other agencies on appropriate issues within the interagency working group.

*Question.* When do you expect the George Washington National Forest plan and the Wayne National Forest's study to be finalized?

*Answer.* We anticipate that the George Washington National Forest plan will be completed in the late summer of 2012. The Wayne National Forest's study is projected to be finalized in mid to late June 2012.

*Question.* Can you please get back to me when you have had a chance to review this as an agency and inform me of your plans?

*Answer.* Yes.

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QUESTIONS SUBMITTED TO SUSAN SPEAR

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

*Question.* The Green Mountain National Forest (GMNF) is one of the most recreated National Forests in the region—the roughly 80 employees of the GMNF serve some 3 to 4 million visitors annually, and are within a day's drive of 70 million people. The GMNF serves as the only experience that many people from crowded east coast cities may have with Federal natural resource agencies. The staffs of the GMNF do a great job of resource management but they do so working out of a leased facility, some distance from the Forest itself and with very modest and dated visitor facilities.

The U.S. Forest Service (USFS) has identified the site for construction of a new GMNF headquarters building, on National Forest land, on Route 4, the Gateway to the National Forest. Construction of a new headquarters will save the Federal Government money, as compared to ongoing lease payments, and allow for an even better job of resource management and public education. This is a project that I have supported for 10 years and am eager to see it built in the near future. Can you assure me that USFS will allocate the necessary \$1 million to complete the design of the new headquarters building for the GMNF this year?

*Answer.* While the design and construction phases of a new Forest Supervisor's office in Mendon, Vermont, are included in the Eastern Region's Infrastructure Priority Project List, there are many projects of higher priority nationally. Therefore, design work for the new GMNF headquarters has not been initiated this year. Overall agency funding for facility design/construction in 2012 has been reduced by 56 percent since 2010. As a result, we are reassessing many competing priorities, considering less-costly alternatives, and re-evaluating the highest-priority projects that may be possible to complete with very limited funding.

For fiscal year 2013 the budget request includes a program increase of \$23,799,000 from the fiscal year 2012 enacted level for facilities to support the safety and health of all users of existing infrastructure and to judiciously defer all new construction, including phased projects that include new construction, when other cost effective and reasonable options exist.

*Question.* The GMNF was at the epicenter of the worst damage wrought by Tropical Storm Irene. USFS staff performed heroically to help local communities even though many of them had suffered damage to their own homes. There are 900 miles of trails and roads within the GMNF, 85 percent of which were damaged and a majority of the damaged trails remain closed as our most active trail season approaches, with repair needs in excess of \$2 million. Will you be able to allocate resources to repair the damage caused by Tropical Storm Irene to the trails and roads within the GMNF in a timely manner?

*Answer.* Yes, we have been and will continue to allocate resources to the trails and roads within the GMNF. For fiscal year 2012, the Eastern Region allocated \$390,000 for use in trail restoration and repair directly related to Tropical Storm Irene. USFS was able to apply appropriated funds to the early recovery stages on the GMNF at the end of fiscal year 2011 and in early fiscal year 2012. Additional funding has been secured from the Federal Highway Administration's Emergency Relief for federally Owned Roads (ERFO) program. The GMNF will be working with local partners and contractors to prioritize and implement major repairs in fiscal year 2012 and fiscal year 2013.

While much of the road repair work qualifies for ERFO funding, almost all trail related damage does not. We will continue to work with established volunteer organizations and other nongovernmental organizations on creative ways to bring these trails up to safe standards for public use.

The GMNF completed a comprehensive survey of all roads, trails, and facilities that were damaged extensively during Tropical Storm Irene. Many roads and trails require environmental assessment work before work can be initiated.

The GMNF has been working closely with the public and municipal leaders on short- and long-term solutions, including establishing priorities for limited funding and resources to meet specific public demands. This work includes shifting resource management priorities so that public and private access is available through damaged GMNF roads.

#### SUBCOMMITTEE RECESS

Senator REED. And we ask you to respond to any requests for information or questions as promptly as possible, Chief.

With no further comment, the hearing is concluded. Thank you very much.

[Whereupon, at 10:58 a.m., Wednesday, April 18, the subcommittee was recessed.]

**DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2013**

WEDNESDAY, MAY 16, 2012

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

The subcommittee met at 10:36 a.m. in Room SD-124, Dirksen Senate Office Building, Hon. Jack Reed, (chairman) presiding.

Present: Senators Reed, Tester, Murkowski, Cochran, Blunt, and Hoeven.

**ENVIRONMENTAL PROTECTION AGENCY**

**STATEMENT OF LISA P. JACKSON, ADMINISTRATOR**

**ACCOMPANIED BY BARBARA J. BENNETT, CHIEF FINANCIAL OFFICER**

**OPENING STATEMENT OF SENATOR JACK REED**

Senator REED. Let me call the hearing to order. On behalf of the Interior, Environment, and Related Agencies Appropriations Subcommittee, I'd like to welcome everyone to our hearing on the fiscal year 2013 budget request for the United States Environmental Protection Agency (EPA).

I'm very pleased to again welcome Administrator Lisa Jackson to testify before us. We're also very glad that you and your Chief Financial Officer, Barbara J. Bennett, are here this morning to talk about your budget request and related policy issues.

As you know, Administrator Jackson, this subcommittee has been ground zero for many of the contentious policy issues that you face. And so we all know what a challenging job you have.

It's hard to address environmental challenges when our economy is strong, let alone when our current fiscal situation is challenging. That's why I particularly appreciate your message that environmental protection is not only compatible, but it is, in fact, essential for the economic growth and well-being of our Nation. That's an important message.

Of course, balancing environmental protection needs against economic constraints isn't limited to policy choices. Turning to the budget, we can see the difficult choices that you have made.

Overall, the administration has requested a total of \$8.344 billion for EPA programs. That's a decrease of \$105 million or about 1 percent less than the fiscal year 2012 enacted level.

Within this amount, the budget request includes a 5-percent increase in EPA's operating programs for a total of \$2.8 billion, which

includes major investments in enforcement and compliance and chemical safety programs.

The request also includes a 10-percent increase for grants to States and tribes to help them run their environmental permitting and monitoring programs, including a large increase for State air quality grants.

I also would like to note that the budget request includes \$14 million, an \$8 million increase, to expand EPA's current slate of hydraulic fracturing research to ensure that the Nation can continue to access its unconventional oil and gas reserves in a safe and environmentally sustainable way.

I know there is a lot of interest in how EPA plans to use these funds as well as interest in new EPA regulations that address the effects on air and water quality associated with hydraulic fracking. So I expect we'll discuss these issues in some length this morning.

Now, while I agree that the investments I've just discussed are very important, I'm very concerned that the water infrastructure grant program bears the brunt of cuts in this budget.

Specifically, the budget proposes to cut \$359 million or 15 percent from Clean and Drinking Water State Revolving Fund program levels. That would mean a 20-percent cut to the Clean Water State Revolving Fund program and a 7-percent cut for the Drinking Water State Revolving Fund program.

These additional cuts mean that the State Revolving Funds (SRF) would be cut by more than 40 percent compared to where the programs were 3 years ago, and would negatively impact our communities in at least two ways.

First, by EPA's own estimates, our communities face more than \$600 billion in sewer and drinking water project needs over the next two decades. And these needs are far outpacing the Federal Government's ability to help communities pay for them.

My own State of Rhode Island has more than \$1.6 billion in projects waiting for funding on its intended use plan, including \$1.3 billion in clean water needs. Yet, in the President's fiscal year 2013 budget, we are only slated to receive about \$16 million in SRF grants.

So I'm concerned that further cuts to SRFs will cause us to fall even further behind.

Second, the SRFs are tremendous job creators, especially when our Federal grants are combined with the additional funds that States contribute as a matching requirement, or stretched even further by leveraging through the bond markets.

Every \$1 we invest in these grants creates more than \$2 in total investments in actual projects on the ground.

The bottom line is that cutting these programs means cutting construction jobs. And despite the fact that many of EPA's programs we'll discuss here today are controversial, funding for water infrastructure has bipartisan support.

So I'm very concerned that the administration is proposing to cut one of the few areas of the EPA budget that both sides agree is extremely important.

There are some additional reductions to smaller programs in the EPA budget which also concern me, including a proposal to cut diesel emission reduction grants by one-half, and to eliminate Beach

Act coastal monitoring grants and the environmental education program.

As part of our conversation today, I'd like to know why these programs were selected for reductions, and I hope you'll work with me, Administrator Jackson, and the subcommittee to restore these proposed cuts.

Finally, I'd like to turn to an area of the budget that is very important to my home State, if you would allow me.

For many years, I've worked to protect Rhode Island's coastal environment since I became chairman. I've been working closely with the EPA to emphasize the need to restore coastal watersheds in southern New England like the Narragansett Bay.

Last year, I directed the EPA through the Interior, Environment, and Related Agencies appropriations bill to take a leadership role to coordinate and expand restoration programs in the region.

I'm happy that EPA's moving forward with these efforts and thank you very much, Madam Administrator, and your Regional Administrator Curt Spaulding in Region 1.

And I'm particularly pleased to see your proposed \$2 million investment in the region as part of your budget request. I want to thank you both, Administrator Jackson and Ms. Bennett, for your personal attention to this issue. Thank you very much.

And, now, let me turn to my ranking member, Senator Murkowski. Senator.

STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Mr. Chairman.

Administrator, welcome. Good morning, Ms. Bennett. Thank you also for being here.

Administrator, as you might expect, many of my questions today will involve policy issues. But first, I want to recognize and thank you for maintaining the Alaskan Native Villages Program at \$10 million in your budget request.

The need in rural Alaska for wastewater improvements is enormous. I truly appreciate that you've maintained this critical program while keeping the overall budget request below last year's level. So thank you for that.

Earlier this month, there was an editorial in the Washington Post entitled "The EPA is Earning a Reputation for Abuse". Not a very complimentary headline there.

And this was in response to statements that came to light from one of your regional administrators concerning the EPA's enforcement tactics.

And the editorial states as follows: "The most reasonable interpretation is also among the most disturbing, that Mr. Armendariz preferred to extract harsh punishments on an arbitrary number of firms to scare others into cooperating."

This sort of talk isn't merely unjust and threatening to investors in energy projects, it hurts the EPA. The question will remain, is an aggressive attitude like the one Mr. Armendariz described common among EPA officials?" And that's the end of that quote.

I raise these issues because I think these statements are somewhat consistent with some of the fears that have been expressed

by some of my constituents and that I have expressed about the EPA.

That it can sometimes be arrogant, use arbitrary enforcement or put in permitting requirements which then in turn discourage the market from investing in critical projects that are necessary to get folks back to work, invigorate our economy.

There's a couple of examples in Alaska that I will cite too that suggest that this attitude has perhaps affected EPA's work on issues within my State.

You are very familiar, of course, with Shell Oil and its effort to gain the necessary permits to pursue exploring offshore there.

They've spent more than 5 years and \$50 million pursuing air permits from the EPA for no more than two drill ships to operate in the Arctic Outer Continental Shelf (OCS). At the same time, these kinds of permits were issued routinely in the Gulf of Mexico in about a 6-week period in air sheds where there are many, many more drilling rigs operating year-round, and with many more communities in close proximity.

As you know, I worked with my colleagues last year to transfer air permitting authority in the Arctic OCS from the EPA to the Department of the Interior who already has the permitting responsibilities within the gulf.

A second case in point is the watershed assessment for Bristol Bay. This assessment is in response to a petition to block the proposed Pebble Mine under section 404 of the Clean Water Act.

I've heard from a lot of Alaskans on this issue. They're concerned about so many different aspects of it, from the potential development of a mine affecting our State's fisheries, to the need for a fair permitting process and the potential economic benefits of mineral development.

But precisely because this is such a controversial and very complex issue, I think that the process used by the EPA must be absolutely fair and transparent. And, I've been somewhat concerned about the potential for unintended consequences from such an assessment.

Back in February of last year, and again just last month, I sent letters to you inquiring what would stop the assessment from being used by opponents of other nonmining development in Bristol Bay.

I think that the assessment would be flawed if it doesn't contain an answer to that question. So that is something that I have asked and hope to get a firm answer on.

I do want the EPA to do its job in the regular order of things.

You clearly have the responsibility to protect the public health. I support that. I respect that, and I respect the passion for which you exercise your responsibility. But I do believe that it has to be done in a way that the public believes is fair and based on objective science.

And I would hope that you would agree with that. Mr. Chairman, again, I thank you.

Administrator Jackson, I appreciate you being before the committee today, and I look forward to our discussions later on. Thank you.

Senator REED. Before I recognize the Administrator, Senator Tester, do you have any comments?



Senator TESTER. No.

Senator REED. Thank you very much. Administrator Jackson, please.

SUMMARY STATEMENT OF LISA P. JACKSON

Ms. JACKSON. Thank you all, and thank you, Mr. Chairman.

Thank you for inviting me to testify on the President's fiscal year 2013 budget for the EPA. And, as you noted, thank you. I'm joined by our Chief Financial Officer, Barbara J. Bennett.

EPA's budget request is \$8.344 billion, and it focuses on fulfilling EPA's core mission that's protecting human health and the environment, while making sacrifices and, indeed, tough choices that Americans across the country are making every day.

EPA's budget request fully reflects the President's commitment to reducing Government spending. The budget is down and finding cost savings in a responsible manner, while still supporting clean air, clean water and the innovative safeguards that are essential to an America that's built to last.

In some cases, we have, indeed, had to take a step back from programs. This budget reflects a savings of \$50 million through the elimination of several EPA programs and activities that have either met their goals or can be achieved at the State or local level or by other Federal agencies.

I just want to spend a moment discussing a few elements of EPA's budget request.

The budget request recognizes the importance of our partners at the State and local and tribal level. As you know, they are, indeed, at the front lines of implementing our Nation's environmental laws like the Clean Water Act, and the Clean Air Act.

And, in fact, the largest portion, fully 40 percent of EPA's funding request, is directed to State and Tribal Assistance Grants appropriations. And that's to support their efforts.

Specifically, the budget proposes that \$1.2 billion, nearly 15 percent of EPA's overall budget request, be allocated back through categorical grants to the States and tribes. This includes funding for State and Local Air Quality Management grants, Pollution Control grants, and the Tribal General Assistance Program.

The budget also proposes that a combined \$2 billion, fully 25 percent of EPA's budget request, goes directly to the States for the Clean Water and Drinking Water State Revolving Funds.

As you noted, Sir, this funding will help support systemwide investments that are efficient and that develop water infrastructure in our communities. We are working collaboratively especially to identify opportunities to fund green infrastructure, projects that can reduce pollution efficiently and much less expensively than traditional grey infrastructure.

Additionally, our budget request would fund the protection of the Nation's land and water in local communities, including important water such as the Narragansett Bay.

Reflecting the President's commitment to restoring and protecting the Great Lakes, the budget requests that the Congress maintain the current funding level of \$300 million for the Great Lakes Restoration Initiative.

This support will continue to be used for collaborative work with partners at the State, local and tribal level, and also with nonprofit and municipal groups.

The budget also requests support for protection of the Chesapeake Bay, and several other treasured and economically significant water bodies.

The budget reflects the importance of cleaning up contaminated land requesting \$755 million for continued support of the Superfund cleanup programs and maintaining EPA's emergency preparedness capabilities.

EPA's budget request makes investments in its science and technology account of \$807 million, that's almost 10 percent of the total request. That includes \$576 million for research, including \$81 million in research grants and fellowships to scientists and universities throughout our country for targeted research as part of the Science to Achieve Results, or STAR program, on areas that include issues like children's health, endocrine disruption, and air monitoring research.

Also, as part of this request, EPA is funding increases in areas that include green infrastructure and hydraulic fracturing.

As I've mentioned before, natural gas is an important resource abundant in our country, but we must make sure that the way we extract it does not jeopardize our water supplies.

This budget continues EPA's ongoing congressionally directed fracking study, which we have taken great steps to ensure is independent, peer reviewed, and based on strong and scientifically defensible data.

Building on these ongoing efforts, this budget requests \$14 million in total to work collaboratively with the USGS, the Department of Energy (DOE), and other partners to assess questions regarding hydraulic fracturing.

Strong science means finding the answers to tough questions, and that's what our budget request is intended to do.

We are making investments to support standards for clean energy and energy efficiency in this budget. Specifically, this budget supports EPA's efforts to introduce cleaner vehicles and fuels, to expand the use of home-grown renewable fuels.

This includes funding for EPA's Federal Vehicle and Fuel Standards and Certification program and compliance testing for emissions standards. This also includes implementation of the President's historic agreement with the auto industry for reducing carbon pollution and increasing fuel economy standards through 2025 for cars and light duty vehicles, including testing support for NHTSA's fuel economy standards.

#### PREPARED STATEMENT

Taken together, the administration's standards for cars and light trucks are projected to result in \$1.7 trillion in fuel savings and 12 billion fewer barrels of oil consumed.

This funding will also help support implementation of the first ever carbon pollution and fuel economy standards for heavy duty vehicles.

Mr. Chairman, I thank you for the opportunity to testify. While my testimony reflects only a few highlights of EPA's budget re-

quest, I look forward to answering all questions of the subcommittee.

[The statement follows:]

PREPARED STATEMENT OF LISA P. JACKSON

Thank you for inviting me to testify on the President's fiscal year 2013 budget for the Environmental Protection Agency (EPA). I'm joined by EPA's chief financial officer, Barbara J. Bennett.

EPA's budget request of \$8.344 billion focuses on fulfilling EPA's core mission of protecting public health and the environment, while making the sacrifices and tough decisions that Americans across the country are making every day.

EPA's budget request fully reflects the President's commitment to reducing Government spending and finding cost savings in a responsible manner while supporting clean air, clean water, and the innovative safe guards that are essential to an America that's built to last. In some cases we have had to take a step back from programs—this budget reflects a savings of \$50 million through the elimination of several EPA programs and activities that have either met their goals, or can be achieved at the State or local level or by other Federal agencies.

Let me spend a moment discussing major elements of EPA's budget request.

This budget recognizes the importance of our partners at the State, local, and tribal level. As you know, they are at the front lines of implementing our environmental laws like the Clean Water Act, and the Clean Air Act. In fact, the largest portion—40 percent of EPA's funding request—is directed to the State and Tribal Assistance Grants appropriation to support their efforts.

Specifically, this budget proposes that \$1.2 billion—nearly 15 percent of EPA's overall request—be allocated back to the States and tribes, through categorical grants. This includes funding for State and Local Air Quality Management grants, Pollution Control grants and the tribal general assistance program.

The budget also proposes that a combined \$2 billion—another 25 percent of EPA's budget request—also goes directly to the States for the Clean Water and Drinking Water State Revolving Funds. This funding will help support efficient systemwide investments and development of water infrastructure in our communities. We are working collaboratively to identify opportunities to fund green infrastructure—projects that can reduce pollution efficiently and less expensively than traditional grey infrastructure.

Additionally, EPA's budget request would fund the protection of the Nation's land and water in local communities. Reflecting the President's commitment to restoring and protecting the Great Lakes, this budget requests that the Congress maintain the current funding level of \$300 million for the Great Lakes Restoration Initiative. This support will continue to be used for collaborative work with partners at the State, local and tribal level, and also with nonprofit and municipal groups. The budget also requests support for protection of the Chesapeake Bay, and several other treasured and economically significant water bodies. The budget reflects the importance of cleaning up contaminated land sites in our communities by requesting \$755 million for continued support of the superfund cleanup programs and maintains EPA's emergency preparedness and response capabilities.

EPA's budget request makes major investments in its science and technology account of \$807 million, or almost 10 percent of the total request. This request includes \$576 million for research, including \$81 million in research grants and fellowships to scientists and universities throughout the country for targeted research as part of the Science to Achieve Results—or STAR—program, including children's health, endocrine disruption, and air monitoring research. Also, as part of this request, EPA includes funding increases into key areas that include green infrastructure and hydraulic fracturing.

As I've mentioned before, natural gas is an important resource which is abundant in the United States, but we must make sure that the ways we extract it do not risk the safety of public water supplies. This budget continues EPA's ongoing congressionally directed hydraulic fracturing study, which we have taken great steps to ensure is independent, peer reviewed, and based on strong and scientifically defensible data. Building on these ongoing efforts, this budget requests \$14 million in total to work collaboratively with the United States Geological Survey, the Department of Energy and other partners to assess questions regarding hydraulic fracturing. Strong science means finding the answers to tough questions, and EPA's request does that.

We are making investments to support standards for clean energy and efficiency in this budget. Specifically, this budget supports EPA's efforts to introduce cleaner

vehicles and fuels and to expand the use of home-grown renewable fuels. This includes funding for EPA's Federal Vehicle and Fuel Standards and Certification program to support certification, and compliance testing for all emissions standards. This also includes implementation of the President's historic agreement with the auto industry for carbon pollution and fuel economy standards through 2025 for cars and light duty vehicles, including testing support for National Highway Traffic Safety Administration's (NHTSA) fuel economy standards. Taken together, NHTSA's standards for cars and light trucks are projected to result in \$1.7 trillion of fuel savings, and 12 billion fewer barrels of oil consumed. This funding will also help support implementation of the first ever carbon pollution and fuel economy standards for heavy duty trucks.

Stepping back from EPA's budget request, let me spend a moment discussing the impact of a sequester. Mr. Chairman, as you know, as part of the Budget Control Act of 2011 (BCA), through a sequestration, spending may be forced to be slashed in an irresponsible manner that can endanger the public health protections that we rely on and not invest in an America that's built to last. By design the sequester is bad policy, bringing about deep cuts in defense and nondefense spending to act as an incentive for congressional action on deficit reduction.

Even without the sequester, discretionary spending has already been cut in nominal terms for 2 straight years. Under the BCA, it is on a path to reach its lowest level as a share of GDP since the Eisenhower administration.

If the sequester were to happen, it would bring another round of deep cuts in discretionary spending. Although the administration is continuing to analyze the impact of the sequester, CBO has said that in 2013, the sequester would result in a 7.8-percent cut in nonsecurity discretionary accounts that are not exempt from the sequester. It would be impossible for us to manage cuts of that magnitude and still achieve our fundamental mission to protect human health and the environment.

The sequester would thus have a devastating effect on our country's ability to conduct the following activities over the long haul:

- A sequester would result in deep cuts to EPA's operating budget, which includes funds for the enforcement of public health and environmental protections.
- It would significantly harm our ability to help State and local governments finance needed drinking water and wastewater projects that provide communities clean and safe water.
- A sequester also would slash EPA grants that help States carry out basic functions that protect human health and the environment like water quality permitting and air quality monitoring.
- The sequester would impair progress on the country's ability to clean up the nation's hazardous waste sites over the long haul.

The President has been clear that the Congress needs to avoid a sequester by passing a balanced deficit reduction—at least as much as the BCA required of the Joint Select Committee on Deficit Reduction to avoid sequestration. The President's budget reflects such a balanced proposal, and we believe the Congress should enact it and cancel the sequester.

Mr. Chairman, thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of EPA's budget request, I look forward to answering your questions.

Senator REED. Thank you very much, Administrator.

We'll do 6-minute rounds, and I assume that we'll have a second round at least and maybe more. But let me begin.

#### STATE REVOLVING FUNDS

Obviously, with my initial comments about SRFs, I want to give you a chance to respond about the deep cuts relative to other programs.

And the two points that I made in my comments, I'll just reiterate and ask for you to respond. One is, there are numerous projects at the State level that are available, billions of dollars and more than 10 years worth of projects that have to be funded and we're cutting back on it.

And this is a program obviously that creates the kind of construction jobs and multiplier effect in the local communities that is

so critical at this moment, particularly, up in Rhode Island, and I think every State in the country.

So, Madam Administrator, I know you had to make tough choices, but does it make sense to cut this program this much?

Ms. JACKSON. Well, thank you for recognizing, Chairman, that this does represent the kinds of tough choices that we have to face.

This administration really has strongly supported investments in drinking water and wastewater infrastructure to the tune of \$18 billion more than the budgets so far. That includes \$6 billion that was in the American Reinvestment and Recovery Act, of which, 100 percent allocated to States and tribes has been obligated.

So it's important for us, and I think we would love to work with you. I understand the concern. There is great need out there. It is absolutely true that clean water is the basis for economic growth and development, and it's also a clear stimulant for jobs and construction.

We'd like to take a look at what's out there, what has been expended and whether there are still monies that will be expended over the coming year. Part of this is a recognition that we may have money that because of the incredible investment, that \$18 billion, we can look to make sure that the funds are being purposed and put out on the street for jobs.

Senator REED. Thank you. Obviously, we'll be following up with you to try to get that information and also to continue to press the case that this program could, I think, effectively use additional funding.

#### NARRAGANSETT BAY

I want to, as I said before, thank you and Ms. Bennett for your work with the coastal watersheds of Region 1, in particular, in Narragansett Bay.

Can you give us an idea of your concept? I know there's \$2 million within the budget for this, and how do you see this not only affecting Narragansett Bay, but also being consistent with and maybe a model for other watersheds throughout the country?

Ms. JACKSON. Well, thank you, Mr. Chairman.

I think, as you pointed out, southeast New England faces environmental challenges, and the region has typical challenges associated with the legacy of some amount of contamination, channelized and impounded rivers, and natural systems that have been altered.

Under your leadership and working together, I think we do have an opportunity to develop and test and implement best practices for restoration and renewal that would benefit the entire bi-State areas, the entire areas along that coastline, especially Narragansett Bay.

We, of course, have the National Estuary Program, and we worked on that. We have other estuary programs where there is some opportunity to work together. But our hope here is to bring expertise and commitment on water quality together with an intense focus on the Narragansett Bay, in particular, to determine what specific levers can be pulled to make the largest increases in water quality as well as habitat and coastline improvements along the Bay.

Senator REED. Thank you.

## STATE AND LOCAL AIR QUALITY GRANTS

Let me raise a final question in my first round. And that is, I've received letters from the directors of nine State environmental agencies, and I think Senator Murkowski and others have received the letters.

And they are responding to your proposal to change the formula for State and local air quality grants which would essentially change the formula to favor the south and the west from the current arrangement.

And their fear, even though you're increasing funding so that there's no immediate decrease, their fear is obviously that this fund is locked in. If funding is not increased over time consistently, they will begin to receive less and less for these important functions.

One other point I have, and this is just specific to the Northeast, one of the ironies of course is that we have to monitor a lot of air that comes from the Midwest. So that our air quality efforts are not simply a function of, you know, our regional or even local output.

And that I think also is another rationale for maintaining the formula. And there is a second issue too. And that is that they've raised the point that you are proposing to transfer authority for particulate monitoring from section 103 to section 105.

The bottom line is that this transfer requires a State match, which means, in the worst case, and generally, they think it's the worst case, they're going to see their funds decrease. And then another portion of their operations will require a State match which is virtually impossible to obtain given the reality of the States, all of our States at the moment.

Could you comment?

Ms. JACKSON. Yes, Mr. Chairman, thank you.

I do think, we have heard some of those concerns and received copies of those letters. And I think that once we receive our appropriation amount, there is an opportunity for us to try to work with States on how the money is allocated between section 103 and 105 authorities.

There is some difference across the country in need. Actually, the need is greater than what we can give them. We are increasing, and we're very, very proud, we'd love to be able to give you even more money.

But we're increasing because we recognize that States are so strapped, and that these monitoring systems for air quality are really the basis of determining whether air is healthy or not. And, of course, potentially taking action.

So I think there is opportunity to work to make sure that there are no unintended consequences for States. But the increase is very real.

Senator REED. Well, I appreciate that.

But, again, taking the longer view, there's a real fear that this formula change could significantly disadvantage, as well as the shifting of authorities.

So we will be working with you and looking very closely for the justification for these proposals and also to ensure that if these concerns are justified, we can respond and make appropriate changes.

With that, let me recognize Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Administrator, as I go around the State meeting with constituents, more people ask me questions about EPA than any other Federal agency out there.

And they ask me to intervene. They ask me to do everything that I can to help just deal with an agency that they're having some difficulty understanding.

In fact, I had asked my Alaska staff to, as they meet with various community leaders, to just kind of keep a running list of some of the issues that are coming out of our communities. Some of them are what you would certainly expect, concerns about Boiler MACT, Utility MACT.

Others are pretty local, everything from how we get different ice melt on airport runways to how animals that are on the Alaska marine highway system moving from small island community to small island community, how the waste from those animals can be dealt with.

So it's really a range all over the board. What I would ask for you this morning is a commitment to have your senior staff with operational authority sit down with some of my senior advisers within the next few weeks or so to discuss where the EPA is on a range of these issues.

Senator MURKOWSKI. Again, many of them are so very local that I don't want to take the subcommittee's time to resolve, but exceptionally important to these more isolated and smaller communities.

So I'd ask if you'd be willing to appoint some folks to sit with me.

Ms. JACKSON. Of course.

Senator MURKOWSKI. Thank you.

[The information follows:]

Administrator Jackson committed to have senior staff with operational authority sit down with some of Senator Murkowski's senior advisers within the next few weeks to discuss where the Environmental Protection Agency (EPA) is on a range of issues (ice melt on airport runways, Boiler Maximum Achievable Control Technology (MACT), Utility MACT, animal waste, etc.).

Senior EPA staff met with staff from Senator Murkowski's office on May 31, 2012. The meeting resulted in numerous issue-specific, follow-up meetings, and an ongoing discussion on specific matters.

#### BRISTOL BAY WATERSHED

Senator MURKOWSKI. Let me ask you, just a quick question on the Bristol Bay watershed. I understand that an announcement on that is due out shortly. And, of course, my hope is that in addition to the questions that I had posed in my two letters to you, that we will not see a pre-emptive veto.

The concern that I have expressed, and just mentioned in my opening, is how far this assessment can be utilized beyond just the Pebble project itself.

Can you legally limit the impact to just EPA's consideration of the mining activity? Or, will it impact or affect the development decision in the watershed involving other issues, whether it's dredge or fill material?

Of course, the concern is, is that within this area that's about the size of the State of West Virginia, if they're not going to be able

to build a road, build a runway, because of this assessment, this is extraordinarily limiting.

So I'm trying to understand that EPA authority, if you could address that for me.

Ms. JACKSON. Yes, Senator. And thank you for your letter.  
[The information follows:]

UNITED STATES SENATE,  
Washington, DC, April 18, 2012.

Hon. LISA P. JACKSON,  
*Environmental Protection Agency,*  
*Washington, DC.*

DEAR ADMINISTRATOR JACKSON: The Environmental Protection Agency (EPA) announced over a year ago that it would undertake a "scientific assessment of the Bristol Bay watershed" in Alaska in response to a petition to preemptively veto development, in that area, under section 404(c) of the Clean Water Act. These actions materialized in response to the potential development of the so-called Pebble Mine.

Since that project became a possibility, I have encouraged all stakeholders to withhold judgment until 1) a detailed development plan is released for review and 2) all relevant analyses of that plan are completed. A preemptive veto, just like a preemptive approval, would be based purely upon speculation and conjecture. It would deprive relevant government agencies and all stakeholders of the specifics needed to take an informed position. As I have communicated to you in the past, this would be an unacceptable outcome to me.

Even as the EPA proceeds with its watershed assessment, I have continued to hear from many Alaskans about it. They are concerned about everything from the potential development of a mine and the importance of our State's fisheries to the need for a fair permitting process and the potential economic benefits of mineral development. Needless to say, I remain apprehensive about EPA's handling of this matter generally, but I write today regarding one particular issue.

Setting aside my opposition to a preemptive veto of a mining project that has not yet applied for a permit, I am worried about the unintended consequences for other development should the EPA decide to take such action. Specifically, I remain concerned that an attempt to preemptively veto the Pebble mine would have the practical effect of halting any development in the Bristol Bay area that might generate dredge or fill material. It remains unclear to me how dredge or fill material from a mining operation might be substantively different from dredge or fill material generated from any other form of development.

In my letter to you of February 16, 2011, I raised this issue and asked a pair of detailed questions. I was disappointed to find that your response of March 21, 2011 did not definitively answer either of those questions, both of which appear with the responses that the EPA provided in the attachment. Since our exchange, and in continuing to hear from my constituents about the EPA's activities in Alaska, I have only become more concerned. It was my hope that a recent meeting with EPA officials would finally alleviate some of these concerns, but I regret that it failed to accomplish that objective as well.

On March 6th, members of my staff met with EPA's Region Ten Administrator, Dennis McLerran. Consistent with my past inquiries, they asked Administrator McLerran about the potential impact of a preemptive veto of development in the Bristol Bay watershed for not only mining, but all other development. They were told that the watershed assessment would be narrowly crafted to look at hypothetical mining activities and that any preemptive veto would be similarly structured to avoid impacting other development. I ask that you provide further, written clarification on this matter.

In particular, I fail to see what grounds the EPA might have for asserting that dredge or fill generated by a hypothetical mine and the acceptability of impacts resulting from its disposal—is any different from dredge or fill material generated by any other hypothetical development. Given the EPA's apparent comfort with consideration of hypothetical scenarios, and for purposes of more definitively answering my previously submitted questions, I ask that you do so again.

Specifically, please assume that EPA goes ahead with a preemptive veto of mineral development in the Bristol Bay area. Having done so, please consider the possibility of a subsequent proposal to develop an airfield—one that would generate, and require disposal of, dredge or fill material—in the same area. If a third-party litigant sued to prevent construction of this hypothetical airfield, please describe the



legal grounds upon which that challenge might be reliably defeated and the airfield development allowed to move forward.

To date, I have not received a satisfactory response to this question, no matter how it has been phrased. This makes me very concerned, so I appreciate any assistance you might be able to provide in clarifying the matter and hope that the more specific example provided herein will be helpful to that end. In attempting to answer this question, I ask that you do so no later than—and ideally prior to—the issuance of the watershed assessment that the EPA has undertaken. To be clear: I will view as fatally flawed any assessment that does not include, or is not accompanied by, an official legal opinion from the administration on this matter. I further ask that your analysis be performed in conjunction with the Department of Justice and the EPA's Solicitor.

As the people of my State work to attract investment and create jobs, regulatory uncertainty is hampering those efforts and they need answers to questions about actions that the EPA is considering. This is particularly true when those actions could have a permanent and detrimental impact on our ability not only to develop Alaska's resources, but also to undertake any other forms of development in our State.

Thank you for your attention to this important matter.

Sincerely,

LISA MURKOWSKI,  
*U.S. Senator.*

cc: Administrator Dennis McLerran and Attorney General Eric Holder

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ATTACHMENT

Question:

Should a veto be exercised preemptively within the Bristol Bay watershed—not in relation to an application to undertake specific development in the area—could that decision be interpreted by courts or future administrations to extend more broadly to all future development proposals (e.g., an airstrip, fish-processing plant, refinery, hospital, school, museum) that may require a dredge or fill disposal site?

EPA Response:

EPA's assessment is not a regulatory action. This assessment will help inform consideration of options for improving protection of the Bristol Bay watershed. EPA has made no decision at this time to proceed with a CWA section 404(c) review in Bristol Bay. As a result, we are not prepared to speculate regarding the scope of any action taken under this authority.

Question:

It seems that a preemptive veto could set a number of highly-problematic precedents. For example, the Bureau of Land Management, the U.S. Forest Service, and other federal agencies have historically been tasked with land planning decisions on federal acreage. Similarly, state lands are managed by analogous entities. Should the EPA issue a preemptive veto of an entire area which, in this case, consists largely of state lands, those aforementioned agencies would no longer be able to plan for multiple-use activities, but instead be subjected to preemptive yes-or-no decisions from the EPA under whatever speculative assumptions regarding development the EPA may choose to adopt.

Has the EPA considered the precedents that would be set by a preemptive veto? Has the EPA consulted relevant federal and state agencies regarding such a course of action? Could third-party litigants cite the veto as precedent in opposing other projects within the watershed?

EPA Response:

EPA has not made any decision regarding whether or not to initiate an advance 404(c) action at this time. As we have emphasized, we have instead chosen to work with our federal, state, and tribal partners, and the public, to assess the resources in Bristol Bay and identify options for improving protections for fisheries in the Bay that depend so significantly on clean water and a healthy watershed. We look forward to working with federal agencies, corresponding state agencies, tribes, and others to take advantage of their experience and information to support the Bristol Bay assessment. As part of the assessment process, EPA will collaborate with an extensive list of federal, state, tribal, and local government agencies and organizations; the public; private interests such as mining project proponents; and others with an interest in Bristol Bay. EPA's assessment process is being conducted in an open and transparent manner to allow the issues you have raised to be effectively raised and discussed. This information and public discussion will help inform decisions following completion of the study.

Ms. JACKSON. I'll lay this out more fully in my response to your letter which will be coming very, very shortly. And, because your letter was addressed, and copied to the Attorney General, we have been also consulting on the legal issues here.

[The information follows:]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,  
Washington, DC, May 17, 2012.

Hon. LISA A. MURKOWSKI,  
United States Senate,  
Washington, DC.

DEAR SENATOR MURKOWSKI: Thank you for your April 18, 2012, letter requesting additional clarification about the U.S. Environmental Protection Agency's (EPA) Bristol Bay watershed assessment. I appreciate the opportunity to respond to your letter.

As detailed in my letter of March 21, 2012, EPA undertook this assessment after numerous native villages and other organizations in Alaska and elsewhere raised concern about potential environmental, water quality, fisheries and associated economic and subsistence impacts from proposed large-scale mining development in the Bristol Bay watershed. Clean Water Act Sections 104(a) and (b) clearly provide the Agency with the authority to study the resources of the Bristol Bay watershed, evaluate the effect of pollution from large scale mining development on those resources, and make such an assessment available to the public. Although these groups requested that EPA use its authority under Section 404(c) of the Clean Water Act, others argued that any action should be based on submission and review of a particularized permit application.

EPA decided it was premature to make any decision on the use of Section 404(c). Instead, the Agency opted to undertake a scientific assessment to obtain a more informed basis for future decisionmaking. The EPA is conducting this assessment in coordination with Federal agencies, tribal organizations, and the public. We have also consulted with the State of Alaska. We intend to make our draft available for public comment and are convening a peer review panel to provide us with independent scientific feedback. Our goal is the finalization of a robust, technically sound assessment. Only upon its completion will the Agency examine regulatory options, including application of 404(c), if appropriate. We will be happy to brief you and your staff on the draft assessment and its implications when it is released.

Your letter raises an important question about the precedential effect of a hypothetical EPA section 404(c) review of mining in Bristol Bay on other future development activities in the Bristol Bay watershed. Before turning to this issue, I want to be clear that the focus of our assessment is on the environmental and water quality impacts from discharges of dredged or fill material associated with large-scale mining in the watershed. The assessment does not address impacts associated with other development activities, such as construction of an airfield, which have a wholly different environmental footprint from large-scale mining. Since this assessment focuses only on the impacts of large-scale mining projects to the Bristol Bay watershed, use of the assessment in support or in opposition to other types of wetland fill activities is not appropriate. Therefore, we would not expect the assessment to play a significant role should controversy arise about possible regulation of development activities unrelated to large-scale mining.

While your question is hypothetical, and EPA has no plans to use 404(c) authority unless justified by the full technical assessment, let me also assure you that we have a broad range of discretion in our use of the 404(c) authority. A final 404(c) action in Bristol Bay prohibiting or restricting large scale mining activities would not affect other development in the watershed. CWA section 404(c) authorizes the EPA to prohibit or restrict discharges in a defined area of the waters of the United States when those discharges are determined to have unacceptable adverse environmental or water quality impacts. Discharges associated with activities outside the focus of a particular Section 404(c) decision are not prohibited or restricted by EPA's action. As a result, if EPA were to prohibit or restrict certain discharges from large-scale mineral development at Bristol Bay, this action would not preclude other development or infrastructure such as airport construction that had less damaging impacts.

Historic application of this authority demonstrates that we have used it sparingly and only for severe and widespread impacts on ecological resources that we felt justified protection of these resources. I am unaware of any case where our decision to use 404(c) in one situation was interpreted to compel its use in a different set of factual circumstances.

Impacts from the discharge of dredged or fill material vary significantly depending on the location, scale, and duration of the activity associated with the discharge. The impacts from using clean fill material to build a private boat dock are not the same, for example, as impacts from placing contaminated fill material to construct a large solid waste landfill. EPA carefully considers these distinctions in its review under Section 404 to ensure that our actions protect against unacceptable adverse impacts to public health and the environment while assuring that environmentally responsible development may proceed.

Preparation of this letter was coordinated within the EPA's Office of General Counsel and with the Department of Justice. I hope it responds effectively to your questions. Please contact me if you have any additional questions regarding EPA's Bristol Bay watershed assessment or your staff may contact Arvin Ganesan, Associate Administrator for Congressional and Intergovernmental Relations, at 202-564-5200.

Sincerely,

LISA P. JACKSON,  
*Administrator.*

Ms. JACKSON. And I feel confident that I can answer that the assessment focuses on large-scale mining. And using the assessment to oppose or support any other type of project will be inappropriate.

It's a draft assessment. It's going out for public comment and then it will go for peer review. So it's early on.

Senator MURKOWSKI. How long a public comment do you anticipate on that?

Ms. JACKSON. I believe it's 60 days, Senator. And we're trying to get it out before commercial fishing and other successive fishing seasons begin.

So we do believe that it won't apply to nonmining projects, and that will be laid out more fully in the letter.

Senator MURKOWSKI. Have you requested a legal opinion to that effect then?

Ms. JACKSON. Well, we've coordinated with the Attorney General's office to ensure that our reading of the law under Section 404 of the Clean Water Act is correct and accurate.

Senator MURKOWSKI. Do you have or will you have anything in writing that you can provide to us on that legal opinion?

Ms. JACKSON. Well, I have the letter which will indicate our having consulted with our counterparts at the Attorney General's office.

Senator MURKOWSKI. Well, I understand you're going to be sending me a written response, and I will await that.

But I think it's going to be important that it clearly be established through legal opinion, or some form of assurance out there that, in fact, this can be and will be limited to large-scale mining.

Because again, I think the big unknown here is what this potential impact may mean to any other kind of development within this region.

Ms. JACKSON. Well, definitely, the letter will reflect the concurrence of opinion between EPA, but having consulted with the Attorney General's office, not only our internal attorneys, but those who would be responsible for interpreting the law.

And so we do believe that it will do that.

Senator MURKOWSKI. Well, I will await that letter. But I may want to double back with you in just ascertaining where we really are.

Because this is the big issue that we're dealing with, with Pebble right now, is how this, the extent of this assessment might be interpreted.

#### NEW RULES AND REGULATIONS

One last question before my time has expired here. A lot of concern about the rush toward additional regulations coming out of the administration as we come to the end of President Obama's first term here.

And a concern that we're going to see a rush of major, new rules and regulations prior to January 20.

Can you give a list to the subcommittee, for the record, on what major rules and regulations are due to be final, by either virtue of the statute, or by court order, prior to January 20.

[The information follows:]

The Congressional Review Act (CRA) defines a major rule as one that "has resulted in or is likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets." (5 U.S.C. 804(2).)

The Office of Management and Budget (OMB) reviews rules to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in Executive Order 12866, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. OMB's Administrator of the Office of Information and Regulatory Affairs determines whether a rule is classified as "major".

Generally, the Environmental Protection Agency's (EPA) rules that have been determined as "major" under the CRA are based on the annual effect on the economy of \$100 million or more" part of the definition. EPA's Semiannual Regulatory Agenda captures information on rules that are "major" as well as any associated deadlines for the rules in question. EPA's Semiannual Regulatory Agenda is available at <http://www.epa.gov/lawsregs/regulations/regagenda.html>; please note that a more updated Agenda is scheduled to publish in the very near future.

Executive Order 12866 defines a significant regulatory action as one that is likely to result in a rule that may:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order. (section 3(f).)

EPA rules that have been determined as "significant" under Executive Order 12866 are based on the "annual effect on the economy of \$100 million or more" and "raise novel, legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth" parts of the definition.

Accordingly, EPA's Semiannual Regulatory Agenda captures information on rules that are meet the criteria of "economically significant" or "other significant." EPA's Semiannual Regulatory Agenda is available at <http://www.epa.gov/lawsregs/regulations/regagenda.html>; please note that a more updated Agenda is scheduled to publish in the very near future.

Senator MURKOWSKI. And then again, a list as to those significant rules that you expect to go final within that same timeframe, just so that we understand what it is that we're dealing with.

Ms. JACKSON. Most certainly, Senator.

There are two things though I just need to clarify. We have a regulatory agenda that tends to be somewhat broader than what actually comes to be in terms of proposed or final regulations.

And we are right now in the middle of several court cases which may change our agenda. So I can certainly give you a listing of those things, and they're fairly publicly known major regulations that we are working on.

For example, finalizing the fuel economy standards and others. But our regulatory agenda, which we're working on updating, is probably the best source of that information, and we'll get that updated as soon as we can.

Senator MURKOWSKI. Thank you.

Senator REED. We're going to go back and forth on order of arrival. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman. And thank you for being here, Administrator Jackson.

I want to tag onto your statement earlier that clean air and clean water is important for economic development. It's also the basis of life.

And I think that as we, whether it's mining for gold or drilling for oil, it's critically important we don't sacrifice one resource for another.

#### HYDRAULIC FRACTURING

And along those lines, there is a robust discussion regarding hydraulic fracking or fracturing. Fracking is what's taken North Dakota to number two in oil production in this country.

And DOE's advisory board, shale and gas production subcommittee of the National Petroleum Council, have released reports about hydraulic fracturing and domestic production of oil and gas.

These reports provide suggested steps that the government, industry and researchers need to take to assure that we have a balanced regulatory regime to protect development and citizens.

Just last week your agency released draft guidance on Class 2 injection wells and the use of diesel fuel. BLM just released their draft regulation of hydraulic fracturing on BLM and Tribal Trust lands.

And from my read, one of the most critical parts of the recommendation is the standards for casing and constructing wells.

If there isn't public trust that this technology can be used safely, that will inhibit its future development. And I believe that the industry is starting to recognize that.

My question for you is, do you believe that the standards provided by American Petroleum Institute (API) and used by the BLM are sufficient to protect groundwater and surface water contamination both during protection and into the future?

Ms. JACKSON. I believe, based on what we know now, Senator, our staff worked—I can't speak about API, as much as I can say that our staff at EPA were consulted and reviewed the proposed regulations that the Department of Interior put out last week.

It's obviously their jurisdiction because it's on public lands. The only caveat I would offer, Sir, is that we are in the middle of this

2-year, congressionally directed study on groundwater, on the effect or potential effect of fracking on groundwater.

And anything that we learn as a result of that will be available to the private sector, the public sector, States, locals, and of course, our colleagues at the Department of the Interior.

Senator TESTER. Another major section of the recommendation is about disclosure. There are many forms of disclosure.

Do you believe that the Web site, FracFocus, provides sufficient information to the public?

Ms. JACKSON. I believe that the proposal that the Department of the Interior put out leaned heavily on the information in FracFocus, and that they are probably best able to describe how their regulations mesh with the FracFocus effort.

But I do think it is an important effort that the industry step forward and recognize that one of the major concerns the public has is the lack of awareness and transparency around the chemicals being injected.

Senator TESTER. Okay. Thank you very much.

#### FARM FUEL TANKS

One of the things that I visited with your office before about is EPA's implementing new regs on farm fuel tanks to prevent fuel spills into rivers and streams.

My concern is that EPA has not adequately explained the rules or educated the public about them, particularly, people in production agriculture.

Look, I don't think farmers have, nor should they, check the Federal Register or regularly check the EPA's Web site. Although it might be handy, I don't think it's high on their list and I don't think it probably should be.

As EPA implements the regulations, and I think it's EPA's responsibility to make sure that the folks out there know what's coming. In this particular case, farmers and ranchers, and how they can work through the process.

Many folks in my neck of the woods continue to have questions and deadlines. There's good information. There's bad information about the certification process, and whether they can certify themselves.

I guess just to cut to the chase, we asked you to hold off. What progress has EPA made in conducting outreach to the folks in production agriculture? I'm talking farmers and ranchers.

Ms. JACKSON. And I thank you, Senator.

And, yes, you're right. Happy to give you an update on our progress after we put in place a delay to include additional outreach. We met with national agricultural groups who have an interest in the issue.

We've drafted, and it's with their input, new materials that can be provided to grower groups, States, and cooperative extensions.

I think just in the last week or so, we had a discussion with communication directors at the major grower groups to particularly focus and discuss other outreach efforts to make sure that the information is clear and useful for farmers.

Senator TESTER. Have you got any feedback from farmers on it yet?

Ms. JACKSON. I can certainly check on that, Sir. But I don't, I think we are—Let me check on it for you.

[The information follows:]

The Environmental Protection Agency has actively engaged in a significant number of outreach efforts to ensure the farmer community is fully aware of their responsibilities under the Spill Prevention, Control, and Countermeasure regulations and have the tools needed to meet those requirements. Our efforts have included developing a flyer to be used by trade associations and agriculture extension services to inform and educate their members; holding webinars for the farming community to educate and provide opportunity to ask questions regarding their responsibilities; attending fairs and conventions to speak and distribute information; compiling a list of outside materials (such as articles, videos, blogs, Web sites, etc.) produced by outside groups like agriculture centers, universities, trade associations; and creating and supporting a Web site with pertinent information and tools for farmers. At this time, we have had no additional formal feedback from farmers; however, we have received some anecdotal information from trade associations and farmers that they are finding this information useful.

Senator TESTER. Okay. That's fine.

In Montana, we pride ourselves on self-sufficiency. Many folks in Montana are trying to use biodiesel on their farms to help increase energy independence.

Unfortunately, certifying each batch of biodiesel for small producers is cost prohibitive. A while ago, I asked CPA to consider an exemption for on-farm/regional biodiesel use.

I don't think any progress has been made on that, but you can correct me if I'm wrong. So I guess what I'm asking you is if you can commit to working with me to develop a reasonable certification process for small, on-farm regional use of biodiesel, I think this could do a lot of things, Administrator Jackson.

I think it can help contribute to our energy independence. I also think it could create some jobs in rural America where we need a few more.

Ms. JACKSON. Yes, Senator. I'm not aware of what progress, if any, we've made. So I'm happy to commit to working with you on that issue.

[The information follows:]

Fuel and fuel additive registration requirements under 40 CFR part 79 are not required for producers who make biodiesel fuel for off-road use (e.g., in agricultural equipment).

Senator TESTER. All right. Thank you very much for that. Thank you for being here.

Ms. JACKSON. Thank you.

Senator TESTER. Mr. Chairman.

Senator REED. Thank you, Senator Tester. Senator Blunt, please.

#### PREPARED STATEMENT

Senator BLUNT. Thank you, Mr. Chairman. I've got a statement for the record I'll submit and I'm sure that EPA will want to read it carefully.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR ROY BLUNT

Thank you Chairman Reed and Ranking Member Murkowski for holding this hearing today. I appreciate the opportunity to examine not only the budgetary needs, but also some of the recent activities of the Environmental Protection Agency (EPA). I would also like to thank Administrator Jackson and Chief Financial Officer Barbara J. Bennett for being here.

Around this time last year, I pointed out that EPA had issued or planned to issue almost 20 different rules placing mandates on manufacturing, the power industry, and even our farmers. EPA should not be using taxpayer dollars to impose costly and burdensome regulations that could severely impact jobs, our economy and the cost of everything we do or buy.

Only one regulation from this list was stopped, and that was the expensive tightening of ozone standards that EPA publically supported despite the economic toll it would have. Of course this was only because the White House scrapped it at the last minute, no doubt realizing the impact in a political year.

There is yet a new medium for EPA regulations, through something called “guidance”. Guidance, in EPA’s own words is “frequently used by federal agencies to explain and clarify their understanding of existing requirements”. This says to me that guidance can have just as far reaching consequences as traditional rulemakings can.

Yet guidance technically is not “final”, so affected parties have no recourse to appeal the rules. This circumvents the fair procedures put in place to safeguard against overreaching agency action, like affected parties’ ability to appeal to the courts.

EPA recently came out with guidance that expands the jurisdiction of the Clean Water Act—meaning that EPA now can control even a stream that EPA “determines” has a close enough connection to the navigable waters the Clean Water Act traditionally regulates. This could have devastating effects for our farmers, miners, and even construction workers. Oddly enough, EPA still accepted comments before issuing the final guidance document, many of which pleaded with the EPA to use notice and comment rulemaking. Yet EPA did not undertake a rulemaking, issuing the final guidance soon after.

This is the most recent example of the dangers of agency overreach. The cumulative effects of these rules are vast and probably cannot be determined at this time. Even EPA’s own cost-benefit analysis used in these rules often do not include job losses or what it would mean for families if their food and energy prices go up.

We all can agree that cleaning up and protecting our environment are important goals. Yet this must be balanced among economic losses. A robust economy doesn’t just mean businesses are making more money; it means people are employed, and it means consumer choice thrives and keeps costs of goods low. Economic and environmental goals must be balanced.

I hope the EPA can stop and consider the multitude of rules coming out of the Agency that threaten the economic viability of our country’s energy, manufacturing, and agricultural sectors.

Again thank you for your time, and I look forward to your testimony.

Senator BLUNT. I’ve got three questions I want to ask about three areas.

#### FUEL HARMONIZATION

One is fuel harmonization, a fuel harmonization study. I sent you a letter in May of last year. The Ranking Member of this subcommittee—Senator Murkowski—Senator Cochran, a number of my other colleagues signed that letter as well.

In 2005, in the Energy Policy Act, EPA and DOE were asked to do a fuel harmonization study. One of the things we did in the Energy Policy Act was give you the ability to waive fuel standards under certain difficult situations to where all of these different boutique fuels wouldn’t all have to be available under specific circumstances.

The most notable time it was used was during Katrina. It was used effectively and well for about 6 months. But that’s a stop-gap solution to trying to figure out how many different fuel blends we really need.

So what I’m asking is, why haven’t you done the study? The response to the letter we sent in May of last year was pretty much nonresponsive. It was basically, we received your letter response.



The 2005 Act asked the Department to do that. You haven't been responsible since for all that time. I get that. But can you do that study as the Congress requested you to do?

Ms. JACKSON. Well, Sir, just a couple of points.

I think the reason that there hasn't been a commitment to do the study is that on the ground we see that these local fuel requirements. They're put in place by State regulators looking at smog issues and air pollution issues in their regional districts.

The use of those special fuels has decreased since 2002.

Senator BLUNT. Has decreased?

Ms. JACKSON. Decreased. Yes, Sir.

Senator BLUNT. Yes.

Ms. JACKSON. And that we do know about, the effect on the price of gasoline: they add very little to the cost of gasoline.

So we have people using fewer and fewer of these fuels. We know that they are not adding significantly to the price of gasoline, and we know that they are used in the places where there are still remaining summer fuels issues. I know that certainly from New Jersey that it is important—

Senator BLUNT. Well, there was a Kansas City Star, there was a Kansas City Star article recently that said that their 6-year study indicates that the average has cost 10 cents more per gallon because of their boutique fuel.

So, you know, if I'm standing there watching that tank and every time I fill it up it costs me 10 cents more a gallon and I live in Kansas City, I would think that was significant.

Ms. JACKSON. Well, the—

Senator BLUNT. But the question is, can you come up with a series of fuels that people could choose from rather than this idea that every community has a perfect fuel that's only right just for it? That's what the study asked if you could do.

Ms. JACKSON. Yes, Sir. And I think what I'm trying to convey is that the market is moving toward fewer and fewer of that kind of situation happening.

More and more, we see some regions that have regional blends, but fewer and fewer specialized, local blends. And so, the market is taking care of the problem itself.

What's remaining are those fuels where State regulators have determined that there's a need to have a special fuel in summer to reduce smog levels because of an increased volatilization of gasoline.

So I understand your concern for the issue. I guess I'm offering, respectfully, that I think the issue is, the impact on cost is not that high, and that there aren't as many fuels that are truly unique in the country.

Senator BLUNT. Well, we capped the number of fuels you could have in that same act, so that does have some impact on how many more there could be.

All right. That was not quite as nonresponsive as the letter, so I'll accept that.

## CLEAN WATER ACT

The Clean Water Act guidance. A lot of concern about moving, removing the word “navigable waters” from the Clean Water Act. Give me some thoughts. Why guidance instead of a rule?

You all have issued some guidance, and I’m not sure anybody really quite knows how binding guidance is, or what guidance means, except guidance doesn’t go through the rulemaking process.

So this guidance, it looks like to me, suggests that anything that eventually gets into, extends the authority to streams, ponds, or even maybe puddles that the EPA would determine has a connection to a larger body of water.

Not true?

Ms. JACKSON. Not quite, Senator.

First, to your question as to why guidance? In the wake of the two Supreme Court decisions in both 2003 and then 2008, the EPA and the Corps of Engineers (COE) jointly issued guidance to assist in determining what water bodies were jurisdictional under the Clean Water Act.

That has widely, I think, very widely, been seen as not being helpful enough. So COE and EPA have set out, and we have not issued final guidance, but we issued draft guidance, I believe last year, and took public comment on it.

And are working to finalize guidance that would replace the 2003 and 2008 guidances. So that is why, guidance.

As to your concern about extending jurisdiction. The guidance is intended to help answer the question of, in a navigable water body, certainly we know what “navigable” should be or can be, although there have been even disputes about “navigable”.

But how far up in the watershed do you have to go? Since certainly, in order to protect navigable waters, you have to protect the streams that feed into them otherwise, you know, you don’t stand a chance.

So that’s what the guidance is intended to do. It has been out in draft and for public comment, and we’re working to finalize that, Sir.

Senator BLUNT. Well, why guidance rather than a rule?

Ms. JACKSON. Well, the guidance will replace the guidance that’s currently out there. Certainly, a rulemaking could be considered, but we believe it’s better to start with the guidance and then we can certainly move towards a rule if necessary.

## PORTLAND CEMENT ASSOCIATION

Senator BLUNT. Okay. The last question I had is short and can get a short answer I think.

In mid-April, EPA entered into a proposed settlement agreement with the Portland Cement Association. And, do you intend to finalize that agreement?

I think they’ve accepted the proposed settlement, and are waiting for you to accept it as well.

Ms. JACKSON. Yes, Sir. To my knowledge, I don’t think there’s any concern with finalizing our agreement.

Senator BLUNT. Okay. Thank you, Chairman.

Senator REED. Thank you, Senator Blunt. Senator Hoeven, please.

Senator HOEVEN. Thank you, Mr. Chairman.

I want to begin by thanking you, Administrator Jackson, for your help with North Dakota's State Implementation Plan (SIP), in regard to regional haze. We do appreciate that.

We're not quite completed. We've resolved it for a number of our plants, but there's still some work remaining and I ask for your continued help as we continue to fully resolve that issue on regional haze as to continuation of the State's SIP versus a FIP on some of our plants.

So thank you for your help. And I ask for your continued help in that regard.

#### HYDRAULIC FRACTURING

My questions, at least my initial questions, relate to hydraulic fracturing. As Senator Tester said, North Dakota is now in the process of moving into becoming the second-largest oil producing State in the country behind Texas.

The good Senator from Alaska, Senator Murkowski, of course, I share her desire to produce much more oil and gas in Alaska. I know that's going to happen too.

So, long term, we know that you're going to be a real powerhouse. But the point I want to make is that we can't do it without hydraulic fracturing. We cannot produce oil and gas without hydraulic fracturing.

So it's incredibly important to us. And a State-led approach is the right approach. It's working very well. It will continue to work very well.

So we're concerned about regulations that you're proposing in regard to hydraulic fracturing, and also, we're very concerned about how you conduct the study. We are very supportive of transparency, good environmental protection, and we believe we work very hard to do that.

But, at the same time, we believe that the State-led approach not only provides those things, but also empowers the industry to produce more energy for this country.

So, specifically, I want to ask you about, and it's interesting, because Senator Blunt was asking about guidance versus rules. And I think he made some very important points as to what is guidance mean, and how do we deal with guidance?

But on May 4 of this year, EPA released a draft permitting guidance regarding the use of diesel fuel in hydraulic fracturing. Now, on the one hand, in that draft guidance, you refer to six chemical abstract service registry numbers. So you're specific. And we're working with industry to find out if those specific, defining those specific chemicals as diesel is a workable situation.

But then you go on in this draft guidance and you use terms like, in addition to those six chemicals. You talk about substantially similar. You talk about several others. You talk about common synonyms.

So we go from specifically defining what you're going to consider diesel in this guidance. And, as Senator Blunt says, we've got to understand, with a State-led approach, what does guidance mean?

In other words, does the State have to follow your guidance or you'll step in and take over the program? Or, exactly, what do you mean by guidance?

And, then, second, when you specifically define those chemicals by registry number, okay, maybe we can work with that. But then, when you start saying, you know, several others, substantially similar, common synonyms. Now we get vague, and creates ambiguity.

So my question to you is, in your final guidance, will you continue to use language like substantially similar, several others, and common synonyms? That's my first question.

Ms. JACKSON. The guidance is out for public comment, Sir. And I should note that we worked with industry in the drafting of it. But the purpose of the public comment is to get information, and I can't really pre-judge what will happen on finalization.

Senator HOEVEN. Would you comment as to my point regarding the ambiguity and the vagueness and the problems it creates for industry if you say, well, it's this chemical. This is diesel, but, gee, it could be all these other things and we're not going to say what they are.

Now, industry has to work with that. How would you address that?

Ms. JACKSON. Well, I think we're happy to have discussions with industry so that there is some clarity. And synonym is pretty straightforward.

If you call it something different by trade name, or some other thing, I think, the implication there is clear, that you shouldn't be able to name it something different, and therefore, not have it subject to the guidance when it is finally put in place.

As far as substantially similar, we certainly can have additional comments on that.

I should just add, Sir, that the reason for that guidance is because there was something of a loophole in the exemption from regulation for hydraulic fracturing under the underground injection control standards.

And the one thing that wasn't exempt was the injection of diesel. And there was great uncertainty in the regulated community that whether or not when they injected diesel, they needed a permit.

And in some States, EPA issues those permits, not the State. They did not receive delegation or sought it.

Senator HOEVEN. If they don't have primacy, that's correct.

Ms. JACKSON. That's right, Sir.

So this is not an attempt to change. There are many States that already deal with this issue.

But there was ambiguity and uncertainty as to how to deal with those cases where someone was injecting diesel.

And that's what this guidance is attempting to give additional information on for permit writers, as well as the regulated community.

Senator HOEVEN. Administrator, I'm trying to get to two points here.

If we're going to empower industry, and if we're going to empower investment to produce more energy in this country and do

it with good environmental stewardship, they need to know the rules of the road, and they need consistent enforcement.

If you say, okay, this is diesel and they can understand that, fine. Then perhaps they can work with that. I mean, I have to understand what those six chemicals are, and we have to get some feedback from them. Hence, the reason for the proposed draft guidance.

So we need to find that out. Maybe that works. We need to determine that. But then when you say, or it could be all these other things like that, now we're starting to get ambiguity and a vagueness that is very hard for industry to work with.

So we need you to work with us through that process.

Ms. JACKSON. And I'm happy to do that, Sir.

I mean, we're in public comment, and we will finalize the guidance. But part of the reason for the comment is to get information and to try to assure that we do remove ambiguity from the process.

We have the same goals, Sir.

Senator HOEVEN. Thank you. And I have more questions, but I'll come back to them. I see my time has elapsed.

Senator REED. Thank you, Senator Hoeven. We will have a second round.

Let me begin it by continuing the line of questioning that both Senator Tester and Senator Hoeven opened up with respect to hydraulic fracturing, but from a slightly different perspective.

#### HYDRAULIC FRACTURING STUDY

Your budget includes \$40 million to deal with this topic—an increase of \$8 million.

And I think we all recognize, and it's explicit in the comments, that we don't want to trade access to the very valuable petroleum and carbon resources at the cost of degraded water supplies and environmental problems.

I think that's our position consistently across the board. So your research is absolutely necessary and your collaboration with industry is absolutely necessary.

Your money is part of a larger pool of about \$45 million that the President has directed throughout several different Departments. One thing though that we did in 2010 is we directed EPA, specifically, to initiate a multi-year study on the potential impacts of hydraulic fracturing on drinking water resources, to be specific.

And I understand the first report for the study is scheduled for the end of this year, 2012. Is the EPA still on track to meet this timeline, and can you give us sort of a preview of what information that might be revealed?

Ms. JACKSON. We are still on track, Sir. And I have not been briefed on any preliminary findings, so I'm not in a position to give any information at this point.

Senator REED. Let me again look at sort of the overall approach to the research with respect to hydraulic fracturing.

On April 13, the President issued an Executive order to align all current and future research which, again, I think we all say is absolutely necessary for the protection of the public, made up of 13 Federal agencies.

On that same day, EPA joined DOE and the United States Geological Survey in signing a Memorandum of Agreement (MOA) creating a new steering committee. So we've got what appears to be two steering committees here.

Can you explain these two efforts, does one subsume the other? Is one parallel, is one complementary? Can you just give us an idea of the approach you're taking administratively?

Ms. JACKSON. Yes, certainly.

The Department of the Interior, DOE, and EPA are currently, obviously at the order of the President, and under the direction of the White House, working together to scope out a series of studies.

You're absolutely correct, Mr. Chairman. Of course, EPA already had an ongoing 2-year study. That goes on about \$6 million in EPA's fiscal year 2012 enacted budget is for it. There's now an \$8 million increase, and we would be looking to expand the scope potentially, but only working together with the other agencies to other issues, maybe ecosystem impacts or air quality.

Some amount of that additional \$8 million, that's in the fiscal year 2013 budget, would go to those areas.

Senator REED. Let me follow up with another related question. That is, you have this Memorandum of Understanding with USGS which presumably you would allocate the responsibilities.

It appears from the budget request that part of the \$8 million of additional funds you're going to use is for seismic risk from hydraulic fracturing practices. And we understand that USGS is also studying, no surprise, seismic risk, et cetera.

Can you comment upon this? Is this duplication, or is it complementary?

Ms. JACKSON. I want to go back and check on that, Mr. Chairman, because in general, my response on seismic issues is, it's not us. That's USGS.

[The information follows:]

The fiscal year 2013 President's budget requested for hydraulic fracturing (HF) research includes \$6.1 million to complete the study plan on the potential environmental impacts of HF on drinking water; and an additional \$4.3 million to address questions raised by stakeholders regarding the potential environmental impacts of hydraulic fracturing on water quality and ecosystems. Of the \$4.3 million request, less than \$100,000 was intended to screen for HF induced seismic risks in association with underground injection control wells.

Subsequent to the submission of the fiscal year 2013 President's budget, the MOA between the EPA, DOE, and USGS on Multi-Agency Collaboration on Unconventional Oil and Gas Research was developed. During the MOA's development, it was determined that the USGS is best suited to manage research in induced seismicity. As defined in the MOA, EPA will collaborate as appropriate with USGS regarding seismic issues.

Ms. JACKSON. So I don't believe we're doing a lot although we may be providing some expertise on the groundwater aquifer regimes down there. But they're pretty much the experts in USGS.

Senator REED. Well, you know, that was my presumption too. So I think if you could clarify that, that would be helpful to us.

And, you've already mentioned some of the additional resources, about \$3.8 million is going to go to air quality studies.

Can you give us an idea of the concept of how you're going to spend that money with respect to the hydraulic fracturing and air quality?

Ms. JACKSON. I think we would probably be best served if we gave you a briefing update. The scoping meetings that have just begun to look at the potential ways to scope these research studies, are just really beginning.

I think they've had a couple of meetings so far. So it's a little premature. But, obviously, we have the opportunity over time to update you on those as well.

There have been some. Obviously, we just finalized rules on air quality issues around oil and gas development. They were not loved by everyone, but that's usually okay in our world. They were pretty well received.

And I think one of the things we were doing is trying to look at additional information to ensure we're not missing something.

#### ENVIRONMENTAL EDUCATION PROGRAM

Senator REED. Well, let me change the subject for my final and brief comment, which I think will require a brief response from you.

That is, we've had an environmental education program through EPA for many, many years. In fact, my distinguished predecessor, John Chafee, I think in 1990, through the National Environmental Education Act put it in place.

And the proposed budget would require severe reductions in this education program which raises the question, why that program?

The bottom line is, how do you continue to maintain the legal requirements under the 1990 legislation?

Ms. JACKSON. Yes, Sir. Let me limit it to two very quick things.

First, I want to assure you, we remain committed to the spirit and goal of environmental education and increasing environmental literacy.

What we found from an efficiency standpoint in EPA is when we looked at the program as it was being funded, we believe there is better opportunity to do more and do it better in the programs by each of the programs, air, water, waste, or some amount of it, maybe recycling and waste, or energy and air.

Letting the programs put forth those educations and then coordinating their efforts. So there will be resources going towards environmental education. They're going from the programs.

I also want to say that we're working really hard to have our national environmental education foundation, which was also in that law, become more active and vital in helping to promote some of those opportunities.

Senator REED. Thank you very much.

With the concurrence of the Ranking Member, Senator Cochran has just arrived. We've already had a first round, Senator. If you would like to take your first round now, if you're prepared.

Senator COCHRAN. Well, Mr. Chairman, I do have a question I was going to ask the Administrator.

Senator REED. Go ahead, Sir.

#### DeSOTO COUNTY

Senator COCHRAN. In DeSoto County, Mississippi, which is our northernmost county in the State, and adjoins the State of Tennessee, right at the Memphis metropolitan area, is one of those sit-

uations where the metropolitan area of Memphis spills over into both Arkansas and Mississippi.

Anyway, the point is, that I wanted to bring to the attention of the Department something that really came to my attention because the DeSoto County area has been declared by EPA to be in a state of nonattainment.

One of the new bureaucratic words—"Nonattainment". What it means is, you can't build anything or do anything in terms of urban growth without jumping through a lot of new hoops and abiding by rules that really are beyond the control of local elected officials or the population or zoning authorities.

And I just wanted to bring to the attention of the Administrator that this is really, I think it's discrimination of the worst kind in terms of rulemaking by the EPA.

And I just hope that the highest authorities at EPA and in the Department can give their attention to this to see what are the options for continued growth in that area.

Anyway, I don't know whether this has reached your desk or not, Madam Administrator, but I wanted to bring it to your attention. Are you familiar with this? Or has anybody, Ms. Jackson, brought this to your attention personally?

Ms. JACKSON. Yes, Sir.

And I know that area staff at the very highest levels have met with Mississippi Department of Environmental Quality staff. There was data that was exchanged.

The nonattainment designation is not a no growth designation, Sir. DeSoto County, that part of the county that's being designated nonattainment for small growth zone, is really part of the municipal area around Memphis.

And it has to do with commutation patterns and growth in terms of primarily automobiles and others within the Memphis urban boundary. It's a matter of working with the Memphis Metropolitan Planning Organization of which that portion of DeSoto County is a part.

And so we have explained to them that as cars become cleaner and more efficient, we do foresee a time when this nonattainment issue will, through other Federal rules, become less of a concern.

But the attainment and the nonattainment designations, are based on data. And we have to make calls based on what we have which show that the area is contributing.

That's what the law says, whether it contributes to nonattainment in the nonattainment area.

So I believe where things were left is that they met recently with Mississippi, and I'm not sure what happened as a result, but I can certainly check on that for you.

Senator COCHRAN. Well, I would hope that you could give this your personal attention to be sure that the obvious intent of the rules and the laws are fairly applied particularly in an area that is a very popular area for job creation activity and business activity, that is not a very serious polluter in and of itself.

Working in an office, you're not going to pollute a lot. But office buildings and the like would be attracted to this area if it were not for the EPA nonattainment ruling.



So I hope that you can help ensure that fairness is the result rather than arbitrary rulemaking without a basis in fact. Thank you, Mr. Chairman.

Senator REED. Thank you, Senator Cochran. Senator Murkowski, please.

#### HYDRAULIC FRACTURING STUDY

Senator MURKOWSKI. Thank you, Mr. Chairman.

Administrator Jackson, I want to follow up with a discussion about the hydraulic fracturing study. I've got a copy of the actual statute here from 2010.

And it states, "The conferees urge the Agency to carry out a study on the relationship between hydraulic fracturing and drinking water, using a credible approach that relies on the best available science, as well as independent sources of information. The conferees expect the study to be conducted through a transparent, peer-reviewed process that will ensure the validity and accuracy of the data. The Agency shall consult with other Federal agencies as well as appropriate State and interstate regulatory agencies in carrying out the study, which should be prepared in accordance with the Agency's quality assurance principles."

So I guess I'm a little concerned about the scope of the study that we're seeing come out. You've just mentioned in response to the Chairman here that you're expanding the scope of the study to address not only ecosystem but air quality.

It's my understanding that now part of the study includes collecting data on the environmental justice impacts on disadvantaged communities.

It seems to me that the language in the legislation was pretty clear in terms of assessing the relationship between hydraulic fracturing and contaminated water. And that there has been a very stepped up increase and expansion of scope.

Can you address that part of it?

Ms. JACKSON. I can, Senator.

And if I misspoke before, I shouldn't have. This is not an expansion of the congressionally directed study.

We have a congressionally directed study. You read the scope of it. That is the scope we've kept to. It's been publicly scoped. There's been peer review of the actual scope of the study.

The study is ongoing, and we, of course, have had to work with industry in order to get access to some of the sites. Because if you want to test around hydraulic fracturing sites, many of them are in private ownership.

There is, on the part of the administration, from the President, from the White House, a desire to do additional science around hydraulic fracturing, partially as someone said earlier, because the public's trust in that technology we believe is also based on the belief that we are looking to bring the very best science to bear to ensure that it remains safe.

I have said over, and over again, that natural gas, hydraulic fracturing, and fracturing for oil is an incredibly important part of our energy mix, but we need to assure the American public that we are stepping up to the challenge in getting the best science so that it remains as safe as it possibly can be.

So it is not an expansion of the scope of the study. It's a proposal in the President's budget to add funding to do studies in additional areas, and those would be done with the Department of the Interior and DOE.

Senator MURKOWSKI. Okay. So I would agree with you in terms of the science there. But it's my understanding that part of the study now includes collecting data on the environmental justice impacts of disadvantaged communities.

So it seems to me that you're presuming that there is an impact. I guess I look at it and say, it would be more appropriate to look at these impacts only if you do discover that there is a link between fracking and contaminated water first.

So I don't disagree with you that we want to be using best science, not only through the study that EPA is doing, but what the other agencies are doing as well.

But it would appear to me that there is an added expansion here in terms of the scope. You've indicated that it will be peer reviewed as the statute requires, and that industry has provided input in terms of giving access to data.

Will industry and others be permitted to review the study before it's released?

Ms. JACKSON. The study will be put out for public comment, but it will also be peer reviewed during the process. We can get you a briefing on exactly the steps.

[The information follows:]

Later this year, we will update our peer-review plan to describe the steps we are taking to assure peer review of the specific research products comprising the study. In addition, we are forming a new Science Advisory Panel (SAB) panel later this year that will consult with the Environmental Protection Agency (EPA) periodically on the progress of the study and ultimately review the conclusions and findings in the 2014 report.

The public, including members of the oil and gas production and service companies and industry associations, as well as other Federal agencies, State and interstate regulatory agencies, nongovernmental organizations, tribes, the public, and others will have comment opportunities built into the workings of this SAB panel.

In fiscal year 2013, EPA requested a total of \$14.1 million for hydraulic fracturing. This includes \$6.1 million to complete the study plan on the potential environmental impacts of hydraulic fracturing on drinking water. In response to stakeholders concerns, an additional \$8 million was requested.

To address the potential environmental impacts of hydraulic fracturing water quality and ecosystems, \$4.3 million and \$3.7 million to address questions about the potential impact of hydraulic fracturing on air quality.

Ms. JACKSON. I know that original data that comes out will go out for public comment to everyone after it's been reviewed.

#### EMISSION CONTROL AREA

Senator MURKOWSKI. Let me ask you a question about the standards that relate to the low sulphur fuel standards rules. These are on freight carriers and cruise ships bound for Alaska.

The new standards start this August. It ramps up over a 3-year period to reduce the sulphur emissions.

We, as you know, are a State that relies on almost all of our freight, everything that comes into the State pretty much comes to us by barge, by freight, over the water.

And there's a great concern that this standard could cause what is anticipated to be a 20-percent rise in freight costs. If you look

at the cost of goods in Alaska already, they're astonishingly high. So 20 percent is really a great deal of concern.

We recognize that this is going to increase the cost of living in Alaska at a time that we can't handle it. We're also concerned because it could have a very serious impact on the State's tourism industry.

Our cruise ships carry 80 percent of the State's summer tourists to Alaska and the concern is that this will, these standards will increase the cost to those who are coming north.

There is further concern that we simply won't, or the industry won't, be able to meet the deadline because the maritime industry won't be able to obtain the 1-percent sulphur fuel without blending different types of fuel that increase operational and safety issues.

So there's a real concern about their ability to meet the standards in the first place. The marine industry's been working with EPA on this issue trying to determine if there's an alternative compliance mechanism that could ultimately result in lower overall air emissions than even what the EPA rule would actually produce.

There have been efforts. I understand that they have not yielded a positive result at this point in time. So the question to you is whether or not the EPA will give serious consideration to accepting the pending alternative compliance proposal and do so soon.

The cruise industry basically has to set their schedule well more than a year out, and the obvious concern is that if there isn't discussion and action on this in the very, very short term, we're all going to see and suffer the consequences.

Ms. JACKSON. Well, certainly, Senator, EPA will continue to give serious consideration to any issues of compliance or fuel availability.

We've been told by fuel suppliers that they expect to make fuel available for the August 1 date for 10,000 parts per million fuel. Obviously, we'll continue to work with them and keep an eye on that.

This standard was adopted by the International Maritime Organization (IMO). And we've made clear that we support the use of innovative equivalent methods, but only as long as they achieve the same results as the standard that they're intended to replace.

I know that IMO is currently working on guidance to ensure that equivalent methods that any country tries to approve are based on a common set of criteria.

And EPA will continue to work with the Coast Guard, we'll work with IMO, we'll reach out to the suppliers, and, of course, to the folks who use the fuel in meeting the 10,000 part per million standard in August.

Senator MURKOWSKI. Well, this is something that we need to have further discussion on.

#### AMBIENT TESTING

There has been no ambient testing done in either Alaska or Hawaii. We've been attempting to make that distinction. So far, it has not been considered which I think is unfortunate.

You indicate that the fuel suppliers can make the fuel available. Yes, fuel can be made available, but at what cost?

And, truly, and in an effort to deal with these extraordinarily— You cannot put a 20-percent increase on the cost of freight that comes into the State of Alaska and expect people to be able to continue to buy groceries or lumber or whatever it is that they need.

We've got to have some ability to work with you on this. This would be one of those issues that I would hope that your senior folks sitting down with our folks can have a further discussion on.

Ms. JACKSON. To be clear, Senator. I'm not, I'm certainly not saying, well, we don't want to discuss this further with you. And I don't know that we necessarily agree with the outcome of the study that you cite.

But I do think we would agree that it has to be affordable and it has to be practical.

Senator MURKOWSKI. Thank you.

Senator REED. Thank you, Senator Murkowski.

Senator Blunt.

#### HYDRAULIC FRACTURING

Senator BLUNT. Thank you, Chairman.

Let me ask a couple of other questions on this hydraulic fracturing issue. You may have answered this already, and I was trying to listen and I just may have missed the answer.

Report language in the fiscal year 2010 appropriations bill asked for a study whether there was a link between the hydraulic fracturing and drinking water. You're asking for \$14 million more to expand that study, is that right?

Ms. JACKSON. There is an additional \$8 million, I believe, pulling out my card here. It's a total of \$14 million.

But some of the money is to do the study that was authorized in fiscal year 2010. And there's an additional request for \$8 million to do additional work outside the scope of that study.

Senator BLUNT. And when will you expect to get that study done, since the fiscal year 2010 study isn't done yet?

Ms. JACKSON. Well, we have just begun meetings with the other Federal agencies that will be involved with the studies.

And so I can't give you details, but we're happy to continue as I mentioned earlier.

Senator BLUNT. And does that study stop us from moving forward with hydraulic fracturing?

Ms. JACKSON. Well, this is science. This is science. This is intended to ask and answer questions related to hydraulic fracturing. So it's research, Sir.

Senator BLUNT. So it doesn't set any obstacle in the way of hydraulic fracturing anywhere it's going on, or did we have to have the drinking water study before certain things could be done?

Ms. JACKSON. No, Sir. Hydraulic fracturing, as you heard, is continuing apace.

And what I've said about the drinking water study is that if we learn things that teach us better ways to protect drinking water, certainly we're going to share that with all the people who are out there as our partners trying to protect drinking water.

But we don't have any results yet. The first results will be toward the end of this year.

Senator BLUNT. So you are moving forward with the drinking water part of the study?

Ms. JACKSON. Yes, Sir. That's the one that we have funding for. It was directed by the Congress.

This is a budget request for additional studies coordinated across EPA and other agencies.

Senator BLUNT. And if this budget request isn't met, you would still do the drinking water study?

Ms. JACKSON. Provided that portion of the \$14 million, and I think it's \$6 million in fiscal year 2012, that we already have then.

So, yes, the answer to your question.

Senator BLUNT. How much was provided in fiscal year 2010?

Ms. JACKSON. Let us grab the number for you while we sit here, but we believe it was \$2 or \$4 million.

[The information follows:]

\$1.9 million and three full-time equivalents were provided in fiscal year 2010.

Ms. JACKSON. The study on drinking water in fiscal year 2011 was enacted with \$4.3 million and \$6.1 million in fiscal year 2012.

And then there's \$4.1 million in the present budget for fiscal year 2013. But the study is—

Senator BLUNT. So the drinking water study would cost around \$14 million?

Ms. JACKSON. Four plus six, 12, yes, Sir.

Senator BLUNT. And you've asked for another \$8 million to start this new series of studies.

Ms. JACKSON. Yes, but other agencies are asking for additional funding as well.

So as the Chairman mentioned, I believe it's \$45 million in total additional research around hydraulic fracturing.

Senator BLUNT. And what you would hope to find out is that even if drinking water wasn't affected, that wastewater treatment plants were, or other water sources were?

Ms. JACKSON. The general areas have been air quality, water quality, and ecosystems. We have had other issues that States have dealt with, or are dealing with. Wastewater, certainly, surface water can raise some concerns.

But the idea is to ask the questions so that the American people know that their Government is doing the research to ensure we stay in front of any issues before they develop.

Senator BLUNT. And we would expect to see the drinking water study, when?

Ms. JACKSON. The initial results would be at the end of this calendar year, Sir. But the study goes on an additional year after that.

Senator BLUNT. Thank you. Thank you, Chairman.

Senator REED. Thank you, Senator.

Senator Hoeven, please.

Senator HOEVEN. Thank you, Mr. Chairman.

I would like to follow up on Senator Blunt's question as well as Senator Murkowski.

You're more than doubling your budget for hydraulic fracturing.

How can you make the argument that you're not greatly expanding the scope of the study?

Ms. JACKSON. Well, I hope it's not a matter of semantics. I just want to be clear.

The study that we were directed by the Congress to do, we are doing. And we're seeking the funding we need, and we already have the authority to continue and complete it. That will happen.

But to be, you know, but the President has also said we need to do additional science to assure the American people that we're looking at hydraulic fracturing. So there is additional money proposed in the fiscal year 2013 budget to do additional studies.

Senator HOEVEN. So is that broken out between what is required to do the study, as defined in scope by the Congress, and the additional work that you just referenced?

Ms. JACKSON. Yes, Sir.

The total funding for research in the fiscal year 2013 request is \$14.1 million. And I believe, I saw a number somewhere else, that about \$4 million of that is for the study that is ongoing.

Senator HOEVEN. This also relates to the earlier question I was asking you about guidance.

When you provide guidance then, because whether it's pursuant to this study or proposed rules that you've already put out. Like we're talking about, for example, diesel fuel.

Where we have a State primacy program, which we have with hydraulic fracturing, when you issue guidance, is the State required to follow that guidance or risk having you take over their program?

Ms. JACKSON. First, EPA is not looking to take over the State programs.

But if the State is acting as the primacy agent for the underground injection control program, the guidance is intended to tell them how to meet the requirements of law under that program.

Many States have their own laws that either supersede, that add to, or supersede, or go further than Federal standards.

But for a State who says, listen, my permit that I issue is also intended to be an underground injection control permit, so EPA doesn't have to issue a separate one, this is the guidance the study is intended to say here is how EPA views the injection of diesel, because diesel is not exempt.

The injection of every other chemical is exempt by law, so EPA does not permit that injection. Many States do, but EPA does not.

Senator HOEVEN. But it's important to distinguish between a rule and between guidance and understand that under a State primacy program, the State has the authority to make its own determination.

They can take into account your guidance, but that doesn't give EPA the authority to step in front of the State on a State primary program.

You would agree with that?

Ms. JACKSON. Yes, guidance is intended to give a State, guidelines to know how EPA believes to meet the requirements of the regulation. So the regulation tends to be broader. It talks about the injection of any number of things.

But with respect to diesel and hydraulic fracturing, there was an omission. There was nothing that told a State, or in some States, EPA does indeed write those permits. What a Federal or State per-

mit writer would need to do to assure that their meeting the requirements of the Safe Drinking Water Act.

Senator HOEVEN. And as you do this study, and again, we've got to look at the scope of the study as was defined by the Congress and your funding, it's very important that you are specific in the guidance so that States understand it and industry understands it, and can use that as a guidepost.

And you agree with me, it is a guidepost. It is not the same as a proposed rule.

Ms. JACKSON. It does not have the same stature as a rulemaking, but it is not uncommon for EPA to issue permit writers guidance on how to meet the requirements of a law.

So the EPA does issue guidance often, and it's for Federal and State permit writers, but it is not the stature of a rulemaking, Sir.

Senator HOEVEN. And if you'll work with us both in terms of collaborating with States, with the tribes and with industry, I think we can help make that guidance more effective in a way that creates some rules of the road that the industry understands, again, produce more energy, and have good environmental stewardship.

So we ask for your consultation.

Ms. JACKSON. Absolutely. More than just public comment, our State partners and tribal partners, have a special role in implementing and understanding these issues. And we want the same thing, Senator.

We want certainty, and we want clarity. And that's not what we had before. We had people threatening to sue because diesel was being injected, and permits were not issued.

And so that's what this guidance is intended to address.

Senator HOEVEN. On some of our reservations, particularly, Three Affiliated Tribes Reservation in North Dakota doing a tremendous amount of drilling. The tribes are doing a fantastic job working with industry to do that.

Their concern is in regard to the Synthetic Miner Source Rule. Right now we operate under a consent agreement that expires, or the tribe does, excuse me, they're operating under a consent agreement, that expires at the end of July.

And it is very important that we get a workable rule in place. Both the tribes and the industry want to be, consult with you, in establishing that workable rule. But they need a rule by the end of July here.

Otherwise, unless the consent decree is extended, they can't keep drilling wells. So I would strongly encourage you assisting Region 8, manager Jim Martin, in making sure that we get a solution there.

Now, I believe there is some dialogue going on. Tex Hall, the Three Affiliated Tribes chairman, wants consultation here, but we need a workable rule. We need something in place by the end of July for both the tribe and the industry.

And I ask for your help to the Regional Administrator to do that, and again, with good consultation.

Ms. JACKSON. Yes, Sir.

Senator HOEVEN. The other item, well, I see my time has expired. I have one remaining item.

Senator REED. Please, go ahead.

Senator HOEVEN. Thank you, Mr. Chairman.

CO<sub>2</sub> EMISSIONS

You have a new source performance standard for CO<sub>2</sub> emissions on coal-fired plants. This is a proposed rule that you issued on April 13, 2012. It sets a CO<sub>2</sub> emissions limit of 1,000 pounds per megawatt hour.

That is essentially a natural gas fired electric plant standard, which no coal plant in the entire country can meet, cannot meet it.

Does this new performance standard that you're proposing apply to new plants, only new plants, or does it also apply to existing plants?

And, how do you expect, and I see at the same time, you know, you increase your enforcement budget by 20 percent, from \$27 million to \$34 million. And then, you issue this rule which no coal plant in the entire country can comply with. How do you expect that to work?

Ms. JACKSON. Well, first we can't enforce a rule that isn't final. It is only a rule for new plants. It does not apply to existing coal plants.

And, you know, the standard as proposed, creates a path forward for technology, for those plants that want to use technology, burn coal, and capture their carbon pollution. It allows a period during which a plant, if it chooses to, can operate and then enact a 10-year period where it doesn't have to have the carbon captured and sequestered.

After 10 years, it has to commit to 50-percent capture of its carbon emissions. So, in fact, I personally believe the rule does the opposite. It allows a path forward for investment in coal-fired power plants that doesn't exist at the current time.

And it's a proposal, Sir. It is not final.

Senator HOEVEN. So your proposal applies to any new plant construction, not to existing plants.

What about any improvement or major renovations to an existing plant?

Ms. JACKSON. It does not apply to existing plants, Sir. Only new plants, only new.

Senator HOEVEN. All right, thank you.

Then, we are going to need to work through with you both the technological and the economic viability on that rule because we need to take a hard look at that.

If we want to continue to develop clean coal technology, we've got to have a realistic rule.

Ms. JACKSON. Thank you, Sir.

Senator HOEVEN. Thank you.

Senator REED. Senator Cochran.

Senator COCHRAN. I have no further questions.

Senator REED. I have some additional questions which will be handled in writing.

Senator REED. Senator Murkowski, do you have additional questions?

Senator MURKOWSKI. I have just a couple here, if I may.

Senator REED. Go right ahead.



Senator MURKOWSKI. And I hope that they will be quick.

PM<sub>2.5</sub>

And both of these involve communities in the, well, energy impact within the interior.

Fairbanks, Alaska, our second-largest city, pretty cold up there, dealing with the increased standards, or the tightened standards on small particulate matter (PM), the PM<sub>2.5</sub>.

And, as you know, this has been an issue that they've gone back and forth with, trying to meet these standards. They're providing incentives for citizens to change out their older furnaces and their wood stoves and their boilers for new more efficient stoves and furnaces.

The biggest problem that Fairbanks has is they have no other options. They can't turn to natural gas because it's not available to them. So their options are extraordinarily limited.

EPA has provided grant aid to other larger communities to help them meet the PM<sub>2.5</sub> issues. Fairbanks has received just some very, very minimal grants from the agencies. I know they are looking for assistance. Not much in the total scheme of things.

They were seeking initially \$3 million to help with this wood stove exchange to cut their emissions, \$1 million of it is still, unfunded.

So what I get when I go to Fairbanks every time, and I was there this weekend, is, what, if anything, can be done to help? And we recognize that the budgetary issues are extraordinarily debilitating and we appreciate that.

But given the very unique climate conditions that the interior faces, will the Agency look at a possible extension to give the community more time, additional time, to meet the new standards before the penalty phase kicks in in 2014?

They are working. They are being aggressive on it. It's not as if they're putting their head in the sand. But they are really in a difficult, difficult spot because they have no other options.

Again, I'd like you to either give me your sense on this, or consider what options Fairbanks might be able to consider.

Ms. JACKSON. How about I promise to look at the options for you, both in funding and in compliance. Because that's for the existing PM<sub>2.5</sub> standard, right, Senator?

Senator MURKOWSKI. It is the tightened standards that come into play in 2014. So they are the new PM<sub>2.5</sub> standards.

Ms. JACKSON. Yes. Well, I'm not sure exactly what you are referring to. Why don't I look at both.

Senator MURKOWSKI. All right.

HEALY CLEAN COAL PLANT

And then, the other one that I would like to bring to your attention is the Healy Clean Coal Plant that we have been trying to get online since 1991 as an option for the residents in the interior to help them meet their energy needs.

Golden Valley is working with the EPA right now on the appropriate terms for renewal of their air permit for the plant. They have been aggressive in trying to resolve, go through all the hoops, doing what EPA has asked.

I met with some of the folks just this past weekend. I guess, I need your assurance that this is something that EPA is going to continue to work with the Golden Valley Electric Association to find a fair and hopefully final conclusion on this.

Ms. JACKSON. I'm happy to assure that knowing none of the facts, but that doesn't seem unreasonable to ask, so we'll continue to—

Senator MURKOWSKI. Okay. We'll put that one on our to-do list when we meet.

Ms. JACKSON. We have a lot to do.

Senator MURKOWSKI. And then, my final question, Mr. Chairman, and I will conclude.

#### AVIATION FUEL

And this relates to the new regulations for aviation fuel. As you know, we have more people that fly in Alaska than anywhere else in the country, and it's like the family minivan. You use it to haul the family around.

The concern that we have is the advance notice of rulemaking that could sharply reduce the lead content in the aviation fuels. It's impossible for the engines in older aircraft to run without lead being in their fuels.

It's estimated that up to one-third of all the general aviation in the State will have to be pulled from service if in fact EPA proceeds with these rules.

Because, as I understand, it's just not technically possible to repower, retrofit the planes. Last December, I was informed by Gina McCarthy, that the EPA would likely consider changes in the rules over the next one to 2 years.

So the question to you this afternoon is where you are in this study on the air quality impacts of lead in aviation fuel, and where does the EPA stand on modifying the proposed rule to lessen what we know to be a considerable impact on aviation in Alaska?

Ms. JACKSON. Thank you, Senator.

Yes, to my knowledge, we are still on course. We're looking at the study. This issue I saw personally when I visited Alaska, the one time I was able to get up to Alaska. Clearly, that's how everyone gets around. Clearly, it was a concern everywhere I went.

And so I came back with an understanding that we need to do something. I don't have a date for you today, but when we meet, we'll put it on the list and give your staff an update.

Senator MURKOWSKI. I appreciate that. And I hope that your voice feels better than normal levels.

Ms. JACKSON. Thank you.

Senator MURKOWSKI. But I thank you for your testimony and your time this morning. Thank you, Mr. Chairman.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator REED. Thank you, Senator Murkowski. Thank you, Administrator, for your testimony. Thank you, Ms. Bennett for all your work with the Administrator.

I will ask my colleagues to submit any further written statements or questions by next Wednesday, the 23d of May.

And then ask the Administrator to respond as quickly as possible with any written questions so we can close the record.

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

QUESTIONS SUBMITTED BY SENATOR JACK REED

STATE AND LOCAL AIR QUALITY MANAGEMENT GRANTS

*Question.* What are the Environmental Protection Agency's (EPA) plans regarding the two proposed funding changes to the State and Local Air Quality Grants, which are:

- changing the formula for allocating the section 105 funds to States; and
- transitioning funding for particulate monitoring from section 103 authority to section 105 authority?

CHANGING THE FORMULA FOR ALLOCATING SECTION 105 FUNDS

*Answer.* EPA has been working with State and local air pollution control agencies and State associations since 2006 to revise the formula to ensure that grant resources are targeted to address current air quality circumstances, priorities, needs, and concerns while also protecting gains already achieved. The last comprehensive analysis and re-allocation of grants occurred from 1991–1993 to implement the 1990 Clean Air Act Amendments. The increase in State and Tribal Assistance Grant funds requested for fiscal year 2013 would ease implementation of an updated allocation approach that would provide increases for each region of the country. Increased funding notwithstanding, EPA must still assure that funds are targeted to the most pressing air-quality problems and that the integrity of State/local air program operations is maintained. If funding remains static, shifts will be limited so that no region will experience a decline any greater than 5 percent of its prior year funding level. This approach will be phased in over a multiyear period to minimize any disruptions to State and local program operations and can be re-evaluated based upon updated data, changes in air quality, or changes in available funding.

TRANSITIONING PARTICULATE MONITORING FUNDING FROM SECTION 103 TO SECTION 105 AUTHORITY

EPA intends to transition 10 percent of the particulate monitoring funding in year 1 (fiscal year 2013); 20 percent in year 2; 40 percent in year 3; and 60 percent in year 4; and will continue to work closely with State/local/tribal agencies on implementing an adequate particulate matter (PM)<sub>2.5</sub> monitoring network.

BEACHES PROTECTION CATEGORICAL GRANTS

*Question.* I am concerned that EPA proposed eliminating the Beach Grant Program in your fiscal year 2013 budget request. Since 2000, Rhode Island has received \$2.4 million through the program to monitor water quality at beaches and notified the public when recreational waters are not safe for swimming. My home State has reported 45 beach closures over the past 2 years, so we know firsthand how important funding for monitoring is. I am worried that without continued Federal funding, States and local governments will not have the capacity to continue beach monitoring. Administrator Jackson, can you explain why EPA singled out these grants for elimination?

*Answer.* To help meet the fiscal challenges of fiscal year 2013, EPA has reviewed its programs for areas where any potential efficiencies and streamlining can yield savings. EPA is proposing to eliminate certain mature program activities that are well-established, well-understood, and where there is the possibility of maintaining some of the human health benefits through implementation at the State and local levels.

EPA's beach program has provided important guidance and significant funding to support successfully State and local governments in establishing their own programs. Beach monitoring continues to be important to protect human health. However, States (including territories and tribes) and local governments now have the technical expertise and procedures to continue beach monitoring without Federal support as a result of the technical guidance and more than \$110 million in financial support EPA has provided over the last decade through the beach program. As a result, EPA is proposing that this grant program be terminated at the end of fiscal year 2012.

## DIESEL EMISSIONS REDUCTION ACT

*Question.* I would like to talk a little bit about your proposal to phase out the Diesel Emission Reduction Act (DERA) program. As you may know, I cosponsored the DERA reauthorization in 2010. It is a successful program and one that has enjoyed bipartisan support.

Last year EPA proposed eliminating the program, but this subcommittee restored the \$30 million funding. You have cut the program by one-half in your fiscal year 2013 budget request, for a total of \$15 million, and identify the program for future elimination. Yet EPA has estimated that in 2030 there will still be 1.5 million existing diesel engines polluting the air. Can you explain why the administration thinks this program should be cut back significantly this year and eventually phased out given this need?

*Answer.* The DERA grant program results in tangible emissions reductions, but it is important to strategically target the available resources to communities with the greatest need. The funding strategy EPA proposes for fiscal year 2013 would do just that—it would provide rebates on the purchase of pollution control technology and grants for revolving loan programs, and target these funds to communities with the greatest need, such as those areas with the highest levels of exposure near ports and transportation hubs.

Second, the DERA program can point to success in retrofitting and replacing the oldest, most polluting diesel engines, complementing the stringent emissions standards on new diesel engines that EPA promulgated in 2007. For example, with the \$469 million appropriated by the Congress in 2008–2010, EPA has funded projects that reduced approximately 203,900 tons of nitrogen oxides (NO<sub>x</sub>) and 12,500 tons of PM. States and localities have also established programs to address diesel emissions from older engines not subject to current regulations, such as the Texas Emissions Reduction Program and the Carl Moyer Program in California.

*Question.* In the Office of Management and Budget's budget materials it says that you will use fiscal year 2013 DERA funding to create revolving loan programs that will subsidize retrofits and replacements of older engines "without the need for additional infusions of Federal grant dollars." I'm not sure how to square this statement with the enormous demand for the grants. There is such a pressing demand that EPA received seven times more applications for DERA grants than it can fund. How does EPA expect to establish a robust revolving loan program that will not need additional Federal funding with only \$15 million?

*Answer.* The DERA program has shown that retrofits and engine replacements are effective in reducing emissions and provided valuable lessons in how to administer clean diesel programs. Going forward, the fiscal year 2013 budget request recognizes the limited availability of Federal funding and would transition the program to greater reliance on State and local efforts to address diesel emissions from legacy fleets. In fiscal year 2013, EPA will pilot a new approach

That will target specific fleets in high diesel exposure areas such as near ports and freight distribution hubs and other disproportionately affected communities. The Federal monies spent under the \$15 million request would be split into two categories. The first category would allocate funds to a new rebate program established under DERA's reauthorization. The second component would allocate funds toward low-cost revolving loans or other financing programs that help fleets reduce diesel emissions. We believe the rebate and loan programs may allow greater precision in scrapping certain model years of vehicles and equipment and assisting public and private fleet owners with retrofitting or replacing those engines. This pilot would also test financial mechanisms to continue accelerating diesel retrofits without ongoing Federal funding. By using grant funds to establish revolving loan programs administered by non-Federal parties, EPA would be able to have that funding revolve back into the programs (as the loans are repaid) to make more loans available on an ongoing basis. For the revolving loan mechanism to be successful, it would need to be coupled with State or local requirements to phase out the dirtiest engines, thereby creating the incentive for fleet managers to seek a lower-cost loan to make the necessary upgrades.

*Question.* DERA requires that 30 percent of funding be made available to support grant and loan programs administered by States. What is going to happen to the State formula grants in your proposed budget?

*Answer.* Under the proposed budget, the State program would not be funded in fiscal year 2013.

*Question.* You are also starting a new DERA rebate program. Setting up a rebate program is an area where EPA doesn't have a lot of experience. What is your timeline for setting up this program? Why is a rebate program better or more effi-

cient than a grant program? How do you plan to operate both a rebate program and a revolving loan fund given the cuts in your budget request?

Answer. The Diesel Emissions Reduction Act of 2010, which modified and reauthorized EPA's Diesel Emission Reduction Program through fiscal year 2016, added rebates to the grants and loans already authorized under the initial authorization of DERA. EPA will utilize rebates and grants to establish revolving loan programs under the reauthorized DERA language, and match those mechanisms to the needs of fleets and communities in their quest to reduce emissions from the legacy diesel engines. This will expand the number of options for targeting certain types of engines, model years and fleets for retrofit or replacement. Use of the rebate option would make DERA funding available directly to private fleet owners for retrofit or replacement of older, high-pollution engines. Similar to how a rebate works in a retail situation, EPA would use rebates as an efficient incentive mechanism to turn over parts of the existing fleet sooner than through natural attrition. The program could specify the most cost-effective and beneficial type of engines and technology solutions, in locations of greatest need. EPA continues to believe that grants should be used to establish revolving loan programs; at the same time rebates offer a specificity and simplicity which would be welcomed by stakeholders and policy leaders alike.

EPA plans to initiate the rebate program in the fall of 2013.

#### GREAT LAKES RESTORATION INITIATIVE

*Question.* Administrator Jackson, as you know the Great Lakes Restoration Initiative (GLRI) has been a huge investment that affects the States of a number of members of this subcommittee. I am very interested in hearing about the results that have been achieved. Since 2010, GLRI has received more than \$1 billion of funding and you propose another \$300 million in your fiscal year 2013 budget request. Can you tell us what results you have achieved thus far?

Answer. The investments made under the GLRI are showing promising results in addressing the most critical environmental challenges facing the Great Lakes. Some of the notable achievements from GLRI include:

- The Presque Isle, Pennsylvania Area of Concern (AOC) will be delisted this year, now that all necessary management actions are complete. Eighteen Beneficial Use Impairments (BUIs) at 10 different AOCs have been removed since GLRI's inception.
- One million cubic yards of contaminated sediments have been remediated in the basin.
- GLRI has been central to keeping self-sustaining Asian carp populations out of the Great Lakes. No new invasive species populations have been detected in the Great Lakes.
- GLRI-funded projects contributed to the delisting of the Lake Erie watersnake under the Endangered Species Act.
- GLRI-funded projects have contributed to a 5-year low in swimming bans and advisories at Chicago's beaches.

Additional achievements include:

- More than 13,000 acres are being managed in order to keep populations of invasive species controlled to a target level.
- GLRI funding has helped increase the number of acres within the Great Lakes basin subject to the Department of Agriculture conservation practices to approximately 270,000, an increase of more than 50 percent. GLRI funding is now being targeted at three priority subwatersheds to reduce phosphorus contributions from agricultural and urban lands that contribute to harmful algal blooms and other water quality impairments.
- Hundreds of river-miles have been cleared for fish passage by removing or bypassing barriers. More than 20,000 acres of wetland, coastal, upland, and island habitat have been protected, restored, or enhanced.
- Rapid response capabilities have been improved:
  - six rapid response actions were performed in the fight against Asian carp; and
  - four States have now updated their Aquatic Nuisance Species Management Plans to include rapid response capabilities.

*Question.* GLRI funds—\$353 million—have been directed toward toxic substances and AOCs to remedy huge underwater sites where contamination is especially dangerous. Specifically, what progress has been made toward delisting AOCs?

Answer. Because EPA and its partners have prioritized and accelerated AOC work, we expect to meet or exceed our goals to remove a cumulative total of 41 BUIs

by the end of fiscal year 2013 and to complete management actions at a cumulative total of four AOCs. A few examples of delisting progress are as follows:

- As noted above, the Presque Isle, Pennsylvania AOC will be delisted by the end of this year. This will be the first U.S. delisting of an AOC since Oswego River was delisted in 2006.
- All the management actions necessary for delisting at four additional AOCs (Ashtabula, Ohio; River Raisin, Michigan; White Lake, Michigan; and Sheboygan, Wisconsin) are expected to be completed this year and all the management actions necessary for delisting at an additional AOC (Deer Lake, Michigan) are expected to be completed in 2013.
- EPA and its partners have started 88 projects to address BUIs at AOCs and we remain on track to start an additional 22 projects to address BUIs at AOCs in fiscal year 2012.
- Work done at AOCs includes completion of Great Lakes Legacy Act projects at sites in five AOCs. This work has removed contaminated sediments and is re-viving waterfronts in the Kinnikinnick River, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; Detroit River, Michigan; and Muskegon Lake, Michigan.

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QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

PERCHLORATE

*Question.* In February 2011, the Environmental Protection Agency (EPA) announced its intention to regulate perchlorate under the Safe Drinking Water Act. Given the nearly 300 public drinking water wells impacted by perchlorate contamination in California, this was certainly welcome news. Can you tell me what is the status of EPA's effort to develop perchlorate regulations and when do expect they will be finalized?

*Answer.* EPA is moving forward with the process to develop a national primary drinking water regulation for perchlorate. EPA is evaluating the science on perchlorate health effects and exposure to develop a proposed Maximum Contaminant Level Goal (MCLG). The MCLG is a nonenforceable level in drinking water at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. EPA also is evaluating treatment technologies, analytical methods, and costs and benefits of potential Maximum Contaminant Levels (MCLs). The MCL is the enforceable standard that is set as close as feasible to the MCLG, taking cost into consideration. EPA has a statutory deadline of February 2013 to issue the proposed perchlorate rule. EPA is working to develop the proposed regulation for public review and comment expeditiously and expects to promulgate a final regulation within 18 months of the proposal.

*Question.* Will the new perchlorate standard consider pregnant women and children as well as potential perchlorate exposure from food products?

*Answer.* Yes. As EPA works to develop the MCLG, the Agency is closely reviewing data on the effects of perchlorate on pregnant women and children because these lifestages may be at greater risk of adverse effects due to exposure to perchlorate in drinking water. EPA is also considering perchlorate exposure from food products in developing the MCLG. EPA is currently seeking input from the Science Advisory Board on key issues related to the scientific basis for the MCLG. One of the questions EPA has asked the SAB for input on is how life stage differences should be considered in developing the MCLG.

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QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

MERCURY IN AMBIENT AIR

*Question.* Administrator Jackson, throughout your fiscal year 2013 budget justification, I repeatedly see references to the importance of having a strong air monitoring network for our Nation's air quality. I steadfastly believe in having air monitoring tools to measure and track pollutants, to identify pollutant sources, and to inform us how and where Americans could be exposed to air pollutants. These are critical resources that serve the Nation and should be fully supported by the Environmental Protection Agency's (EPA) work.

I understand that EPA is partnering with utilities to collect mercury emission data directly from utilities and that you believe that this partnership will allow you to assess the effectiveness of existing technologies in meeting current mercury reduction requirements. I am curious, though, as to how this partnering will serve

those citizens who live at a considerable distance from utilities with mercury emissions but are nevertheless subject to the regional transport of out-of-State sources of mercury. In my home State of Vermont, we have collected a continuous sampling of particulate and gaseous mercury air levels at the Underhill Air Quality site (VT99), where research measurements have been made since 2004. This long-term record is necessary for detecting trends, and since 1993 we have established an unbroken record of mercury measurements in precipitation. Through this monitoring, we have learned many important lessons and have also found that the current Community Multi-scale Air Quality model estimates for mercury deposition have proven too low for northern Vermont and New England. This is the longest continuous mercury deposition record in the United States.

I find it extremely troubling and perplexing that the EPA has made cuts in funding to the Atmospheric Mercury Network (AMNet) and VT99, which coincides with your December 2011 announcement of new mercury and air toxics standards for coal and oil-fired power plants. Can you please explain to me your rationale for ending this research and long-term air monitoring program at the exact moment when the need for continued monitoring for human health risk and tracking of emission levels is most essential?

Do you agree that measurements of mercury in ambient air are necessary to verify the anticipated deposition reductions as a result of your newly mandated emissions reductions? If so, we must continue the work at VT99 so we can measure progress toward restoration of environmental quality.

Answer. Mercury is a complex and multi-faceted issue that necessitates monitoring in all media, including air, water, sediments, fish, and wildlife. EPA recognizes the need for comprehensive, long-term mercury monitoring. EPA has collaborated with Federal, State, and tribal agencies, and academic partners to provide a comprehensive understanding of mercury in the environment using existing data, monitoring capabilities, and resources. In particular, advances have been made in developing a national atmospheric mercury monitoring program by building, where possible, upon the existing long-term monitoring infrastructure which has successfully tracked the effectiveness of programs to control emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>). Since 2007, EPA has worked through the National Atmospheric Deposition Program (NADP) to develop AMNet—a North American network that monitors atmospheric concentrations of mercury at 20 sites throughout the United States and Canada. NADP/AMNet is sponsored by a multi-organizational cooperative of Federal, State, and tribal agencies, universities, and private companies.

Many of the AMNet mercury sites were established by different organizations to support an array of diverse research and monitoring objectives. The Underhill VT99 site is an example of an existing atmospheric mercury monitoring site that joined AMNet. Historically, these sites operated in an uncoordinated manner, using disparate protocols for measurement, data management, and quality assurance. In other words, they did not comprise a coordinated network of atmospheric mercury monitoring sites providing comparable data to assess implementation of a national mercury control program. With the development of AMNet, NADP and its partners, including EPA, took an opportunity to coordinate existing monitoring sites and collaborate with the scientists operating those sites to create a cohesive network of standardized measurements complemented by an organized scientific community.

As part of the initial catalyst to establish AMNet, EPA provided a small amount of funds, through competitively awarded time-limited contracts, to six monitoring groups to operate atmospheric mercury sites. With a core set of AMNet sites established, EPA's focus turned to facilitating the development and implementation of a centralized NADP data management program to assure high quality and comparable mercury measurement data across the United States. Toward that end, EPA uses its resources to continue supporting AMNet by funding NADP's AMNet quality assurance and data management activities.

EPA served as a catalyst in launching the AMNet collaborative mercury monitoring effort. We remain committed to working with NADP and our partners in the scientific community to track progress of mercury emissions reductions under our air rules. We hope that the atmospheric mercury monitoring sites and experts participating in AMNet will continue to improve our understanding of mercury in the environment.

#### CHEMICAL SAFETY

*Question.* As a cosponsor of the Safe Chemicals Act of 2011 I am acutely aware of the need to modernize the Toxic Substances Control Act of 1976 (TSCA). It is clear that the EPA desperately needs new tools to regulate the health and safety

testing of toxic chemicals. Your fiscal year 2013 budget justification requests a funding increase of \$11 million for enhancing chemical safety and assessing chemical risks.

Please tell me what resources EPA proposes to put toward work on carbon nanotubes with this requested increase in funding.

Answer. EPA's fiscal year 2013 President's budget requests a total of \$67.6 million to support the Chemical Risk Review and Reduction (CRRR) program, which includes an \$11.1 million increase more than the fiscal year 2012 amount appropriated for the CRRR Program account (\$56.5 million). As detailed in the Congressional Budget Justification, the fiscal year 2013 CRRR request is divided into four areas of activity:

- \$13.9 million to support Existing Chemicals—Obtaining/Managing Data efforts;
- \$14.9 million to support Existing Chemicals—Chemical Assessment efforts;
- \$24.6 million to support Existing Chemicals—Risk Management efforts; and
- \$14.2 million to support the New Chemicals Program.

Resources supporting EPA's work on carbon nanotubes are housed in all four of these activity areas. We should note that EPA does not estimate resources on a chemical-by-chemical basis, as would be required in order to further specify the amount of funding budgeted for carbon nanotube work.

*Question.* Does EPA have sufficient resources to truly address and assess the risk level from carbon nanotubes and efficiently approve nanomaterials that manufacturers have proven minimize or eliminate the associated adverse impacts on human health?

Answer. EPA's fiscal year 2013 President's budget requests the resources necessary to continue to gather environmental health and safety data, assess risk levels and, as necessary, undertake risk management action to address identified risks associated with some of the carbon nanotubes already in commerce and to continue to review new nanomaterials submitted to EPA through the new chemicals program prior to their entry into commerce. As the science of nanomaterials evolves, EPA will continue to enhance its approach to obtaining and using information to inform both risk assessment and risk management to inform decisionmaking. For example, EPA is considering the development of categories of nanomaterials, based on shared chemical and toxicological properties, which may enable the Agency to make use of accumulated data common to each category (such as data on chemical hazard, structure, and properties) as well as a history of past decisions that may be relevant. In most cases, sufficient history would have been accumulated so that testing recommendations would vary little among the chemicals within a category.

*Question.* What progress can you assure me will occur in EPA's work on nanoscale materials? In addition, do you expect that EPA will be able to make advances in its work in determining when nanoscale materials may require further assessment and when there has been sufficient testing without requiring undue additional expenses for manufacturers?

Answer. EPA will continue to pursue a comprehensive regulatory approach under TSCA to ensure that both new and existing nanoscale materials are manufactured and used in a manner that protects against unreasonable risks to human health and the environment. EPA's approach includes pre-manufacture notifications; Significant New Use Rules; information gathering rules; and test rules. For example, EPA has played a leading role in guiding the development of test data and harmonized approaches to the testing, assessment, and management of nanomaterials with other Federal agencies for several years. EPA will continue to work in fiscal year 2013 with other Federal agencies through the National Nanotechnology Initiative and internationally with other governments to identify and develop these sources of data, with an emphasis on providing guidance for applying internationally harmonized chemical test guidelines to nanomaterials. EPA is already assessing and addressing the potential risk from carbon nanotubes and other nanomaterials. As new data are developed for nanomaterials, EPA will refine its approach to both risk assessment and risk management. EPA will identify those nanomaterials or categories of nanomaterials that require additional data development or risk management as well as the nanomaterials that do not warrant further testing or other actions.

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QUESTIONS SUBMITTED BY SENATOR JON TESTER

CAMELINA BIODIESEL AND THE RENEWABLE FUELS STANDARD

*Question.* Just over 2 years ago, Environmental Protection Agency (EPA) released a final rule setting up the Renewable Fuels Standard (RFS2). Every year since then,



EPA has had to drastically revise its advanced biofuel quotas down, due to the fact that there was no chance the biofuel industry could meet them.

Part of the RFS2 rule was the establishment of a process to approve new feedstocks for production of biofuel. However, since the RFS2 was established, Canola is the only feedstock that has been approved through that process.

At the same time, I know that Montana producers have been working toward approval of biodiesel from camelina and ethanol from barley almost since the day the RFS2 was established.

I have watched with growing concern the lack of newly approved fuel pathways eligible for Renewable Identification Numbers (RINs), particularly given the backlog of petitions that the EPA is considering. EPA did approve a handful of pathways in January, only to withdraw that approval shortly thereafter, resulting in yet another crop year without recognition of these innovative fuels.

I am concerned that unless EPA enhances the diversity of fuel pathways eligible for RINs, the renewable fuels standard will continue to act as a barrier to entry for new and promising feedstocks by supporting incumbents that frankly don't need the help.

To what extent is EPA's inability to approve new fuel pathways contributing to the lack of advanced biofuel? What is EPA doing to get the petition program for new fuel pathways working as intended?

Answer. As a clarification, in the past 2 years, EPA has not had to reduce the advanced biofuel mandate, only the cellulosic volume mandate. Therefore, we do not believe that the new fuel pathway approval process is contributing to a shortage of advanced biofuels. Since the RFS2 volume standards are nested (with cellulosic fuels being a subset of advanced fuels), the total advanced biofuel mandate can remain unchanged even if cellulosic volumes are reduced. To date, EPA has not reduced the overall advanced volume mandates since our analysis has shown that there is a sufficient supply of advanced biofuels. What this means is that refiners and blenders have still been obligated to acquire sufficient advanced biofuel to fulfill the statutory mandate, even though the EPA Administrator lowered the required volume for cellulosic biofuel. Biodiesel from camelina and ethanol from barley could potentially qualify as advanced biodiesel, if the fuel pathways satisfy certain criteria.

In the final RFS2 rule, EPA developed a petition process to allow for new potential pathways to be reviewed and incorporated into the RFS program. In the last 2 years, EPA has made significant progress in evaluating new feedstocks and fuels under the RFS program. For example, EPA has approved canola as a new feedstock and six other new fuel pathways through the petition process. In addition, EPA released for public comment analysis on six other feedstocks (arundo donax, camelina, energy cane, napiergrass, palm oil, and sorghum). EPA recognizes the need to review and include new advanced biofuel feedstocks to help further the goals of the Energy Independence and Security Act. To this end, EPA tried to expedite the approval of arundo donax, camelina, energy cane, and napiergrass through a direct final rulemaking process. However, EPA received relevant adverse comments as part of the public review process and was legally required to withdraw the direct final rule and proceed instead with a proposed rule. EPA is working to respond to these comments and finalize the analysis of these pathways as quickly as possible.

#### ENHANCED OIL RECOVERY

*Question.* Administrator Jackson, I understand that your agency is in the process of developing guidance for Enhanced Oil Recovery (EOR) projects. I am a strong supporter of enhanced oil recovery and believe it is a win-win for the storage of CO<sub>2</sub> as well as getting more oil out of existing fields. EOR helps to localize the impact of oil field development, while increasing our energy security with domestic production.

I have heard some concern from some in industry that this proposed guidance makes could hinder EOR use and expansion.

*Question.* Are you supportive of developing EOR?

Answer. EPA remains committed to the safe implementation of enhanced oil and gas recovery technologies. Since the 1980s, EPA has worked with State co-regulators to ensure that injection of CO<sub>2</sub> (and other fluids) for enhanced oil and gas recovery is conducted in an environmentally sound manner that enables increased energy security through domestic hydrocarbon production.

*Question.* Can you assure me that EPA will continue to work with stakeholders to assure that guidance on this program is workable and encourage the use of EOR?

Answer. EPA will continue to work with stakeholders, including State co-regulators and industry representatives, to develop this guidance and intends to imple-

ment it in a manner that is consistent with existing EOR regulations and Underground Injection Control program authority under the Safe Drinking Water Act.

#### OIL SPILL RESPONSE AND TRIBES

*Question.* Administrator Jackson, last year on the Blackfoot Reservation in Montana there was a small oil spill from an oil distribution pipeline. This occurred about the same time we had the larger spill on the Yellowstone River. Unfortunately the small spill wasn't found for nearly 1 month because it was in a distribution line.

In Montana a number of tribes, including the Blackfeet are actively developing their traditional energy resources, in particular oil and natural gas. Unfortunately, many tribes lack a full staff of people to regularly monitor well and develop safeguards for the development of energy resources.

*Question.* What is EPA doing to provide technical assistance to tribes who have expanding energy development to develop safeguards are in place to prevent incidents like what happened on Browning?

*Answer.* EPA conducts numerous workshops and inspections to provide technical assistance to tribes who have expanding energy development regarding oil spill prevention and response. EPA routinely includes inspections of production facilities on tribal lands with tribal environmental personnel to train the tribe on the requirements of the SPCC regulation and address facilities the tribe may have concerns about. EPA also routinely answers technical questions from the tribal environmental office to provide assistance on the requirements of the spill prevention control and countermeasure (SPCC) regulation, respond to spills and complaints, and address noncompliance.

The following examples are representative of the types of assistance EPA provides to tribes that are developing their traditional energy resources:

- In 2010 and 2011, EPA worked with Fort Berthold officials on spill response capabilities and conducted workshops to improve compliance with SPCC regulations. In previous years, EPA similarly conducted SPCC workshops on the Uintah & Ouray, Southern Ute, and Wind River Reservations.
- In August 2011, EPA provided technical assistance to the Blackfeet Tribe by conducting interactive SPCC training for nine participants from tribal environmental staff, emergency response staff, and a representative from the Bureau of Indian Affairs (BIA). This training focused on how to identify facilities that could pose a high risk for a spill or that may not be in compliance. EPA also discussed with the tribe concerns they had regarding facilities or spills that had occurred.
- In June 2011, EPA inspectors were accompanied by tribal personnel during the SPCC inspections conducted on the Fort Berthold reservation. In August 2011, EPA inspectors were accompanied by Blackfeet Tribal environmental and emergency staff, as well as a BIA representative, on SPCC inspections.
- During Tribal Region Operation Committee meetings held at the Region 8 office, the prevention and preparedness program presented and distributed outreach materials. The region also distributed materials on oil spill prevention during the Denver March Pow Wow.
- In September 2011, EPA held a 4-day oil response training course for members of the Three Affiliated Tribes. This course is designed for EPA Federal On-Scene-Coordinators (FOSCs), U.S. Coast Guard (USCG) FOSCs, and tribal, State, and local responders who are involved in inland oil spill prevention and cleanup. The course was focused around a hands-on practical oil spill response scenario on fast water usually found in rivers in the western regions of the United States. Course participants learned physical and chemical properties; statutory and regulatory framework; factors affecting response and cleanup decisions; how to read rivers; determine oil recovery locations; determine various methods of boom deployment; and deploy oil recovery methods on fast water rivers.
- In addition to oil spill prevention and response training, EPA initiated meetings with all 27 tribal governments to create a foundation for open communication and to understand the priorities, risks and vulnerabilities of the Region 8 tribes. The region plans to meet with the tribes in order to conduct an assessment of tribal emergency planning and preparedness capabilities in order to tailor an appropriate technical assistance and training regimen specific to the tribal needs.
- With oil and gas production being one of the top priorities for the tribes, on June 13, 2012, EPA conducted a workshop to help tribal communities understand potential issues and resources available to prepare for and address environmental accidents, spills, and releases due to oil and gas drilling and produc-

tion processes. Information included an overview of the production process itself, a summary of the various EPA laws and regulations that cover oil and gas production, and information from other guest speakers including, but not limited to, private industry, the Department of Transportation, and the Bureau of Land Management.

As with EPA's activities in previous years, there are also plans to continue one-on-one outreach, SPCC technical assistance, and joint inspections with certain tribes in 2012.

EPA has a goal to update and create new Area Contingency Plans that would include Browning, Montana. As part of this effort, EPA Region 8 has held meetings with representatives from the tribes, U.S. Fish & Wildlife Service, BIA, Army Corps of Engineers, Departments of Agriculture and State, and local agencies to discuss subarea contingency planning for the Missouri River-Lake Sakakawea area.

#### LIBBY, MONTANA SUPERFUND SITE

*Question.* Montana also has some big challenges with Superfund. In Montana we have the dubious honor of having 11 Superfund sites on the National Priorities List. These are some of the largest and most complex in the United States. And Administrator Jackson, as I've said each year as you come before this subcommittee it needs your personal attention.

Let me take a moment to talk about Libby, Montana. It has been more than 10 years since EPA's work in Libby commenced, and there are still a number of unanswered questions and actions with questions. Currently the toxicological review of Libby Amphibole Asbestos has a draft form and is being circulated.

*Question.* When do you believe you will be able to finalize that study? And when can you start using the Science Advisory Board's (SAB) information to make decisions about if homes are safe or clean for the citizens of Libby?

*Answer.* EPA currently anticipates completing and posting the Integrated Risk Information System (IRIS) Toxicological Review of Libby Amphibole Asbestos in fall 2013. EPA's SAB has indicated that they expect their peer review advice will be published by November 2012. As per the IRIS process, EPA will then conduct any further analyses needed to respond to the peer review and revise the draft assessment to respond to comments. After internal and interagency reviews, a final Toxicological Review of Libby Amphibole Asbestos will be posted on IRIS.

To date, risks from exposure to Libby Amphibole have been substantially reduced through cleanup actions at 1,670 properties in Libby, including homes, commercial buildings, parks, and other recreational spaces. Once the Toxicological Review of Libby Amphibole Asbestos is posted on IRIS, the toxicity values can be used for human health risk assessments. EPA will evaluate the remaining properties in Libby and reassess the properties that have undergone cleanup actions to determine whether additional cleanup is required. Region 8 will be able to publish a draft cumulative human health risk assessment for the Libby Superfund Site approximately 6 months after the IRIS posting of the Libby Amphibole toxicity values. The results of the human health risk assessment, as well as community opinions and concerns, will be considered by EPA as it evaluates alternatives and selects an appropriate response to address site risks.

#### CLARK FORK CLEAN UP SITE

*Question.* Currently in the State of Montana has great work going on the Clark Fork River restoring a watershed. This work will restore clean water, fish, and aquatic species habitat and revitalize a corridor home to many of Montana's farms and ranches.

This site, listed in 1985, has waited a long time for clean up.

The State and EPA have entered into a consent agreement with the State as lead agency, a position well deserved after their good work in Silver-Bow County and on Milltown Dam.

There is more than \$100 million ready to put people to work in the restoration economy in Montana. Unfortunately, as of my last update, this work has is still stalled for while lawyers bicker over small technicalities and details.

*Question.* Can I have your commitment that you will work the lead agency, the State of Montana, to get any issues resolved and make sure this project commences in a timely fashion so that by this summer we can be putting people back to work cleaning up the banks of the Clark Fork?

*Answer.* EPA remains committed to working with the lead agency, the Montana Department of Environmental Quality (Montana DEQ), to help the Montana DEQ implement the remedy in an efficient and effective manner. Under a 2008 consent decree, the Montana DEQ received \$123 million from Atlantic Richfield to perform

State-lead Superfund remedial design, remedial action, and natural resource damage restoration for the Clark Fork River Operable Unit (Clark Fork Site) of the Milltown Reservoir Sediments/Clark Fork River Superfund Site. EPA has consistently met review times requested by the Montana DEQ for deliverables and has worked expeditiously to resolve issues to help the Montana DEQ complete design and construction on the Clark Fork River.

The Montana DEQ began construction in 2010 by removing arsenic and lead contaminated soil from eight residential properties located on East Side Road in Deer Lodge. The Montana DEQ also cleaned up six residential properties adjacent to the Clark Fork River in Deer Lodge in 2011. Cleanup construction was completed at the Trestle Area Bridge in Deer Lodge in fall 2011. Construction firms out of Butte, Missoula, and Lincoln, Montana were able to bid successfully on these construction projects.

In addition, engineering firms from Helena and Butte, under contract to the Montana DEQ, collected design level data in 2011 at the Grant Kohrs Ranch National Historic Park and the Clark Fork Coalition Ranch. The Montana DEQ has already incorporated data collected during these investigations into Design Summary Reports. Draft preliminary designs are anticipated in fall 2012, with final design packages going out for construction bids in 2013.

Finally, the Montana DEQ is currently incorporating design review team comments into its final design for cleanup of the first 1.6 miles of the Clark Fork River directly below the Warm Springs Ponds (Reach A, Phase 1). Montana DEQ will solicit bids later this summer for a multi-year construction project that will begin in fall 2012.

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QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

DESIGN FOR THE ENVIRONMENT PROGRAM

*Question.* Administrator Jackson, I would like to bring to your attention some concerns I have with the Design for the Environment (DfE) program. This program is intended to identify chemicals for which increased margins of safety may be needed and to make suggestions on alternative chemicals that would provide increased margins of safety. As I understand it, Congress did not explicitly fund or create this program, nor did the Environmental Protection Agency (EPA) issue regulations outlining any criteria on which to select products for which substitutes are sought. Furthermore, there is no criteria that exists to define the improved safety of the alternatives. While the program may be deemed voluntary, the process will lead to manufacturers substituting alternatives, none of which have been approved by a government agency as safe for use or by industry as technically or commercially viable. Therefore the DfE program can effectively drive major structural changes in the chemical industry while avoiding the rigor of the regulatory process.

I am very concerned with the lack of transparency in the decisionmaking process and the lack of defined criteria upon which DfE chemical evaluations are based.

Are the chemical evaluations under the DfE program done consistent with other EPA chemical evaluations or assessments such as under the Integrated Risk Information System (IRIS)?

*Answer.* Yes, DfE chemical evaluations are consistent with other EPA evaluations, including IRIS, and use similar criteria. For example, the IRIS assessment process includes obtaining information through a comprehensive literature search and data call in. The IRIS assessment process also includes professional EPA science experts evaluating research studies on health effects and providing judgments regarding issues such as appropriate study choice, characterization of effects, and uncertainty factors, among others. Data sources for DfE evaluations include the following:

- Publicly available data obtained from a literature review;
- Data contained in confidential business information received by EPA;
- Structure-Activity-Relationship based estimations from EPA's Pollution Prevention Framework and Sustainable Futures predictive methods; and
- Professional judgment of EPA science experts with decades of chemical review experience.

When IRIS assessments are available, they are a primary consideration for DfE chemical evaluations.

*Question.* If chemical evaluations for DfE are not conducted in a similar fashion, what is the evaluation process and where is it documented?

*Answer.* The DfE approach for conducting chemical evaluations is similar to evaluations in other EPA programs.

## WASTEWATER OPERATIONS—UNDERGROUND PIPE INFRASTRUCTURE

*Question.* Efforts are currently being made by innovative companies to assist small- and medium-sized cities to maximize cost savings and asset management for their underground pipe infrastructure. Efforts involve aggregating data and leveraging information to the benefit of municipalities' wastewater operations and financial planning. What is EPA currently doing to aggressively compliment or incentivize municipalities to embrace this proven, comprehensive, cost savings practice?

*Answer.* EPA has been in the forefront, especially in the area of Asset Management practices, with a whole series of initiatives to assist communities in making more efficient and effective long-term, life-cycle based decisions regarding water and wastewater infrastructure. The key elements in the EPA strategy are based on providing training and knowledge transfer and supporting the development of new tools and techniques to foster better municipal system outcomes. Over the past decade, approximately 60, 2-day "hands-on" workshops have been held with more than 4,500 local water and wastewater personnel attending these training sessions. In addition, EPA has worked closely with the Water Environment Research Foundation to establish a focused research program to address some of the key knowledge questions associated with the aging of our water and wastewater infrastructure. Much of this work is focused on underground pipe infrastructure, where the issues associated with the aging of the networks are most prominent. Finally, a number of State SRF programs have adopted Asset Management related incentives associated with their funding decisions and a few States have started integrating Asset Management requirements into their National Pollutant Discharge Elimination System permit process.

## QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

## INTEGRATED RISK INFORMATION SYSTEM

*Question.* In testimony before the Congress in July, 2011, Environmental Protection Agency's (EPA) Science Advisor stated that the EPA did not intend to implement the reforms identified in chapter 7 of the National Academy of Science (NAS) peer review report on the formaldehyde Integrated Risk Information System (IRIS) assessment for draft assessments that had then been released for peer review but not finalized. Since that time, EPA has also chosen not to implement those reforms to certain draft assessments subsequently released for peer review. EPA's stated rationale for that decision was that NAS did not intend to delay IRIS assessments pending development of program-wide reforms. However, a review of the specific NAS recommendations for improving the formaldehyde assessment demonstrates that they parallel the NAS recommendations for longer-term IRIS reform. Clearly, then, NAS wanted and expected EPA to implement on a chemical-specific basis going forward recommendations comparable to those NAS was recommending that EPA develop over a longer-term for the program as a whole.

Given NAS' conclusion that its recommendations are "critical for the development of a scientifically sound IRIS assessment" and EPA's conclusion that all the NAS' recommendations are warranted, what is EPA's justification for implementing those reforms for some chemicals, like formaldehyde, but not others in like or earlier stages of development than formaldehyde at the time of the NAS report?

In its recent progress report to the Congress on the status of its IRIS reform efforts and elsewhere, EPA has stated that it agrees that all the NAS recommendations are scientifically sound and should and will be implemented by EPA. However, EPA is applying only a few of those reforms to some of the assessments in the pipeline and none of them to others now under development.

*Answer.* EPA agrees with and is implementing the NAS recommendations. Consistent with the advice of the NAS in their "Roadmap for Revision" in chapter 7 of the formaldehyde review report, EPA is implementing the recommendations using a phased approach. Specifically, the NAS stated that "the committee recognizes that the changes suggested would involve a multiyear process and extensive effort by the staff of the National Center for Environmental Assessment and input and review by the EPA Science Advisory Board and others." In implementing the recommendations in a phased approach, EPA is making the most extensive changes to documents that are in the earlier steps of the assessment development process.

For assessments that are in the later stages of development, EPA is implementing the recommendations without taking the assessments backwards to earlier steps of the process. Phase 1 of implementing the NAS recommendations has focused on editing and streamlining documents and using more tables, figures, and appendices.

However, for some assessments, EPA went beyond the changes that were slated for Phase 1 to incorporate changes slated for Phase 2. For example, the final dioxin reanalysis (released as part of the Phase 1 batch of assessments) included:

- Evaluation tables for epidemiology study summaries;
- Health effects study descriptions in an appendix to streamline the main text;
- Graphical and tabular displays of potential points of departure and oral reference dose candidate values; and
- Links to the Health and Environmental Research Online (HERO) database for all citations.

EPA is now in Phase 2 of implementing the NAS recommendations, as evidenced by the recent release of the draft IRIS assessment of ammonia. This assessment represents a major advancement in implementing the NAS recommendations. EPA is using a new document structure, including an executive summary presenting major conclusions, a preamble describing methods used to develop the assessment, distinct sections on Hazard Identification and Dose-Response Analysis, and more tables and figures to clearly present data. Additionally, as part of Phase 2, EPA is addressing all of the short-term recommendations provided by the NAS, including:

- Eliminating redundancy in format to substantially reduce the volume of text;
- Adding a preamble to describe the methods of the assessment;
- Providing detailed information about the literature search and describing how studies were selected for evaluation;
- Using the HERO database to allow public access to all studies considered and cited in the assessment;
- Using standardized evidence tables instead of long text descriptions;
- Conducting a more thorough and standardized evaluation of studies, including strengths and weaknesses;
- Developing a more integrated synthesis of health information organized by toxicological effect, including a discussion of weight of evidence;
- Clearly describing all decision points;
- Presenting candidate reference values for multiple endpoints, where appropriate; and
- Considering the possibility of combining multiple studies or effects for deriving toxicity values, instead of choosing the most sensitive effect.

Phase 3 of implementation, which will begin when EPA convenes a workshop on weight of evidence, will incorporate the longer-term scientific recommendations made by the NAS, including:

- Incorporating a systematic identification of the relevant evidence;
- Developing and utilizing criteria for evaluating the strength of the evidence; and
- Developing language for describing the strength of the evidence of causation so that a standardized approach is used that is comparable among different agents and outcomes.

*Question.* Given EPA's concurrence with NAS' conclusion that all these reforms are critical to scientifically sound assessments, upon what basis has EPA concluded that some assessments now being prepared are more deserving of these reforms than others?

*Answer.* As discussed in the response to question 1, EPA has used a systematic approach to implementing the NAS recommendations in a phased manner based on stage of assessment development.

*Question.* The recommendations are being applied based on the stage of development of the assessment. Thus, those in the earliest stage of development are in Phase 3, while those in the later stages are in Phases 1 and 2. We did this so as not to unduly delay the release of final assessments and to ensure that the effort placed in drafting the document was not lost. This is consistent with the advice of the NAS.

If EPA's basis is that it is important to finalize quickly assessments now in the later stages of development, has EPA concluded that it is more important to get these assessments prepared quickly than it is to get them prepared correctly, that is, in a manner that both EPA and NAS have concluded is critical to scientifically sound assessments?

*Answer.* EPA is working as quickly as possible to finalize assessments. However, quality and correctness of assessments are not being sacrificed for speed.

*Question.* Sound science and independent, open-to-the public, scientific peer review are the cornerstones of the IRIS program and the foundation upon which IRIS is built. Every IRIS assessment that has been finalized has been through rigorous independent external peer review and has been revised to address the peer review comments, ensuring that EPA is using the best-available sound science.

The Board on Environmental Studies and Toxicology of NAS recently informed the Senate and House Appropriations Committees that it had unanimously concluded that in lieu of the two discretionary NAS IRIS assessment peer reviews called for by the conference report language for EPA's appropriation in title II of Public Law 112-74, it would be more productive and valuable for the IRIS program if NAS undertook a comprehensive in-depth review of EPA's IRIS report development process and the changes in that process contemplated by EPA. Do you concur with that conclusion?

Answer. Yes, EPA agrees that it would be more productive and valuable for the IRIS Program if the NAS undertook a comprehensive in-depth review of the IRIS assessment development process in lieu of peer reviewing two draft IRIS assessments. It is most appropriate for the NAS to address broad scientific issues rather than conducting reviews of individual IRIS assessments.

*Question.* EPA is committed to a strong and robust IRIS program. The EPA welcomes NAS' review of the IRIS assessment development process and looks forward to working with the NAS to continue to strengthen the IRIS program.

We have received several reports of newly developed IRIS toxicity values that are well below naturally occurring background levels of the chemicals involved to which the public is routinely exposed. If these values were scientifically valid, wouldn't one expect to find evidence of adverse health effects that to date are not apparent?

Answer. By definition, a reference dose (RfD) is an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily oral exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. That is, the RfD is the level of exposure that a person could experience every day over their entire lifetime without an appreciable risk of harmful effects. The derivation of an RfD generally includes the use of uncertainty factors that account for limitations in scientific information. Therefore, it is designed to be public health protective. It is expected that a person's exposure to a certain chemical might vary throughout their lifetime, increasing at some points and decreasing at others. Exceeding the RfD for one day, or a week or more does not necessarily mean that an individual has a greater risk of a health effect. As exposure increases above the RfD for prolonged periods, then the potential risk for health effects increases. It is generally not possible to determine an exact exposure level at which the risk of adverse effects will start to increase. Nor is it generally possible to determine exactly how many days of exposure above the RfD it would take to increase the risk of health effects.

In addition, the term "background" may mean different things, such as the production of endogenous compounds or naturally occurring substance. Just because something occurs naturally in the environment does not mean it is without harm. In some cases, naturally occurring substances may lead to adverse health effects in humans. For example, people in certain locations outside the U.S. are exposed to high levels of naturally occurring arsenic in their drinking water. Health effects, such as skin pigmentation and cancer, have been identified in these populations. In most cases, however, well-conducted epidemiological studies have not been performed to evaluate whether adverse effects are occurring at background levels of exposure.

Finally, the human body does not discern between naturally occurring and man-made substances. The toxicity of a chemical is the same regardless of the source, and understanding the toxicity of a chemical, natural or not, makes for better informed decisions.

*Question.* Moreover, in as much as the principal purpose of IRIS assessments is to educate the public and risk managers as to concentrations of chemicals above which unacceptable risks may exist, how useful are these values when they are at levels that risk managers and the public cannot rectify?

Answer. IRIS assessments are useful to risk managers and the public. IRIS assessments provide information on the toxicity of chemicals. Risk managers use IRIS values, along with information about exposure, to characterize the public health risk of chemicals. When making decisions, they also take into consideration other factors, such as statutory and legal considerations, risk management options, public health considerations, cost/benefit considerations, and economic and social factors.

It should also be noted that just because something occurs naturally in the environment does not mean it is without harm. The human body does not discern between naturally occurring and manmade substances. The toxicity of a chemical is the same regardless of the source, and understanding the toxicity of a chemical, natural or not, makes for better informed decisions. It is important that risk managers and the American public have the most up-to-date information on the health effects of chemicals in their environment.

*Question.* When EPA develops a toxicity value that is lower than background levels in such public spaces as urban areas and schools, or at people's homes, does it evaluate the implications of such a value on public perception of safe levels of chemicals and on use of societal resources to address such exceedingly low values?

*Answer.* IRIS assessments provide information on the toxicity of chemicals. When this information is combined with specific exposure information, government and private entities can use IRIS to help characterize the public health risks of chemical substances. When risk managers make decisions, they consider additional information, such as the use of societal resources, statutory and legal considerations, risk management options, public health considerations, cost/benefit considerations, and economic and social factors.

*Question.* The IRIS program is very important to establishing credible cleanup standards that touch many people and organizations. It's very important that these standards be credible and be based on the best-available science. The Congress has asked EPA to implement the NAS recommendations with regard to the IRIS program to restore its credibility. Yet implementation is slow and reports are still moving through the approval process without the benefit of being subjected to the rigor recommended by the NAS. Could you explain why you are pushing through new standards for individual substances absent the sound science approach recommended by NAS?

Again, our goal is to have the best-possible science guide this standard setting.

*Answer.* EPA is using a systematic approach to implementing the NAS recommendations in a phased manner, based on stage of assessment development. Every IRIS assessment that has been finalized has been through rigorous independent external peer review and has been revised to address the peer review comments, ensuring that EPA is using the best-available sound science.

*Question.* IRIS assessments and IRIS toxicity values are not standards. An IRIS human health assessment is a scientific and technical report that provides information on hazard identification and dose response. When information from an IRIS assessment is combined with specific exposure information, government and private entities can use IRIS to help characterize the public health risks of chemical substances. It is during the risk management part of the risk assessment/risk management paradigm that standards are developed. In making risk management decisions, EPA considers the supporting science, as well as statutory and legal considerations, risk management options, public health considerations, cost/benefit considerations, and economic and social factors.

Could you explain why you are willing to have the IRIS program subjected to wide criticism by rushing through standards absent the rigor of an NAS type review?

Many of us on the subcommittee have already heard from constituents that have problems with some of the proposals in the works.

EPA has stated that it does not want its reforms in response to the NAS report to delay issuing of IRIS reports.

*Answer.* IRIS assessments and IRIS toxicity values are not standards. An IRIS human health assessment is a scientific and technical report that provides information on hazard identification and dose response. When information from an IRIS assessment is combined with specific exposure information, government and private entities can use IRIS to help characterize the public health risks of chemical substances. It is during the risk management part of the risk assessment/risk management paradigm that standards are developed. In making risk management decisions, EPA considers the supporting science, as well as statutory and legal considerations, risk management options, public health considerations, cost/benefit considerations, and economic and social factors.

EPA is using a systematic approach to implementing the NAS recommendations in a phased manner based on stage of assessment development. This is consistent with the advice of the NAS in their "Roadmap for Revision" in chapter 7 of the formaldehyde review report. The NAS did not intend for their recommendations to slow down or delay issuing IRIS assessments, but rather noted that "the changes suggested would involve a multiyear process and extensive effort by the staff of the National Center for Environmental Assessment and input and review by the EPA Science Advisory Board and others."

Independent, open-to-the public, scientific peer review is a cornerstone of the IRIS Program. Every draft IRIS assessment is subject to independent, external scientific peer review. Every IRIS assessment that has been finalized has been through rigorous independent external peer review and has been revised to address the peer review comments, ensuring that EPA is using the best-available sound science.

*Question.* Given EPA's statement that IRIS documents do not have regulatory effect and given EPA's existing statutory authority at cleanup sites and for regulatory standards and permitting, are there any specific EPA program needs for IRIS values



that cannot be met through EPA's other existing authorities? If so, please explain these needs. If not, please explain why it is sound public policy not to carry out the NAS recommendations before issuing IRIS values?

Answer. IRIS was designed to develop assessment values for use throughout EPA, and this remains the case. The IRIS program develops health assessments and toxicity values in concert with scientists from across EPA's programs and regions. The toxicity values are then added to the IRIS database for use by EPA's program and regional offices and others. Time and again, EPA's program and regional office have indicated their need and strong support for the IRIS program.

The IRIS program is responsible for developing IRIS health assessments and providing the associated toxicity values in the IRIS database. EPA's program and regional offices determine which toxicity values to use in their work. While we know that IRIS values are widely used, the IRIS program does not track what toxicity values the program offices use in every aspect of their work. The rigorous assessment development process, which includes opportunity for public comment and independent external peer review, ensures that EPA decisions will be based on the best-available science.

#### REGIONAL HAZE REGULATIONS

*Question.* What steps has EPA taken to coordinate more effectively with States on regional haze issues in response to the congressional directive included in the conference report accompanying the fiscal year 2012 Appropriations Act?

Why is EPA rejecting State Implementation Plans that reduce visibility impairment consistent with the Clean Air Act (CAA) and the congressional directive to work with the States?

Answer. Since 1999, EPA has been collaborating with the States and with their regional planning organizations on the development of regional haze plans. Our preference has always been to allow States that are moving forward to complete their work, and then to give due deference to the emission controls decisions that they reach based on accurate technical information. In fact, we have fully approved the plans for the District of Columbia and the following 12 States:

- California;
- Delaware;
- Illinois;
- Kansas;
- Maine;
- Maryland;
- New Hampshire;
- New Jersey;
- Rhode Island;
- South Dakota;
- Vermont; and
- Wisconsin.

All have proposed to fully approve the Alaska, Colorado, Connecticut, Idaho, Massachusetts, and Oregon plans.

In addition, for the following 10 States, we have fully approved the regional haze plans with the single exception that we have adopted a simple "housekeeping" Federal plan to substitute reliance on the Cross State Air Pollution Rule (CSAPR) for these States' earlier decision to rely on the Clean Air Interstate Rule, an approach that will not result in any additional control requirement for any powerplants in these States solely for regional haze purposes:

- Georgia;
- Indiana;
- Iowa;
- Kentucky;
- Missouri;
- Ohio;
- Pennsylvania;
- South Carolina;
- Virginia; and
- West Virginia.

We collaborated with these States on this approach of adopting the CSAPR-based Federal plan. These States do not need to take any further action to meet the current regional haze planning requirements. We fully expect to add Tennessee to this group once the State submits and we approve a revision to its State Implementation Plan (SIP) for a particular source (Eastman Tennessee) so that this source can pursue its preferred approach to the regional haze requirements. We have also relied

on a CSAPR-based Federal plan element in the case of Nebraska, such that Nebraska also does not need to make any changes in its SIP. North Carolina and Alabama need to amend their SIPs to substitute reliance on CSAPR for their original reliance on CAIR, but otherwise we have fully approved their plans.

We have also been collaborating very closely with Florida on staged revisions to its plan to address the fact that Florida cannot rely on CSAPR to meet all of its regional haze requirements for powerplants. We have proposed approval of the revisions submitted to date and anticipate proposing approval of the remaining revisions as they are submitted. Mississippi also could not rely on CSAPR to meet all of its regional haze requirements and therefore we had to disapprove its plan, but we were not required to issue a Federal plan so we did not do so. We are working with Mississippi to help it address this issue within the next 2 years so that a Federal plan can be avoided.

In Arkansas and Louisiana, we could not fully approve the SIP and we were required to take final disapproval action on some portions already, but we were not required to issue a Federal plan so we did not do so. We are working with these States to help them address the disapproval issues within the next 2 years so that a Federal plan can be avoided. The same situation will apply for Utah if we finalize our proposed disapproval of portions of its SIP.

In Hawaii, Montana, and the U.S. Virgin Islands, by mutual agreement we have developed and proposed complete Regional Haze Federal plans because those governments did not have the resources to develop SIPs.

Of the 11 States not mentioned above, final actions remain to be taken on 10 States. For these 10 States, if we do not fully approve the SIP we are required by a consent decree to adopt a Federal plan.<sup>1</sup> Because of this requirement, we have already adopted final partial Federal plans for New Mexico, North Dakota, and Oklahoma. We have proposed to disapprove portions of the SIPs for Arizona, Michigan, Minnesota, Nevada, New York, and Wyoming, and there is not sufficient time remaining for the State to submit new plan revisions. However, we are duly considering the comments received from these States on our proposed disapprovals. Also, we will collaborate with these States if they wish to replace the final Federal plan with a State plan. We have negotiated significant consent decree extensions for portions of the SIPs from Arizona, Washington, and Oklahoma, and for the entire SIP from Texas, and we will take advantage of this time to collaborate with these States.

*Question.* The stringent pollution control equipment being selected by EPA as BART under the Regional Haze Rule is that which would typically be classified as best-available control technology (BACT) or maximum achievable control technology (MACT), which is more stringent than typically would be classified as BART.

What is the basis for this change?

Answer. EPA assesses all regional haze SIPs in accordance with the Regional Haze Rule BART Guidelines, which were issued in 2005. With respect to BART determinations, EPA reviews the State's assessment of each individual source considering five statutory factors. These five factors are:

- the costs of compliance;
- the energy and nonair quality environmental impacts of compliance;
- any existing pollution control technology in use at the source;
- the remaining useful life of the source; and
- the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

As determinations are made on a source-specific basis considering all of the five factors, there is no promotion of one control technology over another. Similarly, there is no "bright line" as to what the EPA considers to be cost-effective technology nor is there any presupposition that BART is more or less stringent than BACT or MACT would be for affected sources. The magnitude of the visibility improvement expected may warrant greater emission reductions at a higher cost, for example when the visibility improvement is very large. Alternatively, a BART determination may require fewer emission reductions at a lower cost when the visibility improvement is not as significant.

*Question.* EPA's regional haze SIP requirements are found in the Regional Haze Rules (40 CFR 51.300), Appendix Y to Part 51 (Guidelines for BART Determinations under the Regional Haze Rule), and the preamble discussion in the Federal Register (70 FR 39104) concerning Appendix Y. Appendix Y indicates that NO<sub>x</sub> control costs more than \$1,500 per ton are not cost effective for BART purposes.

<sup>1</sup>This distinction in consent decree terms across States stemmed from the interaction of the provisions of the Clean Air Act and the timing of the actions taken by the States to submit their plans, not from any choice on the part of the EPA.

Is EPA no longer relying on Appendix Y presumptive limits, despite being part of the BART guidance relied on by States and companies? If so, what is the justification for this disregard for Appendix Y?

Answer. EPA is still using its guidance on presumptive limits. Appendix Y does not indicate that NO<sub>x</sub> control costs more than \$1,500 per ton are not cost effective for BART. In Appendix Y, EPA states that most sources can meet the presumptive limits for less than \$1,500 per ton, but the guidelines do not establish that value as a threshold for cost effectiveness. States must conduct a proper evaluation of the five statutory factors, as required by 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g) of the CAA, before determining whether the presumptive emission limits are the “best available retrofit controls” for affected units. Because the five factors are evaluated separately and weighted accordingly, there are no “bright line” thresholds for cost effectiveness or visibility improvement.

*Question.* When a State has determined that alternatives (Selective Non-Catalytic Reduction technology or combustion controls, such as Low NO<sub>x</sub> Burners) could achieve visibility improvements at much lower cost with visibility benefits that are on a reasonable path to the 2064 goal, what is EPA’s legal justification for requiring different, more expensive retrofit controls and more stringent emissions limits?

Answer. The overarching goal of section 169A of the CAA is for States to submit SIPs that ensure reasonable progress toward remedying visibility impairment in Class I areas. Each SIP must include the measures necessary to make reasonable progress, including BART limits (or alternatives that achieve greater reasonable progress than BART). Section 169A of the CAA defines the BART requirements as “an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted” by a BART eligible facility, and requires that States consider five factors when assessing a control determination for BART:

- the costs of compliance;
- the energy and nonair quality environmental impacts of compliance;
- any existing pollution control technology in use at the source;
- the remaining useful life of the source; and
- the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

In considering these five factors, States must use technically sound approaches in estimating costs and visibility improvements. Assuming that a State does this, the BART requirement is satisfied by putting in place emission reduction measures that are reasonable in light of the costs and visibility benefits associated with a control technology, not by any presumed path between current conditions and natural conditions.

*Question.* The EPA Air Pollution Control Cost Manual, Sixth Edition, was published in 2002 and has been used by EPA in estimating costs in its BART determinations.

Given that it was published in 2002, is it out-of-date? What steps are being taken by EPA to update it?

Answer. The current version of the Control Cost Manual is the sixth edition. Revisions of the Control Cost Manual usually include either publication of new chapters or substantial revisions to existing ones. Given the size of the Control Cost Manual (18 chapters) and the reliance by many parties on its contents, EPA limits completion and publication of new editions to avoid confusion on the State of the contents.

The current version of the Control Cost Manual includes a well-recognized control cost methodology that provides consistency for States and local agencies in reviewing cost estimates prepared for BART and other programs, and offers a foundation for the comparison of cost estimates prepared by different sources in different locales. This methodology is still well-recognized and valuable today. It should be noted that a major reason for EPA disapproval of cost estimates included in Regional Haze SIPs has been the failure to follow the methodology for cost estimation provided in the Control Cost Manual by either including items that are not part of this methodology or not including all cost items. EPA has no reason to believe that the methodology for cost estimation is out-of-date.

*Question.* How does EPA, a State, or a company integrate current cost information for purposes of regional haze compliance planning with the methodology prescribed by EPA’s 2002 cost manual?

Answer. The Control Cost Manual has considerable cost and other information (design and installation, to name two) to serve as a basis for the preparation of BART analyses. However, we want to be clear that the Control Cost Manual is not the only source of cost information for a BART analysis. For instance, the reference to the Control Cost Manual in the BART Guidelines, which is an important basis

for cost analyses to be done for Regional Haze SIPs, clearly recognizes the potential limitations of the Manual and the need to consider additional information sources.

A source can use data supplied by an equipment vendor or firm (i.e. quotes, bids, or budget estimates) as cost information for a BART analysis. The basis for using these data should be clearly documented, either by the equipment vendor or firm or by a referenced source (e.g., the Control Cost Manual or other recognized source of cost information). Thus, where the Control Cost Manual's information is valuable and up to date for use in BART analyses, then it should be used; where additional equipment cost data is needed to overcome any limitations with the Control Cost Manual's data, such information should be clearly documented as previously expressed, and should be provided to support analyses using the Control Cost Manual's methodology.

*Question.* Given that the Regional Haze program is a program to protect the aesthetics of national parks and national wilderness areas, and not human health, should the required visibility improvement be discernible?

*Answer.* Failing to consider less-than-perceptible improvement in visibility impairment would ignore the CAA's intent to have BART requirements apply to sources that contribute to, as well as cause, such impairment (70 FR 39104; RH Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations, July 6, 2005). A perceptible visibility improvement is not a requirement of the BART determination as a visibility improvement that is not perceptible may still be determined to be significant. The importance of visibility impacts below the thresholds of perceptibility from each of a number of individual sources cannot be ignored given that regional haze is a problem that is produced by a multitude of sources and emissions that are distributed across a broad geographic area.

*Question.* EPA has used CALPUFF Version 5.8 to conduct visibility modeling to analyze the impacts on visibility impairment from proposed NO<sub>x</sub> retrofit technologies.

How does EPA respond to scholarly, peer-reviewed studies asserting that CALPUFF Version 5.8 overestimates visibility improvements?

*Answer.* While the studies mentioned are stated to be peer-reviewed, they are largely papers included as part of general proceedings at conferences, as opposed to a formal peer review associated with submission to scientific journals. Therefore, we do not consider these references suitable for establishing the validity of a model or demonstrating that a model has undergone independent scientific peer review in accordance with EPA's Guideline on Air Quality Models (published as Appendix W to 40 CFR part 51). These guidelines, which oversee the EPA's approach to updating air quality models, require that studies supporting the air quality model's validity be appropriately peer-reviewed through publication in a professional journal, a panel review by subject experts, or other formal and well-documented process.

That said, in promulgating the BART guidelines, the EPA made the decision to recommend the use of the CALPUFF model to estimate the 98th percentile visibility impairment rather than the highest daily impact value as proposed. This decision acknowledged that the regulatory version of the CALPUFF model could lead to modeled over predictions and, therefore, provide conservative (higher) results for peak impacts.<sup>2</sup> The decision to use the 98th percentile rather than the highest daily value is EPA's adjustment to account for potential overestimates.

*Question.* What does EPA need to do to update CALPUFF Version 5.8? Is this underway?

*Answer.* In coordination with the Federal Land Managers (FLMs), EPA is currently pursuing updates to the current regulatory version of CALPUFF (Version 5.8) to address known "bugs" and expects to complete these updates later this year. EPA and FLM representatives met with WEST Associates and the model developer, TRC, in February 2011 and discussed the current status of the regulatory version of CALPUFF and the updates implemented by TRC related to underlying model formulation and to account for atmospheric chemistry. The information provided to EPA at that meeting indicated that the planned updates account for new science related to complex chemistry reactions in the atmosphere. Because this is a regulatory application for which this model was never approved under Appendix W, these changes would necessitate a notice and comment rulemaking and not a simple update as previously done to address bug-fixes.

At this time, EPA and the FLM representatives are planning to review all available models to determine their suitability for these analyses, including updated

<sup>2</sup>"Most important, the simplified chemistry in the model tends to magnify the actual visibility effects of that source. Because of these features and the uncertainties associated with the model, we believe it is appropriate to use the 98th percentile—a more robust approach that does not give undue weight to the extreme tail of the distribution." 70 FR 39104, 39121.

versions of the CALPUFF modeling system. After review of public comment from EPA's 10th Modeling Conference, EPA will provide more concrete plans on the process and plans for updating Appendix W to address chemistry for individual source impacts on ozone, secondary PM<sub>2.5</sub> and regional haze/visibility impairment.

*Question.* Why is EPA not allowing the use of more recent versions of CALPUFF, such as Version 6.4?

*Answer.* The newer version(s) of CALPUFF have not received the level of review required for use in a regulatory context. Based on EPA's review of the available evidence, the models have not been shown to be sufficiently documented, technically valid, and reliable for use in a BART decisionmaking process. Because of documented concern with the science updates in the new CALPUFF versions, which affect air quality related values, EPA has not approved these new versions of the CALPUFF model as a "preferred" model. The use of the regulatory version is approved for increment and NAAQS analysis of primary pollutants only. Currently, CALPUFF Versions 6.112 and 6.4 have not been approved by EPA for even this limited purpose.

Under the BART guidelines, CALPUFF should be used as a screening tool and appropriate consultation with the reviewing authority is required to use CALPUFF in a BART determination as part of a SIP or FIP. Moreover, Appendix W does not identify a particular modeling system as "preferred" for modeling conducted in support of State implementation plans under 40 CFR 51.308(b) nor for supporting secondary particulate matter or visibility assessments. Under this general framework, EPA followed the general recommendation in Appendix Y to use CALPUFF as a screening technique only subject to Appendix W requirements, which include an approved protocol for using the current 5.8 version.

Furthermore, it should be noted, that the U.S. Forest Service (USFS) and EPA review of CALPUFF (Version 6.4) results for a limited set of BART applications clearly indicates that the lower results are driven by two input assumptions and not associated with the "improved chemistry." Use of the "full" ammonia limiting method and finer horizontal grid resolution are the primary drivers in reducing modeled visibility impacts in CALPUFF (Version 6.4). These input assumptions have been previously reviewed by EPA and the FLMs and have been rejected based on lack of documentation, adequate peer-review, and technical justification and validation.

*Question.* In its cost estimates, it appears that EPA is substituting the judgment of its experts, the National Park Service, and USFS for the cost judgments of the States, utilities and most notably expert engineering firms. For example, EPA's cost estimates are significantly lower than the cost estimates prepared by Black and Veatch, Sargent and Lundy, and Burns and McDonnell—each of whom is actively engaged in the business of designing and retrofitting Selective Catalytic Reductions (SCR) and other pollution control equipment on existing powerplants.

What is the legal authority for EPA's lower cost estimates?

What is the legal authority for rejecting cost estimates based on actual construction experience and market-supported bid documents?

*Answer.* When reviewing State plans, EPA must consider all the cost information in the record. However, it would be arbitrary and capricious for EPA to accept submitted cost information without any analysis of its accuracy or consideration of significant issues raised in comments. It would also be arbitrary and capricious for EPA to simply reject cost estimation studies submitted by a State or source, and we have not done so to date. Where EPA has itself estimated the cost of control, this is because of specific flaws in the cost estimate submitted by a State, and both our finding that there were flaws and our own cost estimates have then been subject to public notice and comment.

*Question.* How is EPA taking into account the impact of higher elevations present in the Western United States over those in the Eastern United States in its regional haze retrofit technology decisions, and what is the effect of higher elevations on the operation of SCRs?

*Answer.* A retrofit SCR at high elevation could require a somewhat larger unit than what might be required at lower elevations. Any differences in costs necessary for larger units would be part of the factors considered in making the BART determination. For example, in the case of the San Juan Generating Station in New Mexico, which is at a particularly high altitude compared to other powerplants, we modified our original cost estimates to increase SCR costs in response to comments from the owners of the station on this particular point. Cost estimates submitted by other Western States, often prepared by the affected sources, have not always included an explicit cost adjustment for this possibility.

*Question.* How is EPA taking into account retrofit challenges associated with congested site and equipment layouts of individual facilities in its cost estimates of SCRs?

How is EPA taking into account the need for an affected utility company to move and relocate previously installed pollution control equipment in order to accommodate SCRs?

Answer. Where the State has provided reasoned cost estimates of equipment staging and other operational or logistical concerns in installing retrofits, EPA adopts and approves the State's figures when evaluating a SIP for approval. In cases where EPA must estimate these costs independently, EPA relies on its engineering judgment and experience to make reasoned cost estimates. In some instances, EPA has conducted site visits and revised its estimates to accommodate spacing concerns and in another case, has invited public comment to better estimate costs and compliance timing concerns for a source that was faced with several SCR retrofits.

*Question.* In computing the cost per ton of emission reductions expected to result from adding new controls on a unit, what is the legal justification for EPA lowering its cost effectiveness determinations by including reductions already achieved by emission controls that already exist on that unit?

For example, if Low NO<sub>x</sub> Burners already exist on a unit, why does EPA assume that emission reductions resulting from those Low NO<sub>x</sub> Burners should instead be attributed to new SCR controls and thus result in lower dollars per ton removed amount for the SCR controls?

Answer. These questions address the distinction between what is commonly referred to as average versus incremental cost effectiveness when evaluating the cost factor for the BART determination. Average cost effectiveness is the overall cost per ton of implementing a given control option compared to the control (if any) that is in place now or was in place as of some historical baseline date. Incremental cost effectiveness is the marginal cost per ton of implementing each succeeding and more stringent control option. Usually, incremental cost/ton will be higher than average cost/ton. The BART Guidelines recommend consideration of both types of cost effectiveness metrics when making a BART determination. It is a misperception that EPA considers only the average cost effectiveness when reviewing regional haze SIPs, i.e., that we give credit to SCR for emission reductions that could be achieved by Low NO<sub>x</sub> burners. The records of our actions on regional haze SIPs document that EPA has considered both metrics when reviewing whether a State has made a technically correct and reasoned BART determination, or when EPA makes a BART determination. When we use BART outcomes that have been decided in other States or for other sources in the same State as benchmarks for what costs are reasonable, we logically compare incremental cost/ton values to incremental cost/ton values, and average cost/ton values to average cost/ton values. EPA does not use a bright line test for either the average or the incremental cost/ton.

*Question.* CAA requires reasonable progress toward the goal of reducing regional haze at national parks and wilderness areas for 2064.

If EPA requires the most stringent pollution reduction equipment on nearby coal plants today, what steps will be left to take in the future to achieve this goal?

Answer. In the regional haze rule, EPA recognized the relatively long time horizon necessary to achieve the aggressive statutory goal of the prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas. CAA, however, neither requires States to achieve that goal by 2064 nor does it excuse States from adopting reasonable measures that would achieve the goal more quickly. EPA adopted an analytical requirement in the regional haze rule requiring States to consider the measures necessary to achieve the national goal by 2064. The adoption of this analytical requirement does not mean that States should delay the adoption of reasonable measures such that the national goal is not achieved until 2064.

States must adopt, in their SIPs, the measures necessary to make reasonable progress, which is defined as the emission reduction measures that are reasonable to put in place in a given planning period in light of costs and visibility benefits, not by any presumed path between current conditions and natural conditions. Given the significant impact on visibility from many coal plants and the highly cost effective control measures, in many cases the installation of controls on coal plants is appropriate to ensuring reasonable progress. Even with such measures, much additional work will still be necessary in future planning periods to meet the national goal.

#### INFORMATION TECHNOLOGY EQUIPMENT—EXECUTIVE ORDER 13514

*Question.* Executive Order 13514 requires the Federal Government to purchase energy-efficient computer equipment that has been approved by Electronic Product Environmental Assessment Tool (EPEAT). EPEAT is a proprietary list owned by the Green Electronics Council (GEC), which certifies information technology equipment

to the Institute of Electrical and Electronics Engineers (IEEE) 1680 standard. GEC charges six-figure fees to manufacturers to certify that their equipment is compliant with IEEE 1680 and eligible for government purchase. Other testing labs have indicated that they are capable of certifying products to IEEE 1680 at a much lower price.

Is EPA taking any steps to allow for competition, which will reduce the prices that the Government pays for computer equipment?

Answer. EPA is not responsible for the management of EPEAT or GEC, but EPA has a representative on the EPEAT Advisory Council who, in that capacity, has opportunities to provide suggestions to the GEC on ways to improve this green purchasing tool.

Through its role on the EPEAT Advisory Council, EPA has communicated, and the GEC has recognized, the value of increasing competition for verification services under the EPEAT Program. In May 2012, the GEC entered into a formal partnership with four third-party certification organizations to expand the breadth and depth of verification options available to manufacturers under the EPEAT program. These organizations—UL Environment, Intertek, VDE, and DEKRA SE—just took part in an extensive training GEC organized on the EPEAT system in preparation for their verification of products on the EPEAT Registry. For further information, please see <http://www.epeat.net/pre-network>.

By way of clarification, the GEC utilizes a sliding scale under which the annual fees that manufacturing companies pay for verification services are calibrated according to their sales volume. Thus, smaller firms with lower sales volume pay significantly less in annual fees than do firms with higher sales. For further information about fees, please see <http://www.epeat.net/documents/subscriber-resources/epeat-mse-1680.1-fee-schedule.2011-12.pdf>.

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#### QUESTIONS SUBMITTED BY SENATOR JOHN HOEVEN

##### FORT BERTHOLD RESERVATION

*Question.* The Environmental Protection Agency's (EPA) Synthetic Minor Source rule has the potential to shut down oil and gas drilling on the Fort Berthold Reservation if a workable rule is not finalized by August 30, 2012. Will EPA have a rule finalized by August 30 to ensure the economic activity continues on the Fort Berthold Reservation? If a plan is not finalized by August 30, how will EPA provide a pathway to compliance for operators to ensure drilling will continue on the Reservation?

Answer. In responding to the question, EPA assumes that the "Synthetic Minor Source rule" refers to the Review of New Sources and Modifications in Indian Country Rule (also known as the Tribal Minor New Source Review Program) published July 1, 2011 (76 FR 38748). EPA does not believe there is the potential to shut down oil and gas drilling on the Fort Berthold Reservation. In fact, just the opposite is true. For projects in Indian country that exceed major source thresholds, EPA has now made "synthetic minor" permits available. This streamlined permitting mechanism has previously been available in States, but only became available in Indian country with the publication of the Tribal Minor New Source Review (NSR) Program. Without this streamlining mechanism, oil and gas drilling projects on Fort Berthold that exceed major source thresholds would be subject to permitting under the Prevention of Significant Deterioration (PSD) Program.

Ten companies operating on the Fort Berthold Reservation are currently subject to consensual enforcement agreements for drilling operations that may have been conducted without first obtaining the appropriate permits. EPA is actively working with these companies to amend their agreements to allow construction of new wells during July and August of 2012 without first obtaining synthetic minor permits from EPA. This action will effectively protect the companies through the end of August 2012, when the agreements expire.

We recognize that additional measures are necessary to maintain the continued pace of development of oil and gas resources on the Fort Berthold Reservation. To accomplish that goal, EPA, in consultation with the tribes and the Fort Berthold Reservation operators, is developing a targeted rule for the Fort Berthold Reservation that would provide enforceable controls on specific oil and gas production equipment. For the large majority of oil production sources, these controls are likely to be sufficient to limit emissions to below the major source PSD thresholds. EPA also proposed synthetic minor permits for several of these sources. These proposed permits and the comments received regarding them have informed the rule development.

EPA has committed to develop the Tribal Minor NSR rule in a timely manner. Management in both the regional and headquarters offices fully support this effort and have already committed substantial technical and legal staff resources to the rule. To date, there have been no permit-related delays in the development of new oil wells on the Reservation. If Fort Berthold operators desire an added layer of insurance against operating delays or interruption of activities they are encouraged to file synthetic minor permit applications for equipment they intend to operate in the near term after August 30, 2012. EPA does not believe this added insurance is necessary, but will process quickly any permits that it receives.

PERMITTING GUIDANCE—DIESEL FUEL AND HYDRAULIC FRACTURING

*Question.* May 4, 2012, EPA released draft permitting guidance for using diesel fuel in oil and gas hydraulic fracturing.

How is EPA going to enforce this guidance with States that have primacy?

*Question.* In a State with Underground Injection Control primacy, will EPA have the ability to over-file against a company that does not permit a well that uses diesel?

*Answer.* EPA's draft permitting guidance for diesel fuels hydraulic fracturing was directed at EPA permit writers where EPA is the enforcement authority. As indicated in the draft guidance, it also sets forth EPA's best current interpretation of the existing statutory and regulatory requirements with respect to diesel fuels hydraulic fracturing, and, therefore, may be useful to States. States with primacy for the Class II Underground Injection Control program have some latitude in designing a permitting program for diesel fuels hydraulic fracturing. While in some cases the EPA may have the authority to bring an enforcement action in a primacy State, it is not the EPA's intention to assume the role of State primacy agencies.

PERMITTING GUIDANCE—DIESEL FUEL AND HYDRAULIC FRACTURING

*Question.* Please identify what is the source of dollars EPA is using to complete the study identified by the Congress in EPA's fiscal year 2010 budget?

*Answer.* EPA is using the funds that the Congress appropriated through the Science and Technology (S&T) appropriation in fiscal years 2010, 2011, and 2012 to continue to study the relationship between hydraulic fracturing and drinking water as specified in the 2010 Senate Appropriations Committee conference report.

*Question.* Please identify the source of dollars the EPA is using for any other study of hydraulic fracturing the EPA is a party.

*Answer.* Currently, we are not doing any hydraulic fracturing research outside of the fiscal year 2010 "Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources". EPA will continue to use the drinking water research S&T appropriated funds to complete this study.

*Question.* Please identify the source of funds for each individual study.

*Answer.* The only hydraulic fracturing study EPA is conducting is the fiscal year 2010 congressionally requested, "Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources." All current hydraulic fracturing research falls under the purview of this study plan. EPA will continue to use the drinking water research S&T appropriated funds to complete this study.

CONCLUSION OF HEARINGS

Senator REED. If there are no further questions, I will conclude the hearing.

[Whereupon, at 12:07 p.m., Wednesday, May 16, the subcommittee was recessed, to reconvene subject to the call of the Chair.]



**DEPARTMENT OF THE INTERIOR, ENVIRONMENT,  
AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2013**

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

NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The subcommittee was unable to hold hearings on nondepartmental witnesses. The statements and letters of those submitting written testimony are as follows:]

PREPARED STATEMENT OF AMERICANS FOR THE ARTS

Americans for the Arts is pleased to submit written testimony to the Senate Appropriations Subcommittee on the Interior, Environment, and Related Agencies supporting fiscal year 2013 funding for the National Endowment for the Arts (NEA) at a level of \$155 million, which aligns closely with President Obama's fiscal 2013 budget request.

I would first like to thank Chairman Jack Reed and Ranking Member Lisa Murkowski for your efforts last year to appropriate \$155 million to the National Endowment for the Arts. Your leadership helped to prevent a large cut that was being proposed in the House of Representatives. The arts community owes you and your colleagues a debt of gratitude for your public stance in support of NEA's critical Federal leveraging dollars. Those dollars help support creative sector jobs, improve community access to high quality artistic programming, spur innovation, and strengthen the country's nonprofit arts infrastructure. Thank you again for your support.

I want to take this opportunity to describe an improving nonprofit arts landscape and the role NEA plays in that improvement. This is not to say there are no challenges. According to our new 2012 National Arts Index, nonprofit arts organizations are still struggling to maintain their bottom lines as Government and private-sector support for the arts decreases due to the economic downturn. Even as the country continues to move out of the worst of the recession, nonprofit arts organizations are not immune to the prevailing economic realities. 45 percent of them ended the year with a deficit in 2009—an increase from 36 percent in 2007. Our research shows that this closely mirrors the recession's impact on other types of nonprofit organizations.

But upon closer inspection of the nonprofit arts, a resilient industry built upon a solid foundation for future growth is revealed. Despite the current harsh economic landscape, the creative sector has maintained its well-earned reputation as one of the country's premier economic drivers. I am pleased to say that the nonprofit arts are playing a true leadership role in restoring our economy. The arts are about jobs. The arts are about the revitalization of communities. NEA is the signature Federal resource that enables nonprofit arts organizations and institutions to leverage relatively modest Federal seed money and maximize their influence.

You have heard me cite the numbers from our studies before, but they bear repeating. Especially as our elected officials are tasked with assessing what priorities to fund while the Nation struggles to balance its books and still provide essential services. Our Arts & Economic Prosperity III study shows that the nonprofit arts industry generates \$166 billion in economic activity every year, supporting 5.7 million jobs in the United States and generates nearly \$30 billion in Government revenue.

Since its creation in 1965, NEA has grown the arts and culture sector significantly. The year of its founding, there were fewer than 7,000 nonprofit arts organizations; today there are 113,000. Five State arts agencies have blossomed to 50 and some 200 local arts agencies to 5,000. NEA's one-to-one matching grant requirement has created a positive economic domino effect that promotes communities, businesses, and local government working in unison to deliver quality arts programming. And this creates jobs. Also since that time, the number of artists in the United States has grown from 560,000 to 2.2 million—now accounting for 1.5 percent of the total workforce.

And that is just the nonprofit side of the ledger. Our analysis of Dun & Bradstreet data shows that there are an additional 800,000 for-profit arts businesses such as film, design, and architecture firms with 3.3 million people on the payroll. Our 2012 Creative Industries study provides a research-based approach to understanding the scope and importance of the arts to the Nation's economy. Arts-centric businesses from nonprofit museums, symphonies, and theaters to for-profit film, architecture, and advertising companies represent 4.25 percent of all businesses and 2.15 percent of all employees nationwide.

As of January 2012, Rhode Island is home to 3,248 arts-related businesses that employ 13,445 people. Alaska is home to 2,229 arts-related businesses that employ 6,522 people. Nationally, there are 904,581 businesses in the United States involved in the creation or distribution of the arts. Arts are the cornerstone of tourism. Arts travelers are ideal tourists—they stay longer and spend more. The U.S. Department of Commerce reports that the percentage of international travelers who include arts and culture events during their stay has increased annually for the last 6 years. The arts industry generates \$150 billion annually in consumer spending domestically and the U.S. export of goods has increased to the point where it is running a \$41 billion trade surplus.

As you can see, the arts are big business. NEA is helping lead the way for the nonprofit aspects of this business to continue aiding in our Nation's recovery.

The creative community's rate of return to Federal and State coffers would be the envy of any industry. Whether it is through supporting State arts agencies, Blue Star Museums, Art Works grants, the tried and true Mayors Institute on City Design (MICD), or the innovative Our Town initiative, NEA is the Nation's most recognized partnership between the Government and culture and plays a crucial role in fostering a highly developed creative sector.

NEA, under the leadership of Chairman Rocco Landesman, has fully grasped the challenges of its primary role of ensuring access to the arts to all Americans through their signature grants but also by providing a range of programming and research that addresses and measures changing audiences and artistic delivery. The cornerstone grant programs like Art Works, Challenge America Fast Track Grants, and Our Town continue to advance distinctive cultural art forms, promote artistic access across the country, and help revitalize communities.

NEA continues to be pivotal for investments in local cultural programming. Chairman Landesman continues to build upon the proven successes of NEA grants models with inventive agency initiatives that recognize the changing landscape and their unique position to help strengthen communities through partnerships with local and State governments, the business sector, and the nonprofit arts.

With these guiding principles in mind, the creative placemaking concept of Our Town was born. According to NEA, "Communities across our Nation are engaging design and leveraging the arts to create livable, sustainable neighborhoods with enhanced quality of life, increased creative activity, distinct identities, a sense of place, and vibrant local economies that capitalize on existing local assets." A limited amount of grants ranging from \$25,000 to \$125,000 are made to improve quality of life, sustainability, and livability of communities with the arts as an anchor toward those goals.

Artists, designers, community organizations, and Government agencies work together to systematically "Improve their quality of life; Encourage creative activity; Create community identity and a sense of place and Revitalize local economies."

I want to acknowledge the work that Chairman Landesman and the agency have done to address the ever-changing arts landscape. Today, audiences are absorbing and participating in the arts in many different ways. NEA is constantly evolving with the times while still ensuring quality arts programming reaches all our communities. We are excited that the administration has proposed doubling Our Town funding to \$10 million in grant funds.

In conclusion, I respectfully request that the subcommittee fund NEA at \$155 million, as you did last year. Recent decreases in funding have led to fewer grants and less leveraging support that impact jobs in every State. Recent efforts by the agency to streamline the grants process and trim administrative costs have led to incre-

mental boosts for all grant categories across the board. It is my profound hope that the subcommittee can do even more for citizen participation in the arts by continuing to demonstrate leadership, believing in the nonprofit arts sector and by supporting NEA.

The cultural community stands ready to assist you in supporting these fundamentally important programs and initiatives. Thank you for the honor of testifying before the subcommittee today.

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PREPARED STATEMENT OF AMERICAN FORESTS

Dear Mr. Chairman and members of the subcommittee: American Forests appreciates the opportunity to submit written public testimony regarding our fiscal year 2013 appropriation recommendations. We understand the economic realities facing the Nation and the need for fiscal responsibility, and we thank this subcommittee for its support of key Federal conservation programs in the fiscal year 2012 Consolidated Appropriations Act. The return on investing in our Nation's forests is great, whether those forests are public or private, urban, or rural. The economic, social, and environmental benefits healthy forests provide are clear incentives for Federal investment. American Forests funding requests are generally consistent with the President's proposals, with the exception of an increase for Forest Health Management to \$128 million.

American Forests is a national nonprofit 501(c)(3) conservation organization that restores and protects urban and rural forests. Founded in 1875, American Forests is the oldest national nonprofit conservation organization in the country. Throughout history, American Forests has served as a catalyst for many of the most important milestones in the conservation movement, including the founding of the United States Department of Agriculture (USDA) Forest Service (USFS), the national forest and national park system. Today, American Forests' primary objectives are:

- ensuring healthy forests and expanding forest cover throughout the United States;
- restoring and protecting threatened forest ecosystems;
- assuring that public and private forests are managed in ways that give high priority to ecosystem services; and
- assessing and managing threats such as climate change, invasive species, insects and disease, wildfire, and conversion of land to nonforest uses to limit their impacts on healthy forests.

The economic benefits of our Nation's forests highlight the importance of American Forests' priorities. For example, combined spending on hunting, fishing, and wildlife watching associated with National Forest System lands totals \$9.5 billion in annual retail sales, supports 189,400 jobs and provides \$1.01 billion in annual Federal tax revenues.<sup>1</sup> Protecting and restoring our forests will ensure economic and environmental viability for communities that rely on them for clean air, clean water, wildlife habitat, increased health and well-being, and recreational opportunities.

*Ensuring Healthy Forests and Expanding Cover*

USDA Secretary Vilsack's vision for an "all-lands" approach to managing forests at the landscape and watershed scale fits with American Forests' objectives of ensuring healthy forests in urban and rural settings whether privately owned or publicly managed. American Forests supports the following programs within the USDA to assist communities and private land owners with efforts to protect, restore, and sustainably manage their forests.

*United States Forest Service Urban and Community Forestry.*—Urban forests are integral to any community striving to reinvest in itself, to encourage an active and healthy citizenry, and to create a more sustainable environment and economy through green infrastructure. American Forests works to better understand the environmental, social, and economic benefits of urban forests and to encourage greater investment in the protection and restoration of urban forests. We support the administration's request of \$28.04 million. While this is a reduction from the fiscal year 2012 funding level, we believe that urban forestry activities will fare well in the new Landscape Scale Restoration Program which the agency proposes as a next step in its redesign effort for State and Private Forestry. We support funding the new Landscape Scale Restoration Program at \$18 million and believe that it will provide opportunity for innovative urban forestry projects at a landscape or watershed scale.

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<sup>1</sup>Southwick Associates, "The Economics Associated with Outdoor Recreation, Natural Resources Conservation and Historic Preservation in the United States", October 10, 2011, p. 2.

*United States Forest Service Forest Legacy.*—The Forest Legacy Program has become a key tool for USFS working in partnership with State governments and non-profit conservation organizations to protect environmentally important private forests threatened by conversion to nonforest uses. American Forests supports the administration's request for an increase more than fiscal year 2012 enacted to \$60 million.

*United States Department of Agriculture Natural Resources Conservation Service and United States Forest Service Farm Bill Conservation Programs.*—The Natural Resources Conservation Service (NRCS) and USFS partner with private landowners, providing technical and financial assistance to help protect farm and ranch lands and private forestlands. USFS provides key assistance for management plans on private lands through the Forest Stewardship Program. The NRCS has the responsibility for implementing most of the landowner assistance programs in the conservation title of the 2008 farm bill. In fiscal year 2013, NRCS programs will support conservation practices on an additional 27 million acres at a total cost of approximately \$3.9 billion, and achieve a record total cumulative enrollment of nearly 329 million acres in conservation programs such as the Conservation Reserve Program, Environmental Quality Incentives Program, Conservation Security Program, and the Wildlife Habitat Incentives Program. American Forests supports full funding for these conservation programs.

#### *Restoring and Protecting Threatened Forests*

Specific forested landscapes need to be prioritized due to their level of degradation, ecological importance, or cultural significance. American Forests is encouraged by USFS's initiative to increase the pace of restoration of the national forests, to prioritize those most in peril, and to address restoration needs through an integrated landscape-level approach.

*United States Forest Service Integrated Resource Restoration.*—The consolidated budget line item for restoration with specific performance measures has the potential to increase the rate of restoration in a much more focused manner. This focus is evident in USFS's recent report "Increasing the Pace of Restoration and Job Creation on Our National Forests". The 3-region test pilot created in fiscal year 2012 was an important first step to fully understand how this integrated effort would work. American Forests' supports the concept and believes that better outcomes and greater efficiencies can be achieved through more widespread use of the Integrated Resource Restoration (IRR), particularly in combination with the agency's new Watershed Condition Framework. USFS used this framework in 2011 and 2012 to complete its first national assessment of watershed health across the entire National Forest System, to identify priority watersheds and to prepare Watershed Restoration Action Plans. While there is currently no dedicated funding for this activity, the agency can make progress on implementing these plans through greater use of the IRR.

*United States Forest Service Collaborative Forest Landscape Restoration.*—American Forests truly appreciates the full funding Collaborative Forest Landscape Restoration received in fiscal year 2012. The addition of 10 more projects to the program will enhance the collaborative and science-based ecosystem restoration of priority forest landscapes while benefiting local communities. In the first 2 years of the program, fiscal years 2010 and 2011, the cumulative outputs generated by the projects included:

- 228 million board feet of timber;
- 2,100 jobs created or maintained;
- \$80 million in labor income;
- 167,000 acres of hazardous fuels reduction to protect communities;
- 110,000 acres of fire-prone forest restoration; and
- 198 miles of road conditions improved to reduce sediment in streams.

American Forests supports the full funding of this program at \$40 million.

*United States Forest Service Federal Land Assistance, Management and Enhancement Wildfire Suppression Reserve Fund.*—As part of a broad coalition supporting Federal Land Assistance, Management and Enhancement (FLAME), we believe it is critical to fund FLAME at \$315 million. The intent of FLAME was to eliminate the need to transfer funds from other USFS programs in order to fund emergency wildfire suppression—a practice that undermined the agency's ability to implement other critical programs. Failure to adequately fund FLAME this year could force the agency to revert to the old practice and have disastrous effects on those programs.

#### *Prioritizing Ecosystem Services*

American Forests is dedicated to promoting all the ecological and societal benefits that forests provide us. Prioritizing protection of these forests that provide the eco-

system services saves municipalities money in wastewater treatment and stormwater management. They provide recreational opportunities and protect wildlife. The USFS is not the only steward of our Nation's forests, as the Department of the Interior's Bureau of Land Management (BLM), National Park Service, and Fish and Wildlife Service (FWS), as well as the Environmental Protection Agency (EPA) have numerous programs dedicated to the health and restoration of forested lands. American Forests encourages funding these programs at the administration's requested levels.

*Bureau of Land Management National Landscape Conservation System.*—The System comprises 27 million acres of protected public land managed to maintain and enhance conservation values and allow for multiple, sustainable uses. The System's goal is to conserve, protect, and restore these important landscapes for their outstanding cultural, ecological, and scientific values. Of the 59 million visitors to BLM lands in 2010, approximately 20 million visited these units and recreation activities on NLCS units created approximately 20,000 jobs. American Forests believes the administration's request for \$69.55 million is needed to prevent critical damage to these resources, ensure proper management and provide for quality visitor experiences.

*Fish and Wildlife Service National Wildlife Refuge System.*—The Refuge System, with 556 refuges on more than 150 million acres across the country is vital to protecting America's wildlife and ensuring that these habitats are a priority. Visited by approximately 45 million people each year generating nearly \$4 billion and more than 32,500 jobs to regional economies,<sup>2</sup> investment in the Refuge system is imperative. While it is well documented that an annual operations and maintenance budget should total at least \$900 million,<sup>3</sup> American Forests supports the administration's request for \$494.8 million, an \$8.8 million increase more than fiscal year 2012 enacted.

*Fish and Wildlife Service Endangered Species Program.*—For nearly 40 years, the Endangered Species Act (ESA) has helped prevent the extinction of our Nation's treasured wildlife and plant species, many of which thrive in forested habitat. While the ESA has made significant strides in protecting our most imperiled species—99 percent of species protected under the ESA have been rescued from extinction and 20 species have been restored to the point of no longer needing protection—there are still major shortfalls. Numerous species in need of protection, including the whitebark pine, are precluded from the list due to lack of adequate resources. American Forests supports the administration's request for an additional \$3.74 million more than fiscal year 2012 to a total of \$179.69 million.

*National Park Service.*—American Forests was instrumental nearly 100 years ago in the creation of the national parks and continues to this day supporting the service that is the steward of the Nation's most cherished natural and cultural resources—397 park units, 23 national scenic and historic trails, and 58 wild and scenic rivers. However, many of these forested parks are threatened by a series of stresses. Invasive species and uncontrolled outbreaks of pests have left these forested treasures vulnerable. American Forests is dedicated to restoring these parks, especially those in the intermountain west affected by the mountain pine bark beetle. As such, we support the administration's request for funding the National Park System at \$2.986 billion.

*Environmental Protection Agency Urban Waters Program.*—No ecological boundaries separate urban, community, and rural forests—and all forests play vital roles in delivering clean water to communities of every size. EPA's Urban Waters Partnership brings together multiple Federal agencies (including USFS) to support stewardship and local restoration efforts to improve urban watersheds and accelerate water quality improvements by promoting green infrastructure, volunteer monitoring, and outreach to communities. American Forests supports the request of \$4.7 million.

#### *Managing Under a Multitude of Pressures*

With all that forests provide, we need to better understand the multitude of pressures they face and manage them in a sustainable manner. Forests can be managed in ways that mitigate the impacts of a changing climate, invasive species, insect infestation, disease, large wildfires, and conversion to nonforest uses.

*United States Forest Service Forest Health Management.*—This program provides insect, disease, and invasive plant survey and monitoring information on forest health conditions on Federal and non-Federal lands and provides technical and fi-

<sup>2</sup>The Department of the Interior's *Economic Contributions*, 2011.

<sup>3</sup>*Restoring America's Wildlife Refuges 2011: Assets for All Americans*, Cooperative Alliance for Refuge Enhancement.

financial assistance to prevent, suppress, and control outbreaks threatening forest resources and watershed conditions. The number of acres affected by only the highest-priority pests is astronomical and the prevention and suppression needs are many. Since 1997, 41.7 million acres of conifer forests from the west coast to the Rocky Mountains have been affected by mountain pine bark beetles. From 2000–2009, bark beetle caused mortality over an estimated 21.7 million acres in the intermountain west. American Forests proposes funding this critical program at \$128 million in fiscal year 2013, a level higher than the administration's request. Our recommendation reflects the need to restore funding to a level more consistent with its funding prior to fiscal year 2012, when it was cut by \$25 million.

*United States Forest Service Forest and Rangeland Research.*—USFS research and development provides scientific information and new technologies to support sustainable management of the Nation's forests and rangelands. The priority research areas of forest disturbances, forest inventory and analysis, watershed management and restoration, urban natural resource stewardship, and localized needs are all integral to better understanding our forests. American Forests supports the USFS Forest and Rangeland Research at the administration's request for \$292.79 million.

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PREPARED STATEMENT OF THE AFRICAN WILDLIFE FOUNDATION; AMERICAN VETERINARY MEDICAL ASSOCIATION; ASSOCIATION OF ZOOS & AQUARIUMS; BONOBO CONSERVATION INITIATIVE; BORN FREE USA; THE DIAN FOSSEY GORILLA FUND INTERNATIONAL; FAUNA & FLORA INTERNATIONAL; HUMANE SOCIETY INTERNATIONAL; THE HUMANE SOCIETY OF THE UNITED STATES; INTERNATIONAL CRANE FOUNDATION; INTERNATIONAL ELEPHANT FOUNDATION; INTERNATIONAL FUND FOR ANIMAL WELFARE; THE JANE GOODALL INSTITUTE; THE NATURE CONSERVANCY; RINGLING BROS. AND BARNUM & BAILEY CENTER FOR ELEPHANT CONSERVATION; RARE SPECIES FUND; INTERNATIONAL RHINO FOUNDATION; SAFARI CLUB INTERNATIONAL; SEA TURTLE CONSERVANCY; WILDLIFE CONSERVATION SOCIETY; AND WORLD WILDLIFE FUND

Chairman Reed, Ranking Member Murkowski and members of the subcommittee, the undersigned groups submit this testimony on the importance of the international conservation programs within the U.S. Fish and Wildlife Service (FWS) Office of International Affairs, specifically the Multinational Species Conservation Fund, the Wildlife Without Borders (WWB) and International Wildlife Trade programs. These programs enjoy the support of a broad-based coalition comprised of 33 organizations representing sportsmen, conservationists, zoos, aquariums, circuses, veterinarians, animal welfare groups, and their more than 20 million members. We thank you for your past and consistent support for these programs. In fiscal year 2013, we respectfully request your support for continued funding of the Multinational Species Conservation Fund at the administration's requested level of \$9.98 million. We also request continued support for the Office of International Affairs at \$13 million, as requested by the administration in the fiscal year 2013.

Wildlife conservation programs are a modest, but essential piece of the United States' engagement with the developing world. Efforts to conserve our planet's wildlife and habitat are of the highest urgency. Extinctions are irreversible and increasing at an unprecedented rate. Because wildlife recognizes no political borders, an effective response requires nations to work together cooperatively, and because these animals often reside in relatively impoverished developing countries, support from interested countries such as the United States is crucial. The U.S. Government has been a consistent leader in this respect, and the modest funding for these programs goes a very long way, reaping significant returns and making them an excellent investment.

#### MULTINATIONAL SPECIES CONSERVATION FUND

Through the Multinational Species Conservation Fund (MSCF), the United States supplements the efforts of developing countries struggling to balance the needs of their human populations and endemic wildlife. These modest Federal programs, administered by the FWS, make targeted investments in conservation of several global priority species. In 1989, the Congress passed the African Elephant Conservation Act authorizing a dedicated fund in response to the threat posed to that species by rampant ivory poaching. Four more funds have since been authorized to support the conservation of Asian elephants, great apes, marine turtles, and tigers and rhinos. Each of the funds is authorized at \$5 million, with the exception of the Rhino-Tiger Conservation Fund, which was intended as a double fund to address both sets of species, and is therefore authorized at \$10 million. Appropriated funds for the programs have remained roughly 30 percent or less of the authorized level.

MSCF programs have played a critical role in saving wild populations of these species by controlling poaching, reducing human-wildlife conflict and protecting essential habitat. They have generated enormous constituent interest and strong bipartisan support in the Congress. The MSCF has awarded more than 1,800 grants to more than 265 organizations for conservation projects in more than 75 countries. These small grants consistently leverage between 2 to 3 times as much in matching funds from public and private partners. From 1990 to 2011, the Congress appropriated a total of \$88 million for MSCF grant programs, which generated more than \$200 million in matching and in-kind contributions. Administrative costs for the program are low, and 97 percent of the appropriated funds are distributed through grants. By conserving iconic species, these programs help sustain large areas of habitat home to a rich diversity of flora and fauna. By working with local communities and improving livelihoods, they build capacity and support for conservation in the developing world, contribute to economic growth and stability, and support U.S. interests in strategically important regions of the globe. Following are success stories for each of the five funds.

*Rhino-Tiger Conservation Fund.*—In both Africa and Asia, rhinos are suffering a poaching crisis. Fewer than 50 Javan rhinos now remain in the wild in Indonesia, with none in captivity. Last year saw the extinction of rhinos in Vietnam when the last individual in that country was found killed by poachers. South Africa, which is home to 80 percent of the planet's remaining black rhinos, is experiencing a shocking rise in rhino poaching driven by Asian demand for rhino horn, which is worth up to \$30,000/lb on the black market. Earlier in the decade, perhaps a dozen animals were killed in South Africa annually. Since 2007, there has been an exponential increase. In 2011 a total of 448 rhinos were killed—nearly four times as many as in 2009. Other African countries fear the poaching will spread to their rhino populations. Through the RTCF, FWS is working to respond. RTCF support to World Wildlife Fund (WWF) and local partners for anti-poaching, habitat restoration and rhino monitoring in Nepal helped to ensure that no rhinos were poached in that country in 2011. In Namibia, support for camel patrols have reduced illegal wildlife trade, providing security and regular monitoring of Namibia's black rhinos, which have rebounded to become the world's largest free-roaming population. This ongoing recovery is contributing to the exponential growth in local economic benefits for rural Namibians due to wildlife-based tourism, thanks in large part to U.S.-supported conservation efforts over the past two decades, including through the RTCF.

As few as 3,200 wild tigers remain throughout all of Asia—down from 5,000–7,000 a decade ago. Tiger body parts continue to be in high demand on the global black market, including organs and bones, which are used in Asian tonics and medicines purchased by wealthy buyers believing they convey strength, virility or status. RTCF funding is supporting the creation and expansion of tiger reserves and protected areas in Malaysia, India and Thailand, anti-poaching and enforcement efforts in Sumatra, and research, monitoring and capacity building in countries such as Nepal, where WWF helped conduct the first ever nationwide assessment of tiger populations, distribution and prey base in 2009. Last July, the Government of Thailand arrested tiger poachers operating in the Western Forest Complex, one of the country's most important protected areas and a critical landscape for tigers and other wildlife. The arrest, which yielded an abundance of evidence about poaching activities in the region, was an achievement of the SMART patrol, a systematic, evidence-based adaptive management program designed to increase monitoring and enforcement. With RTCF support, Wildlife Conservation Society (WCS) is helping to train rangers in countries such as Thailand on SMART patrol methods. In November 2010, a Global Tiger Summit was held in St. Petersburg, Russia at which tiger range states and supportive countries, including the United States, pledged to ramp up coordinated efforts to save tigers, with a goal of doubling wild tiger populations by 2022. To address critical needs for both rhinos and tigers, we recommend at least \$2.697 million for the RTCF in fiscal year 2013, the same as in the administration's fiscal year 2013 budget request.

*African Elephant Conservation Fund.*—Despite much success in elephant conservation over the past two decades, ivory remains a lucrative commodity, and rising demand in China along with ongoing instability and porous borders in many areas of Central Africa provide opportunities for well-organized gangs of poachers to decimate that region's remaining elephant populations. This winter, heavily armed northern Sudanese and Chadian poachers crossed into Cameroon's Bouba N'Djida National Park and slaughtered an estimated 300–400 elephants—more than one-half of the park's remaining population. The scale of the ongoing slaughter is unprecedented, and the cross-border incursion has prompted an intervention by the Cameroonian military to defend the country's sovereignty and save its remaining elephants, with lives lost on both sides. The poachers have suspected connections

to the Jangaweed militia, and profits from illicit ivory sales are believed to help fund their purchases of guns and other armaments. The African Elephant Conservation Fund (AfECF) is supporting improved protected area enforcement in several African countries, including hiring and training of local “ecoguards”. Ecoguards in Chad’s Zakouma National Park prevented organized gangs from poaching one of the last and largest herds of elephants in the Sahel. In Cameroon’s Campo Ma’an National Park, the AfECF supported a large-scale anti-poaching operation involving village and forest patrols, soldiers and game guards that flushed out four suspected poachers, including two notorious elephant poachers, and resulted in the seizure of 450 lbs of bushmeat. The AfECF is also helping address elephant-human conflict. In Malawi, it has helped to resolve a growing conflict between an elephant herd and local villagers that included human deaths and retaliation killings against elephants. AfECF support helped the Government of Malawi and the International Fund for Animal Welfare (IFAW) to move the herd—83 elephants in all—to Majete Wildlife Reserve in Southern Malawi, protecting both the elephants and local livelihoods. We recommend at least \$1.697 million for the AfECF in fiscal year 2013, the same as in the administration’s fiscal year 2013 budget request.

*Asian Elephant Conservation Fund.*—In Thailand, Asian Elephant Conservation Fund (AsECF) support has improved wildlife law enforcement, established a population monitoring system, and reduced conflicts between humans and elephants in Kaeng Krachan National Park by working with local communities to deter elephants from raiding crops. In Sumatra, it has also supported Flying Squads—teams of rangers equipped with noise and light-making devices and trained elephants that drive wild elephants back into the forest whenever they threaten to enter villages. The Squads have reduced losses suffered by local communities, prevented retaliatory killings and helped reduce elephant mortality in Riau by 27 percent in 2009 compared to the previous 4 years. The AsECF has also supported efforts of the International Elephant Fund (IEF) and partners to establish Conservation Response Units (CRUs) in Sumatra to mitigate human-elephant conflict, reduce wildlife crime in elephant habitat through forest patrol and monitoring, and raise local conservation awareness. CRU teams have recorded more than 500 cases of illegal logging, and 190 cases were reported to government law enforcement agencies, resulting in the closure of three illegal saw mills and seizure of more than 300m<sup>3</sup> of illegal timber, 26 vehicles, 17 chainsaws, and 2 industrial saws. More than 150 arrests have taken place and two dozen individuals have received prison sentences ranging from 4 months to 4.5 years. We recommend at least \$1.697 million for the AsECF in fiscal year 2013, the same as in the administration’s fiscal year 2013 budget request.

*Great Ape Conservation Fund.*—In 2008, a Great Ape Conservation Fund (GACF)-supported survey discovered more than 125,000 western lowland gorillas in the Republic of Congo. The program is now supporting Ebola surveillance in that country, helping hire more than 60 eco-guards and training 20 researchers in carcass sampling and 30 field team leaders in health and biological sampling techniques. More than 900 hunters in 71 villages have participated in educational programs on Ebola to help prevent its spread. Two separate GACF grants are also supporting efforts in the Central African Republic to secure long-term protection of the country’s gorillas, beef up trans-boundary anti-poaching patrols and create economic opportunities around sustainable gorilla tourism. MSCF grants made it possible for the Dian Fossey Gorilla Fund’s Karisoke Research Center to continue protecting the mountain gorillas that live in the Virunga Volcanoes located on the border between Rwanda, the Democratic Republic of Congo (DRC) and Uganda. Karisoke staff follow daily almost one-fourth of the 480 remaining Virunga mountain gorillas. A 2010 census found that this highly endangered subspecies has achieved a remarkable increase of 26 percent since the previous count in 2003, with an astounding annual growth rate of 3.7 percent. This is the only great ape population to have increased in recent decades. The GACF has also supported programs in both Rwanda and the DRC to improve the health of communities near gorilla habitat by upgrading rural clinics, increasing access to clean water, reducing intestinal parasite infestations, and supporting small animal husbandry. This reduces the likelihood of people transmitting parasites and other diseases to the gorillas and reduces people’s need to seek water and game in the forest. We recommend at least \$2.194 million for the GACF in fiscal year 2013, the same as in the administration’s fiscal year 2013 budget request.

*Marine Turtle Conservation Fund.*—Nicaragua’s Pacific coast provides nesting beaches to four highly threatened species of marine turtles. The Marine Turtle Conservation Fund (MTCF) has provided major support to the efforts of Fauna and Fauna International (FFI) to protect these turtles, especially hawksbill and leatherback populations. Before the FFI program began, nearly 100 percent of the area’s turtle nests were being poached. As a result of beach monitoring and protec-



tion programs, construction of egg hatcheries and awareness efforts, between 80–100 percent of the nests are now successfully protected each year and hatching success is increasing annually. During the 2010–2011 nesting season, 90 leatherback nests were recorded and 73 were protected, a 300-percent increase more than the previous season. MTCF support has helped achieve similar successes at nesting sites in Costa Rica (WWF) and Gabon (WCS). We recommend at least \$1.697 million for the MTCF in fiscal year 2013, the same as in the administration’s fiscal year 2013 budget request.

OFFICE OF INTERNATIONAL AFFAIRS

Within the FWS Office of International Affairs, the Wildlife Without Borders (WWB) and International Wildlife Trade (IWT) programs provide critical support to the on-the-ground species conservation programs of the MSCF. The WWB Regional program supports species and habitat conservation in priority regions, including Africa, Latin America and the Caribbean, India, and Mexico, through capacity building, outreach, education, and training. This includes training African wildlife professionals to combat the bushmeat trade and working to bolster wildlife laws and increase enforcement capacity in African countries. The WWB Global program targets cross-cutting, global threats to wildlife; supports signature initiatives to maximize long-term impact; and addresses declines of critically endangered species, such as amphibians. It also fulfills FWS mandates to support U.S. leadership through wildlife statutes and international treaties, such as NAFTA, the Ramsar Convention on Wetlands of International Importance, and the Convention on International Trade in Endangered Species (CITES). From 2006 to 2010, WWB programs awarded more than \$14 million, leveraging nearly \$25 million in matching funds for conservation actions, regional capacity building, wetlands and migratory species protection and efforts to combat disease and illegal trade. IWT works to prevent illegal trade in wildlife and wildlife products, calculated as the third-largest illegal trade after drugs and arms, worth more than \$10 billion annually with strong links to organized crime and the illegal trade in arms and drugs. Illegal wildlife trade also transmits disease and invasive species, negatively impacting public health and economic productivity in the United States, which is one of the largest importers and exporters of wildlife products. IWT ensures this trade is legal and does not harm species in the wild and implements scientific and management requirements of laws and treaties for traded species, issuing 15,000–20,000 permits per year. We recommend \$13.054 million for the Office of International Affairs, as requested in the administration’s fiscal year 2013 budget request.

We hope you will consider the important issues these programs are working to address alongside their proven success, their modest cost and the broad-based support they enjoy. We urge the subcommittee to fund these programs at the levels outlined above. Thank you for your consideration.

PREPARED STATEMENT OF THE ALA KAHAKAI TRAIL ASSOCIATION

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President’s budget for this year recommended \$450 million for LWCF.

The LWCF is our Nation’s premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical, and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

The Ala Kahakai Trail Association is a partner to the Ala Kahakai National Historic Trail (NHT) and an active member of the Partnership for the National Trail System. The Board is made up of individuals who have genealogical ties to the trail and have been and continue to work toward the preservation and protection of the approximate 175 miles of coastal trail. Many portions of the trail are in immediate

danger of encroaching development which would significantly compromise the integrity and historical value of the trail.

An analogy one member of our Board used was to liken the national trails as the string holding a lei together. Without the string, the flowers would remain separate. However, by stringing the flowers together a beautiful lei is created. This is the same for the national parks. The trails serve as a string to link national parks together. In the case of the Ala Kahakai NHT, the trail links four national parks:

- Pu'u Kohola National Historic Preservation (NHP);
- Koloko-Honokahau NHP;
- Pu'uhonua O Hōnaunau NHP; and
- the Volcanoes NP.

Portions of the Ala Kahakai NHT are already in eminent danger. In recent past, a new subdivision road was paved within feet of the trail leading to potential damage by vehicular traffic, all-terrain vehicles and unmonitored use of the fragile trail system. One preventative action is to acquire lands bordering the trail to secure protection against irreversible damage. The Ala Kahakai Trail Association is ever vigilant in seeking opportunities to acquire properties or to create wider buffers for the entire length of the trail. Our association has established partnerships with county, State and Federal agencies as well as with communities along the trail to fulfill this mission and to optimize efforts in protecting the trail.

The Ala Kahakai Trail Association is writing in support for the acquisition in fiscal year 2013 by the National Park Service (NPS) of a 59-acre property located on the Ala Kahakai NHT and immediately adjacent to the southern boundary of Pu'uhonua O Hōnaunau NHP. Acquisition of the Pace property in the Kauleoli ahupua'a of South Kona, with its more than half-mile of shoreline, will complement recent protection efforts at the national historic park and provide additional recreational opportunities for users of the Ala Kahakai Trail.

The Kauleoli property represents an opportunity to protect land of historic and ecological significance, and its acquisition will further the missions of two National Park Service units. It lies within the priority area identified in the management plan of the trail, and its addition will provide further protection to the outstanding resources for which Pu'uhonua O Hōnaunau NHP is renowned. The landowners are currently willing to make this stunning landscape available for public ownership. There is real danger, however, that the land could be sold for development if sufficient funding is not forthcoming in a timely fashion.

To protect these 59 acres with their historical, cultural, and ecological resources, the NPS needs \$4.5 million from the LWCF for the Ala Kahakai NHT. This acquisition is eligible for funding under the National Trails program requested in the President's budget for fiscal year 2013.

In closing, I urge you to provide funding for the LWCF of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for the Ala Kahakai NHT. I want to thank the chairman and the members of the subcommittee for this opportunity to submit testimony on behalf of this nationally important protection effort in Hawaii, and I appreciate your consideration of this funding request.

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#### PREPARED STATEMENT OF THE ALASKA NATIVE TRIBAL HEALTH CONSORTIUM

My name is Andy Teuber, I am the chairman and president of the Alaska Native Tribal Health Consortium (ANTHC). For the fiscal year 2013 Indian Health Service (IHS) budget we are requesting full funding for contract support costs (CSC), currently estimated to be \$571 million for fiscal year 2013.

ANTHC is a statewide tribal health organization that serves all 229 tribes and more than 140,000 American Indian and Alaska Natives (AI/AN) in Alaska. ANTHC and Southcentral Foundation co-manage the Alaska Native Medical Center (ANMC), the tertiary care hospital for all AI/ANs in Alaska. ANTHC also carries out virtually all nonresidual Area Office functions of the IHS that were not already being carried out by tribal health programs as of 1997.

#### FULL FUNDING FOR CONTRACT SUPPORT COSTS

Indian tribes and tribal organizations are the only Federal contractors that do not receive full CSC. There is a clear obligation on the part of the Federal Government to fully fund CSC. But more importantly, lack of full funding for CSC has a very real and detrimental impact on our programs that are already substantially underfunded.

CSC is used to reimburse our fixed costs for items that we are required to have but are not otherwise covered by the IHS budget, either because another govern-

mental department is responsible or because the IHS is not subject to that particular requirement. Examples include federally required annual audits and telecommunication systems. We cannot operate without these things, so when CSC reimbursements are underfunded we have to use other program funds to make up the shortfall, which means fewer providers that we can hire and fewer health services that we can provide to our patients.

We are very thankful for the increases in CSC that this subcommittee has been able to provide, beginning with fiscal year 2010, particularly the large increase that tribes and tribal organizations received last year thanks to the efforts of this subcommittee. Although these increases have gone a long way toward helping to diminish the CSC shortfall, a significant CSC shortfall remains.

The best projections available show that the CSC shortfall for fiscal year 2012 will be approximately \$60 million, and that the shortfall in fiscal year 2013 will be nearly \$99 million. Given these significant shortfalls, IHS's request for only a \$5 million increase in CSC for fiscal year 2013 is extremely disappointing. Our disappointment is particularly acute when we consider that the BIA has requested full CSC for its programs.

The inadequate IHS request could return us to a situation similar to the one we endured from 2002 to 2009, when there were virtually no increases for IHS CSC appropriations and the CSC shortfall increased by more than \$130 million. During that period, as our fixed costs increased every year, all major tribal health programs in Alaska were forced to lay off staff due to lack of funds.

The opposite is also true: when CSC reimbursement increases occur, vacant positions are filled. If ANTHC had full funding of our CSC requirements, we would be able to fill scores of provider and support positions, including enrollment technicians, financial analysts, medical billing staff, professional recruiters, maintenance technicians, security officers, information technology support, and professional support staff.

ANTHC respectfully requests that the Federal Government honor its legal obligations to tribes and tribal organizations and fully fund CSC reimbursements by providing \$571 million for IHS CSC reimbursements in fiscal year 2013.

I appreciate your consideration of our recommendation for additional CSC funding to improve the level, quality and accessibility of desperately needed health services for AI/ANs whose healthcare status continues to lag far behind other populations in Alaska and in this Nation.

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PREPARED STATEMENT OF THE ALEUTIAN PRIBILOF ISLANDS ASSOCIATION; BRISTOL BAY AREA HEALTH CORPORATION; MANILAQ ASSOCIATION; AND THE NORTON SOUND HEALTH CORPORATION

We submit this joint testimony on behalf of four co-signers to the Alaska Tribal Health Compact, which is a self-governance agreement with the Indian Health Service (IHS) under title V of the Indian Self-Determination and Education Assistance Act. Our organizations are responsible for providing and promoting healthcare and overseeing a variety of health programs in our various regions of Alaska, including remote villages. Our request is that the Congress direct the IHS to utilize existing fiscal year 2013 appropriations to fully fund the Village Built Clinics leases in accordance with section 804 of the Indian Health Care Improvement Act. We estimate an additional \$6.6 million more than current IHS resources should be allocated to Village Built Clinic (VBC) leases.

We submit this testimony because we have great concern about the IHS's continued choice to underfund VBCs in Alaska. This IHS decision has jeopardized the provision of basic health services to Alaska Natives in their villages through the Community Health Aide Program (CHAP), because CHAP services are provided in the VBCs. The CHAP program is mandated by the Congress as the instrument for providing basic health services in remote Alaska Native villages. The Community Health Aides and Practitioners cannot function as medical, behavioral health and dental providers in the villages without well maintained and suitable clinic facilities with teleconferencing capability, which the IHS has the statutory duty to provide under the Indian Health Care Improvement Act (IHCA).

Rather than allocate sufficient resources for the VBCs, the IHS has shifted its statutory responsibilities onto the villages and tribal health corporations themselves, which do not have the financial resources to maintain and upgrade the clinics for use by the CHAPs. This has caused many of the VBCs, often the only healthcare facilities in rural Alaska communities, to be unsafe or closed; others are unsuitable for use by the CHAPs. This is a longstanding problem which has become worse as the years go by. In 2007, the Alaska Native Health Board prepared a

White Paper entitled "The Village Built Clinic Programs; Village Clinics in Crisis." That Paper described this problem in great detail. The ANHB estimated that \$5.7 million was needed to maintain and improve the VBCs for use by the CHAPs. However, no additional funding was provided.

*The Village Built Clinic Lease Program.*—VBCs are critical to maintaining health services for rural Alaska Natives. The IHS Community Health Aide Program was developed years ago to respond to disparities in healthcare access and to help facilitate improved health status in rural Alaska. CHAP now involves a network of health aides/practitioners who provide primary healthcare services and coordinate patient care through referral relationships with midlevel providers, physicians, and regional hospitals.

The CHAP cannot operate in most of rural Alaska without clinics in which to provide the services. In the 1970s, the IHS established the VBC leasing program to provide funds for leasing health clinics from Alaska Native Villages for the provision of CHAP services. By 1972 the IHS was able to lease 142 clinics for a total cost of \$842,000 appropriated by the Congress, and by 1989 the funding for the VBC leasing program was approximately \$3 million, which came through the IHS Hospitals and Clinics sub-activity of the IHS appropriation.

*Indian Health Service Is Legally Responsible to Fully Fund Village Built Clinic Leases.*—IHS is required to keep the VBCs in good repair. Under the IHCLA amendments of the 1992 Congress required the IHS to "maintain" the CHAP, and in the recent reauthorization of the Act, the Congress requires the IHS to "develop and operate" the CHAP for Alaska healthcare, health promotion, and disease prevention for Alaska Natives living in rural Alaska (25 U.S.C. 1616l(a)(2)). The act also requires the IHS to ensure that the VBCs are upgraded to establish a teleconferencing capability (25 U.S.C. 1616l(a)(3)). IHS cannot fulfill these statutory responsibilities without keeping the VBCs maintained and in good repair.

The IHS has traditionally used "full-service" leases (presumably under the leasing authority in the Federal Property and Administrative Services Act of 1949) as the basis for shifting the cost of operation and maintenance of the VBCs to the villages. This was apparently done as an agency initiative. We have been unable to find any specific language added to the IHS appropriation statute for 1970 authorizing the VBC leasing program; nor do the appropriation committee reports for that year specifically mention adding funds for this purpose. The "full-service" leases require the Villages to pay for heat, cleaning, utilities, maintenance, and replacement. But the rental amounts—which in most cases have not been raised since 1994—are woefully inadequate to cover all of these expenses. As a result, we (and other Alaska regional health organizations) are forced to subsidize the VBCs, draining resources that could otherwise be devoted to healthcare services.

IHS has had direct leasing authority under the IHCLA, since it was originally enacted in 1976, to enter into leases that cover a full range of costs, such as rent, depreciation, and operation and maintenance expenses. Such authority also includes reconstruction or renovation by IHS of the leased property. This authority was part of the original IHCLA, Public Law 94-437, section 704. Now renumbered as section 804 of the act, 25 U.S.C. 1674, it authorizes the Secretary, "notwithstanding any other provision of law" to enter into leases with Indian tribes for periods not in excess of 20 years. It provides that leased property may be "reconstructed or renovated" by the Secretary and that lease costs "include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable." The House Report for the 1976 legislation specifically mentions leasing village facilities in rural Alaska to help the IHS meet its responsibilities to provide health services in remote villages in Alaska.<sup>1</sup>

Contrary to congressional intent, the IHS has continued to shift its responsibilities to the villages and to the Alaska Tribal Health Compact co-signers, without regard for the health of the people who need the VBCs for services. It has become impossible to keep up with the costs of operating and maintaining the VBCs, and thus continuing to provide needed CHAP services to rural Alaska Natives. In many situations, the CHAP has to be operated in unsafe facilities and, in some villages, the VBCs have to be closed and CHAP services suspended because of safety hazards to the employees and patients.

In order to establish proper standards of care, compliance accreditation by the Joint Commission has been established as one of the terms included in the tribal health corporations annual funding agreements. Compliance with several of the Joint Commission's environments of care standards are simply not possible due to lack of funding made available by the IHS to maintain these facilities.

<sup>1</sup>H. Rept. 94-1026 (Apr. 9, 1976), 122-123, reprinted in 1976 U.S.C.C.A.N. 2760-2761.

Additionally, IHS's failure to maintain the VBCs and upgrade them directly hampers the ability of the co-signers to the Compact to meet the "meaningful use" standards set by the Centers for Medicare and Medicaid Services in order to be eligible for incentive payments for Electronic Health Records (EHR) technology. IHS should ensure that VBCs are brought up to the appropriate technological capability for the co-signers to be able to qualify for needed incentive payments to implement EHR, which will improve patient health and is an important congressional initiative.

*Leases Are Underfunded and Indian Health Service Refuses To Use Available Appropriations.*—The majority of VBC lease rentals have not increased since 1989 and the current funding is not sufficient to cover inflationary increases and, in particular, the cost of repair and renovation of the facilities needed to keep them in a safe condition. Funds in the IHS's hospitals and clinics subactivity allocated by IHS to the VBC leasing program increased very slowly over the years. For example, from 1997 to 2007, funding for the VBC system increased from \$3,718,268 to \$3,903,434, an increase of less than 5 percent over the entire 10-year period and well less than the actual costs to operate and maintain the VBCs in the same period. As a result, by the end of fiscal year 2006 the lease rentals paid to the villages covered only 55 percent of the village-built clinics' operating costs.<sup>2</sup> The shortfalls have only grown in the 6 years since then, as fuel costs (among others) have skyrocketed.

While the IHS leases allow costs for rent, loan amortization, fuel for heat, electricity, water and waste disposal, janitorial services and supplies, insurance, and costs associated with minor maintenance, none of these allowable costs are currently covered by the existing VBC lease payments. In 2007, the operation and maintenance shortfall for the average VBC was \$28,692 per year. Furthermore, major maintenance and improvement costs are not provided by the IHS.

In the past, when this matter has been brought to the IHS's attention, IHS has responded that it provides for VBC leases all of the funding that the Congress has appropriated for the program. The IHS excludes clinics leased under the VBC lease program from maintenance and improvement funding because it asserts that the leases are full service leases and the leases do not include a reserve fund for building improvements and replacement. IHS has told co-signers to the Alaska Tribal Health Compact that they cannot use maintenance and improvement funding—provided to them under their self-governance agreements—for the VBCs. We just don't accept IHS's statements as legally correct, and the agency has provided no legal analysis to convince us otherwise.

Based on our review, the amounts historically traceable to the VBC lease program are not capped by statute and are not the only funds available for that program. The Indian Health Facilities appropriation is a lump-sum appropriation that can be used for construction, repair, maintenance, improvement and equipment, and includes a subactivity for maintenance and improvement of IHS facilities. The VBCs are IHS facilities acquired by lease in lieu of construction and should thus be eligible for maintenance and improvement funding. The IHS also has the ability to access other IHS discretionary funds to fully fund its VBC responsibilities.

We believe there is no question that the IHS has had sufficient funds in its unrestricted appropriations to fully fund the VBCs' needs. According to a report issued by the Alaska Native Health Board in 2007, the operation and maintenance shortfall for the average VBC was \$28,692 per year. The Board estimated that \$5.8 million should have been added in fiscal year 2008 to the fiscal year 2007 VBC lease program base in order to sustain the program. More than 4 years have gone by since then and the funding crisis for the VBCs has continued to get worse. Assuming a modest inflationary rate of 3 percent since the Board's analysis in 2007, we estimate at least \$6.6 million should be added in fiscal year 2013 to the VBC lease program base funding.

*We Need Your Help To Ensure That Indian Health Service Fully Funds Village Built Clinic Leases.*—Despite repeated requests from the Alaska Tribal Health Compact Co-Signers, the IHS continues to fund VBC leases at less than 60 percent of costs, while adopting standards for VBC operation and maintenance and requiring evaluations and inspections without supplying maintenance and improvement or other funding to assure compliance. Our VBCs are falling apart, cannot keep pace with technological advances in health, and hamper our efforts to qualify for "meaningful use" incentive payments to implement the Electronic Health Record in the VBCs. We thus request that the Appropriations Committee direct the IHS in the

<sup>2</sup>See, Village Built Clinic Programs: Village Clinics in Crisis, Alaska Native Health Board, May 2007 at 9. Pay act increases during this period were not provided to the VBC leasing program. But even if they had been, the additional increase would be minimal and would have no material impact on the current shortfall for VBC operating costs. Id.

fiscal year 2013 appropriations to utilize existing, available appropriations to fully fund the VBC leases in accordance with section 804 of the IHCA.

The VBC program is a unique and critical component of the CHAP. Without VBCs that are suitable for their purposes, the CHAP cannot work as intended by the Congress and our people cannot get the healthcare they need. Please help ensure that the United States' trust responsibility to Alaska Native people for healthcare is fully realized. For more information, contact:

- Aleutian Pribilof Islands Association: Carolyn Crowder, carolync@apiai.org;
- Bristol Bay Area Health Corporation: Robert Clark, rclark@bbahc.org;
- Maniilaq Association: Ian Erlich ierlich@maniilaq.org; and/or
- Norton Sound Health Corporation: Deven Parlikardparlikar@gmail.com.

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#### PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF MUSEUMS

Chairman Reed, Ranking Member Murkowski, and members of the subcommittee, thank you for inviting me to submit this testimony. My name is Ford Bell and I serve as president of the American Association of Museums (AAM). We urge your support for at least \$154.3 million each for the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH)—the amounts requested in the President's fiscal year 2013 budget proposal. We also urge your support for Historic Preservation efforts funded by the subcommittee.

AAM is proud to represent the full range of our Nation's museums—including aquariums, art museums, botanic gardens, children's museums, culturally specific museums, historic sites, history museums, maritime museums, military museums, natural history museums, planetariums, Presidential libraries, science and technology centers, and zoos, among others—along with the professional staff and volunteers who work for and with museums.

AAM is proud to work on behalf of the 17,500 museums that employ 400,000 people, spend more than \$2 billion annually on K–12 educational programming, receive more than 90 million visits each year from primary and secondary school students, and contribute more than \$20 billion to local economies.

Museums are essential in our communities for many reasons:

- Museums are key education providers. Museums already offer educational programs in math, science, art, literacy, language arts, history, civics and government, economics and financial literacy, geography, and social studies, in coordination with State and local curriculum standards. Museums also provide experiential learning opportunities, science, technology, engineering, and mathematics education, youth training, job preparedness, and teacher training.
- Museums create jobs and support local economies. Museums serve as economic engines, bolster local infrastructure, and spur tourism. Both the U.S. Conference of Mayors and the National Governors Association agree that cultural assets such as museums are essential to attracting businesses, a skilled workforce, and local and international tourism. Museums pump more than \$20 billion into the American economy, creating many jobs.
- Museums address community challenges. Many museums offer programs tailored to seniors, veterans, children with special needs, persons with disabilities, and more, greatly expanding their reach and impact. For example, some have programs designed specifically for children on the autism spectrum, some are teaching English as a Second Language, and some are serving as locations for supervised family visits through the family court system.
- Digitization and traveling exhibitions bring museum collections to underserved populations. Teachers, students, and researchers benefit when cultural institutions are able to increase access to trustworthy information through online collections and traveling exhibits. Most museums, however, need more help in digitizing collections.

Support from the NEH, NEA, and the Historic Preservation Fund plays a critical role in helping museums provide all of these essential community services.

NEH is an independent Federal agency created by the Congress in 1965. Grants are awarded to nonprofit educational institutions—including museums, colleges, universities, archives, and libraries—for educational programming and the care of collections. NEH provides annual grants to State humanities councils located in every State and U.S. territory. NEH supports museums as institutions of learning and exploration, and keepers of our cultural, historical, and scientific heritages.

Due to the impact of the economic downturn, many institutions and nonprofits around the country, including museums, are struggling to maintain continued access to high-quality programming and educational opportunities in the humanities.

In 2011, through Preservation & Access, one of NEH's national program divisions, more than 90 peer-reviewed, competitive grants totaling more than \$4.1 million were awarded to museums, historical societies and historic sites for a variety of projects to preserve and provide access to our Nation's rich cultural heritage. Across all NEH divisions (including Preservation, Research, Education, Public Programs, Challenge Grants and Digital Humanities), these institutions received more than 160 awards totaling \$12.4 million in 2011.

Demand for humanities project support, as demonstrated by NEH grant application rates, far exceeds available funding. In fiscal year 2009, NEH received 4,366 competitive grant applications representing more than \$402 million in requested funds, but was only able to fund 16.9 percent of these peer-reviewed project proposals.

Here are just two examples of how NEH funding is used to support museums' work in your communities:

- The Rhode Island Historical Society in Providence is using its \$300,000 fiscal year 2011 Sustaining Cultural Heritage Collections grant to install a sustainable environmental control system and make building improvements and security upgrades to preserve collections documenting the history of Rhode Island from pre-European contact to the present.
- The Sheldon Museum and Cultural Center in Haines, Alaska, is using its \$6,000 fiscal year 2010 Preservation Assistant grant to support a general preservation assessment and the purchase of preservation supplies and environmental monitoring equipment. The collection consists of 2,515 historical artifacts, 885 pieces of art, more than 6,000 photographs, 1,677 bound volumes, and 1,296 archival items dealing with the history of the Chilkat Valley and the town of Haines.

NEA provides direct Federal funding to State arts agencies and to nonprofit arts institutions including museums. Its mission is to make art accessible to all and to provide leadership in arts education. Established in 1965, NEA brings great art to every congressional district. Its grants to museums help them exhibit, preserve, and interpret visual material through exhibitions, residencies, publications, commissions, public art works, conservation, documentation, and public programs. Grants are awarded for specific projects and require at least a one-to-one match from the recipient. Most recently, a partnership between the NEA and Blue Star Families has created the Blue Star Museums program, in which more than 1,500 museums of all types across the Nation provide free admission to military families from Memorial Day through Labor Day.

In 2011, NEA made 148 awards to museums, totaling more than \$6 million. Many museums have reduced staff and budgets as a result of the recession, which has hit nonprofit arts particularly hard. Despite the economic downturn, attendance is up, causing increased pressure to serve more people with fewer staff and smaller budgets.

Receiving a grant from the NEA confers prestige on supported projects, strengthening museums' ability to attract matching funds from other public and private funders. On average, each \$1 awarded by the NEA leverages \$7 from other sources. Forty percent of NEA's grant funds is distributed to State arts agencies for re-granting.

Here are two examples of how NEA funding is used to support museums' work in your communities:

- The Rhode Island School of Design (on behalf of Museum of Art) in Providence is using its \$20,000 fiscal year 2011 Access to Artistic Excellence grant to support the exhibition "Ahead of the Curve: Richard Brown and Contemporary British Art", with accompanying catalogue and educational programs. The exhibition will feature more than 100 paintings, sculptures, and drawings by late 20th-century British artists such as David Hockney, Anthony Caro, Bridget Riley, Fiona Banner, Yinka Shonibare, Anish Kapoor, and Damian Hirst.
- The Seward Association for the Advancement of Marine Science (aka Alaska SeaLife Center) in Seward, Alaska is using its \$39,000 fiscal year 2012 Art Works I grant to support an expedition and planning of the exhibition, GYRE, that will engage artists and scientists in the global problem of marine debris. In partnership with the Anchorage Museum, a group of artists including Pam Longobardi, Mark Dion, Alexis Rockman, Andrew Hughes, and Sonya Kelliher-Combs will accompany a team of scientists aboard the ship R/V *Norseman* in a research expedition to expose artists to the impact of marine debris on various ecosystems.

## HISTORIC PRESERVATION

In addition to the NEH and NEA, we urge you to fund important historic preservation programs under the subcommittee's jurisdiction providing at least \$47 million for State Historic Preservation Offices and \$9 million for Tribal Historic Preservation Offices. We also urge you to restore funding of \$25 million for Save America's Treasures and \$4.6 million for Preserve America, which have not been funded for the past 2 fiscal years.

The 2005 Heritage Health Index of archives, libraries, historical societies, and museums concluded that immediate action is needed to prevent the loss of 190 million artifacts that are in need of conservation treatment.

—59 percent have collections damaged by light.

—56 percent have insufficient security to protect their collections.

—80 percent do not have an emergency plan that includes collections.

—71 percent need additional training and expertise for staff caring for collections.

—Only 13 percent have access to endowment funds for preservation.

Historic preservation programs matter now more than ever—not only because they protect our national heritage, but because they serve as economic development engines and job creators in the thousands of communities they serve. For example, Save America's Treasures alone has been responsible for supporting more than 16,000 jobs since it was created just 10 years ago. A 2009 report to the Congress by the Advisory Council on Historic Preservation found that Preserve America is addressing many State, local, and regional heritage tourism needs with a relatively small Federal investment.

Thank you once again for the opportunity to submit this testimony.

## PREPARED STATEMENT OF THE AMERICAN BIRD CONSERVANCY

Dear Chairman Reed and Ranking Member Murkowski: American Bird Conservancy (ABC) is a 501(c)(3) national nonprofit organization dedicated to the conservation of wild native birds and their habitats throughout the Americas. Founded in 1994, ABC is the only U.S.-based group dedicated solely to overcoming the greatest threats facing native birds in the Western Hemisphere.

As you know, America is blessed with a spectacular abundance and rich diversity of birds, with more than 800 species inhabiting the mainland, Hawaii, and surrounding oceans. Unfortunately, according to the U.S. Fish and Wildlife Service's 2009 State of the Birds report, many of our bird species are in decline and some are threatened with extinction making it more important now than ever to continue funding Federal programs like the Neotropical Migratory Bird Conservation Act (NMBCA) grants program, Joint Ventures (JV), and the North American Wetlands Conservation Act which have been proven and effective in maintaining healthy and abundant native bird populations.

Funding Federal bird conservation programs not only provides ecological benefits, it makes good economic sense. Birds are also a very important economic driver. According to a report put together by the Federal Government, Americans spend about \$36 billion in pursuit of birding activities every year. Approximately 1 in 5 Americans—48 million people—engages in bird watching, and about 42 percent travel away from home to go birding. Birding activities also generate about \$4.4 billion in Federal tax revenues. Birds also naturally provide billions of dollars' worth of pest control each year benefiting farmers and consumers alike.

ABC's report, "Saving Migratory Birds for Future Generations: The Success of the Neotropical Migratory Bird Conservation Act" found that of our 341 species that are neotropical migrants—meaning birds that breed in the United States and Canada and winter in Latin America and the Caribbean—127 are in decline. Sixty of those species, including 29 songbirds, are in severe decline having lost 45 percent or more of their population in the past 40 years. If these trends continue, future generations of Americans may never be able to see a bright blue Cerulean Warbler, Bell's Vireo, or Black-chinned Sparrow.

This trend can be seen all throughout the country. Here in Washington, DC for example an annual census of birds in Rock Creek Park that started in the 1940s, found that the number of migratory songbirds breeding there has dropped by 70 percent during the past half century. Three species of warbler (Black-and-white, Hooded, and Kentucky) no longer breed there at all. The main reasons for these precipitous declines are well established and reported in the 2009 State of the Birds report: The largest source of bird mortality is due to habitat loss through conversion for human uses. Resource extraction and a growing human population have resulted in more development and land conversion for suburban sprawl so there are simply fewer and fewer large blocks of unbroken habitat for our native birds.



The second major impact is from habitat degradation from ecologically harmful land uses, such as unsustainable forestry or destruction of grasslands to create farm land. Deforestation, especially in Latin America, is accelerating at an alarming rate, driven by the needs of the rapidly expanding human population, which has tripled from 1950–2000. Estimates of the percentage of remaining forests that are lost each year in the Neotropics are between 1–2 percent.

*Neotropical Migratory Bird Conservation Act*

To address these two problems—habitat loss and degradation, both of which are rapidly increasing south of our border—ABC respectfully suggests that the Congress act to help mitigate their impact by continuing to fund the NMBCA grants program at the highest level possible. As the subcommittee knows, the NMBCA supports partnership programs in the United States, Canada, Latin America, and the Caribbean to conserve migratory birds, especially on their wintering grounds where birds of nearly 350 species, including some of the most endangered birds in North America, spend their winters. Projects include activities that benefit bird populations such as habitat restoration, research and monitoring, law enforcement, and outreach and education.

The NMBCA grants program has a proven track record of reversing habitat loss and advancing conservation strategies for the broad range of Neotropical birds that populate America and the Western Hemisphere. The public-private partnerships along with the international collaboration they provide are proving themselves to be integral to preserving vulnerable bird populations.

Between 2002 and 2011, the program supported 367 projects, coordinated by partners in 48 U.S. States/territories and 35 countries. More than \$39 million from NMBCA grants has leveraged more than \$152 million in matching funds and \$7 million in nonmatching funds. Projects involving land conservation have affected about 2 million acres of bird habitat. While there are more than 100 worthy proposals received each year, the program is oversubscribed with funding only available to fund about 40 projects. From these numbers, it is clear that conservation that would benefit our migrant songbirds is not able to take place due to a lack of funding for this program. ABC strongly believes expanding this program is essential to achieving conservation goals critical to our environment and economy. Just as importantly, this Federal program is a good value for taxpayers, leveraging more than \$4 in partner contributions for every \$1 that we spend. ABC respectfully requests that NMBCA be funded at \$4 million for fiscal year 2013.

*Joint Ventures*

JVs also exemplify a highly successful, cost-effective approach to conservation. By applying science and bringing diverse constituents together, JVs across the United States have created a model for solving wildlife management problems and restoring habitats critical to conserving declining species. Nationally, JVs have protected, restored, or enhanced more than 18.5 million acres of important habitat for migratory bird species. There are currently 21 JVs in the United States that provide coordination for conservation planning and implementation of projects that benefit all migratory bird populations and other species.

JVs have a long history of success in implementing bird conservation initiatives mandated by the Congress and by international treaties. Projects are developed at the local level and implemented through diverse public/private partnerships. These projects reflect local values and needs, while addressing regional and national conservation priorities. The projects benefit not only birds, but many wildlife species, and have a positive impact on the health of watersheds and local economies. For every \$1 appropriated for JVs leveraged more than \$35 in non-Federal partner funds. ABC respectfully requests that JVs be funded at \$15 million for fiscal year 2013.

ABC strongly believes increased funding for NMBCA and JVs is essential to achieving conservation goals critical to our environment and economy. Just as importantly, these Federal programs are good values for taxpayers, leveraging more than \$4 and \$30, respectively, in partner contributions for each one that the taxpayers spend.

*North American Wetlands Conservation Act*

The North American Wetlands Conservation Act (NAWCA) has helped conserve wetlands in North America for more than 20 years by providing funding for conservation projects that benefit wetland-associated migratory birds in all 50 States, Canada, and Mexico. NAWCA has a proven track record of success. The program has received more than \$1.1 billion in grants for 2,067 projects that have leveraged approximately \$3.2 billion in matching funds affecting 26.7 million acres. More than 4,500 partners have fostered public and private sector cooperation for migratory bird

conservation, flood control, erosion control, and water quality. For every \$1 invested in the program, an average of \$3.20 is raised to match the Federal share by non-Federal entities.

As an organization that works with migratory birds, which by definition cross international borders during their migration patterns, we know that protection and restoration of wetland and upland habitat must occur across the continent if the goal is to protect the species. As a result ABC respectfully requests that NAWCA be funded at \$39.5 million for fiscal year 2013.

America faces a serious challenge to reverse the decline of many of our bird species, but it is possible. Since birds are sensitive indicators of how we are protecting our environment as a whole, this decline signals a crisis that the Congress must act now to reverse it. If these reports tell us anything, it is that when we apply ourselves by investing in conservation, we can save imperiled wildlife, protect habitats, and solve the multiple threats at the root of this problem.

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PREPARED STATEMENT OF THE AMERICAN BIRD CONSERVANCY; AMERICAN FOREST & PAPER ASSOCIATION; ASSOCIATION OF FISH & WILDLIFE AGENCIES; AUDUBON; BAT CONSERVATION INTERNATIONAL; ENVIRONMENTAL INVESTIGATION AGENCY; FULLER PARK COMMUNITY DEVELOPMENT CORPORATION; HARDWOOD FEDERATION; KLAMATH BIRD OBSERVATORY; THE NATURE CONSERVANCY; NORTH AMERICAN BANDING COUNCIL; POINT REYES BIRD OBSERVATORY; SIERRA CLUB; UNION OF CONCERNED SCIENTISTS; UNITED STEELWORKERS; THE UNIVERSITY OF MONTANA; WILDLIFE CONSERVATION SOCIETY; WILD SALMON CENTER; WORLD WILDLIFE FUND; AND THE XERCES SOCIETY FOR INVERTEBRATE CONSERVATION

The undersigned groups, representing a diverse coalition of timber and labor industry, conservation groups and academic institutions, thank Chairman Reed, Ranking Member Murkowski, and subcommittee members for their continued support for the U.S. Forest Service (USFS) Office of International Programs. The following testimony recognizes the valuable investments made by USFS in promoting U.S. leadership in international conservation and helping American interests, business and ecological, to remain protected from being undercut by illegal logging activities.

While we understand the subcommittee's responsibility in finding the appropriate balance between conservation and navigating a difficult fiscal climate, it is important to note that the U.S. Forest Service International Programs (FSIP) provides tremendous economic value to the American public. Industry and congressional reports estimate that U.S. roundwood, sawnwood, and panel exports could increase by approximately \$460 million each year if illegal logging was eliminated. FSIP works on behalf of the American people to level the playing field for the United States in international timber trade while protecting the United States from invasive species and recovering declining U.S. migratory species.

We respectfully request the subcommittee support FSIP by maintaining fiscal year 2012 funding level for fiscal year 2013 at \$8 million. This would not only ensure the investments undertaken in fiscal year 2012 are maintained, but, more importantly, will ensure that FSIP remains an integral part of the U.S. forest policy and practice.

*Reducing Illegal Logging and Leveling the Playing Field for International Timber Trade*

One of most important contributions FSIP makes to the American economy is to level the playing field in international trade for U.S. timber producers. Illegal logging is a complex and multifaceted issue, affecting international trade, the long-term viability of forest ecosystems, land tenure, rural poverty, and governance. For the United States, it has detrimental impacts on the U.S. forest products industry and disrupts market access, resulting in huge losses in potential revenue for American producers.

To combat illegal logging, FSIP dedicates roughly one-quarter of its budget toward a variety of measures to prevent illegal logging from many different angles:

- by developing cutting-edge technologies that assist in determining wood type and origin;
- by organizing regional workshops overseas to exchange and transfer knowledge;
- by supporting numerous global platforms and domestic policymaking (such as the Lacey Act); and
- by building global awareness of legality requirements and technology.

Moreover, with its breadth of expertise in forest management, FSIP is coordinating and implementing on-the-ground activities in several countries to monitor

and manage forest ecosystems, support enforcement work and build strong bilateral programs in regions with serious illegal logging challenges, such as Peru, Brazil, Russia, and the Congo Basin. Some highlights include:

*Hand-Held Wood Identification Device and Wood Identification Database.*—With support from FSIP and the U.S. Department of State, USFS scientists are developing a hand-held wood identification device that port inspectors could use to quickly determine whether timber shipments match species declarations. The device also functions on smart phones equipped with cameras. The application will allow the inspector to scan the wood shipment and compare the image to those in libraries of wood identification data.

*Innovations in DNA Testing.*—Funded by FSIP, USFS is working with New Mexico State University to support innovation in DNA testing of wood samples. This will ultimately ensure that declarations citing origin of wood species are accurate, improving the abilities of U.S. enforcement agents to determine legality under the Lacey Act and/or under the Convention on the International Trade of Endangered Species of Flora and Fauna (CITES).

*Other Technologies and Education.*—USFS is also working on a range of other wood science and technological efforts overseas to enhance data management, timber tracking, and field identification manuals as well as conducting field personnel training on forest monitoring.

*Targeted Bilateral Assistance.*—The FSIP's Peru Forest Sector Initiative (PFSI) assists the Government of Peru in complying with the obligations of the U.S.-Peru Trade Promotion Agreement in partnership with the U.S. Agency for International Development. The collaboration focuses on the development of an information and control system for chain of custody for CITES-listed species, support for population studies for mahogany and cedar, design of forest inventories, specialized expertise in yield determination and methodology, development of skill in forest and wildlife management including community and indigenous forest management; organizational design and training to regional governments; anti-corruption plans for the forest sector; environmental investigation; and environmental prosecution training.

#### *Protecting the United States from Invasive Species*

Invasive forest pests inflict millions of dollars of damage to the U.S. economy every year. Researchers currently estimate there are at least 20 destructive forest pests likely to enter the United States in the coming decade. The threat of invasive species is often manipulated by countries and cited as a barrier to U.S. exports. Reducing the threat of invasive species will serve to boost the American economy while protecting domestic ecosystems. The USDA Forest Service identifies and uses bio-control agents for invasive forest pests as bio-control agents, which can be an effective and inexpensive method of suppressing devastating pests that wreak ecological and economic havoc on American forests. FSIP facilitates projects involving agency scientists and land managers with counterparts in those countries where the invasive species originate. Without international collaboration, pests already in the United States will not be controlled and there may be future introductions of economically damaging pests. Current international cooperation, to protect the U.S.'s forests occurs with many countries including China and Russia. FSIP has worked to address invasive species including Sudden Oak Death, Hemlock Woolly Adelgid, Mile-a-Minute Weed, Beech Bark Scale, European and Asian gypsy moths, and Emerald Ash Borer.

#### *Recovering Migratory Species in Decline by Conserving Habitat*

FSIP invests heavily in protecting overseas habitat for endangered species listed on the U.S. Endangered Species Act. Millions of dollars invested into domestic habitat conservation for these species is wasted if the wintering habitat is not also conserved. For example, wild Pacific salmon migrate from the rivers of the West Coast of North America and Eastern Russia to the Pacific Ocean. FSIP works in Eastern Russia with partner organizations to improve watershed management for wild salmon stocks. Also in Russia, FSIP has invested in the recovery of the Korean pine-deciduous forests relied upon by prey species such as wild boar and deer that has resulted in a steady recovery of the Siberian tiger over the past decade.

In conclusion, we appreciate the support of the Subcommittee and request maintaining fiscal year 2012 enacted levels of \$8 million for the U.S. Forest Service Office of International Programs in fiscal year 2013. Continued investment in international conservation will improve our economic security, while helping our domestic species to flourish and protecting our local ecological habitats from invasive species. It will also reaffirm our position as the preeminent conservation leader in the world.

PREPARED STATEMENT OF THE AMERICAN FISHERIES SOCIETY; ASSOCIATION OF FISH & WILDLIFE AGENCIES; ASSOCIATION OF ZOOS & AQUARIUMS; NATIONAL AUDUBON SOCIETY; TEDDY ROOSEVELT CONSERVATION PARTNERSHIP; THE NATURE CONSERVANCY; THE WILDLIFE SOCIETY; AND WILDLIFE MANAGEMENT INSTITUTE

Chairman Reed and Ranking Member Murkowski and members of the subcommittee, thank you for this opportunity to offer comments on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. On behalf of the 6,366 organizations and businesses representing millions of birders, hunters, anglers, boaters, hikers, conservation organizations and other outdoor enthusiasts, we encourage the subcommittee to provide at least \$61.32 million for the State and Tribal Wildlife Grants program in fiscal year 2013. This is unchanged from the level funding enacted last year and is the same as the administration's fiscal year 2013 request. We also request that the non-Federal match requirement remain at 35 percent and that the proportion allocated for tribal and State competitive grants remain at approximately 7 and 9 percent, respectively, the same as fiscal year 2012 enacted.

Although the need is much greater, level funding would help maintain essential capacity to conserve the more than 12,000 species that States have identified as at-risk in their State Wildlife Action Plans. The State and Tribal Wildlife Grants program is the only Federal program with the singular purpose of preventing Federal endangered species listings. It is achieving success as highlighted in the State Wildlife Grants Success Stories Report which showed how partnerships in every State are conserving vulnerable fish and wildlife, including many that are candidates for Federal endangered species listing.

Preventing new endangered species listings is a goal shared by conservationists, business, farmers, and ranchers and has broad bipartisan support. Through early and strategic action, we can be successful in preventing new endangered species listings and even recover species already on the list, such as the Lake Erie Water Snake, which was delisted in September 2011 because of State and Tribal Wildlife Grant investments. Adequate and consistent funding for the program is essential to fulfillment of the shared Federal-State responsibility for keeping our Nation's wildlife from becoming endangered. Now more than ever, we should be focusing limited resources on this kind of smart, effective investment in conservation.

The State and Tribal Wildlife Grants program has been cut by one-third since 2010. The reduction in funding is impacting States' and their partner's ability to restore habitat, protect land, incentivize private lands conservation, monitor species and habitats, and conduct research. Past cuts are slowing conservation work and further cuts may jeopardize the success of the program, leading to a higher probability for future endangered species listings. There is no other program that can take the place of the State and Tribal Wildlife Grants program.

State Wildlife Action Plans, which guide spending of State-apportioned funds, were developed collaboratively by leading scientists, conservationists, sportsmen, and private landowners and identified the most effective and practical means to prevent wildlife from becoming endangered. The Congress can demonstrate its commitment to these plans in every State and territory by providing the Federal share of support, leveraging millions in State and private matching funds. This investment in conservation helps support thousands of jobs and the \$730 billion outdoor recreation industry.

We ask the subcommittee to support the administration's request to maintain the required non-Federal match at 35 percent, the same level as fiscal year 2012 enacted. This level of match will help ensure program funds are efficiently put on the ground and will support those States still recovering from substantial budget cuts to their nongame programs the last several years. In addition, we ask the subcommittee to keep the proportion of funds for tribal and State competitive grants at roughly the same proportion, approximately 7 and 9 percent, respectively. Although we feel there is an appropriate role for competitive grants, particularly for regional and landscape projects, we don't feel growth in competitive grants should come at the expense of apportioned funding which is at or near its lowest level since inception of the program in 2000. Funding provided to States through apportionments is already accountable in the following ways:

- Funding dispersed through apportionments: are directed by State Wildlife Action Plans that were approved by the Director of the U.S. Fish and Wildlife Service (FWS);
- must be subsequently reviewed and approved as grants to FWS; and
- will adhere to an effectiveness measures framework that will be incorporated into FWS's new Wildlife TRACS reporting and tracking system beginning in October 2012.

We understand and appreciate the fiscal constraints that face our Nation. However, the State and Tribal Wildlife Grants program is modest compared to the scope of work it funds (proactive conservation in all 56 States, territories, and the District of Columbia) and the importance of that work (recovery of some of our Nation's most imperiled fish and wildlife). We appreciate the subcommittee's past support for the State and Tribal Wildlife Grants program and hope funding can be maintained in fiscal year 2013 at or more than the fiscal year 2012 level.

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PREPARED STATEMENT OF THE AMERICAN FOREST FOUNDATION

Investments in the U.S. Forest Service (USFS) Forest Stewardship Program and the USFS Forest Health Program on Cooperative Lands will help family forest owners get ahead of increasing threats from invasive pests and pathogens, wildfire, and development pressures. It is also critical that funding for USFS Forest Inventory and Analysis (FIA) Program and overall USFS research and development (R&D) is maintained, so these programs continue to provide the information and technical resources for landowners to make informed decisions about our forests. Investments in forestry programs will help strengthen rural communities, support rural jobs, and ensure that communities that rely on the clean water and air, wildlife habitat, and forest products from these forests, don't face additional costs for these services. Additionally, we urge continued support for the Environmental Protection Agency's (EPA) Office of Environmental Education, which invests in the future—our children—ensuring the next generation is well-prepared to manage our Nation's natural resources.

Family forest owners are facing a "perfect storm" of threats. Wildfires, invasive species and other insects and diseases, pressures from development, shrinking forest products markets, and ownership changes make it harder than ever to keep America's forests healthy and productive. It is therefore essential we ensure these families have tools, technical information, and policy support to keep their forests as forests, for current and future generations.

The American Forest Foundation (AFF) urges the subcommittee to maintain fiscal year 2012 funding for programs that support good forest stewardship on our Nation's 251 million acres of family owned forests and ensure the next generation is equipped to conserve and manage these forests—for the benefit of all Americans.

Given the tight budget climate, we understand tough decisions must be made. However, we urge you to consider maintaining funding for the previously mentioned programs as a high priority, given the impact these programs have on rural families and communities, forest conservation, and the future of our country's forest resources.

AFF is a nonprofit conservation organization that works on the ground through a variety of programs including the American Tree Farm System®, representing 83,000 tree farmers who sustainably manage more than 26 million acres under rigorous standards. Our mission is to help these families be good stewards and keep their forests healthy for future generations. Because we know that conserving our forests also means enabling the next generation to manage and care for them, AFF is also home to the largest environmental education program, Project Learning Tree® (PLT). Our network of coordinators in all 50 States helps train more than 30,000 teachers each year in peer-reviewed curricula, correlated to State standards. Since its inception, PLT has reached 75 million students, helping them learn how to think, not what to think, about complex environmental and natural resources issues.

Families and individuals steward more of America's forests than the Federal Government or corporations. Families and individuals own 35 percent of our Nation's forests.<sup>1</sup> These private forests provide myriad public benefits—clean air, clean water, recreation, renewable resources that build our homes and communities, and good-paying rural jobs. Family forest owners invest their own time, resources, and energy into keeping their forests healthy and ensuring their children and grandchildren have the same opportunities. Sometimes families can do this on their own, but in many cases, these families need help, both technically and financially. In addition to the private, consulting forester workforce, every State has a network of reliable and trusted service foresters that help family forest owners make good forest management decisions. These boots-on-the-ground make all the difference.

Take Steve and Janet Funk, for example. Steve and Janet are our 2011 National Outstanding Tree Farmers of the Year from Idaho. When the couple first purchased their Tree Farm in the early 1970s, it was in a state of total disrepair. The stream

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<sup>1</sup>USDA, May 2008, *Who Owns America's Forests?*

banks were heavily eroded and the forested hillsides were overstocked and severely neglected. Knowing he needed professional guidance, Steve looked toward his State forestry agency, the Idaho Department of Lands, and local extension programs. Steve proceeded to work with these professionals to complete his first Forest Stewardship management plan, with the goal of restoring water quality, wildlife habitat, and the health and productivity of his forest.

State service foresters were always available to help the Funks after a harvest, determine what species were best to plant, and determine the best management tactics for maximum productivity. Resources from the Forest Stewardship Program were instrumental in bringing the Funk's tree farm back to life.

With the proposed cuts to the Forest Stewardship Program, fewer family forest owners will have access to State service foresters who help millions of America's forest owners keep America's private forests healthy. These foresters provide valuable technical advice as well as help forest owners write management plans to guide the future management of their land. We simply cannot have healthy forests without foresters.

Steve and Janet Funk are just 2 forest landowners from a collection of more than 1,200 forest owners in 48 States who, in the last 4 weeks, signed a letter calling on the Congress to maintain support for the Forest Stewardship Program. These folks can't imagine how they would continue sustainably managing our Nation's forests without the assistance of our network of State foresters.

In addition to active landowners like the Funks, there is a large portion of family forest owners, estimates suggest close to 95 percent, that aren't actively engaged in the management of their lands.<sup>2</sup> We know from the latest trends in forest health and wildfire, that leaving nature to take its course is no longer a viable option. We must find ways to engage these landowners in active management of their woodlands. The Forest Stewardship Program provides support for State agencies to reach these landowners and help them engage in management that will improve the health of their land.

Proper forest management is critical to ensuring the long-term sustainability of our Nation's forests. Every day forests across the country face threats from invasive pests and pathogens. Forests—58 million acres—are at risk of being overtaken by insects, disease, and other invasive species, threatening to change the existing structure of our forest ecosystems. The implications of this forest loss on our Nation's clean water supply, wildlife habitat, recreation, renewable energy supply, and rural communities would be devastating.

*Pulling Examples From Across the Country.*—Last year, the Asian-longhorned beetle, which threatens 15 tree species from maples to birches, was found, for the first time, in southern Ohio.<sup>3</sup> In California and Arizona, the goldspotted oak borer has already killed more than 80,000 live oak and black oak trees in less than 15 years.<sup>4</sup> And in Minnesota, forest owners are gearing up for what would be a devastating attack of thousand cankers disease on their black walnut trees. These are just a few in a long list of invasive threats our forest owners face.

Efforts such as the USFS Forest Health Program, help landowners better understand the threats they face and the management techniques which mitigate harm. In the case of the emerald ash borer, the Forest Health Program created an integrated program strategy, dedicated to reducing the adverse impacts of this pest on Northeastern area forests. Similar efforts for other threats are a main focus of these programs, ensuring our Nation's forest landowners are equipped with the best knowledge to make the most informed management decisions.

USFS's Forest Health Programs are critical tools in identifying, mitigating, and eliminating the impacts of invasive pests and pathogens. Without these programs, our Nation's forests, and the livelihoods that depend on them, would be left unprotected.

Both of these programs, the Forest Stewardship Program and the Forest Health Program, must be grounded in sound science and sound forest information. That's where USFS's FIA Program and EPA's R&D come in. These programs provide irreplaceable data about our forests, the health and conditions, and give landowners the tools to know how to manage the growing threats they face. The R&D function is not only essential for providing forest management research, it is also on the leading edge of providing new information about the use of wood products through life-

<sup>2</sup>Brett J. Butler. 2010. *Family Forest Owners of the United States, 2006: A Technical Document Supporting the Forest Service 2010 RPA Assessment.*

<sup>3</sup>USDA Agriculture Research Service. 2011. *Behavior and Biology of the Asian Longhorned Beetle.*

<sup>4</sup>Center for Invasive Species Research, University of California, Riverside. 2011. *The Goldspotted Oak Borer.*

cycle assessments. With more information about the environmental and economic benefits of using wood products, especially in the growing green building market, decisionmakers can make informed building material choices. And we believe as the science shows, wood is one of the top materials when it comes to reducing greenhouse gas emissions and storing carbon, reducing energy consumption and pollution, and creating jobs. With more decisionmakers choosing wood, family forest owners have more demand for their products which helps ensure they have the resources to reinvest in keeping their lands healthy. We urge the subcommittee to support the Forest Stewardship and Forest Health programs and we continue to call on USFS to invest in life-cycle assessment research in particular.

Steve, Janet, and our vast network of Tree Farmers also understand the importance of educating the next generation of Tree Farmers and natural resource managers. The Funks want to ensure that the next generation will take on the challenge of good stewardship and continue to conserve these lands. This is a growing concern, with 170 million acres of family forests expected to change hands in the next few decades as family forest owners increase in age.<sup>5</sup>

Steve and Janet, like so many tree farmers, do their part to educate local schoolchildren on the importance of proper forest management. In addition to hosting numerous school tours, every year, they coordinate with their State Project Learning Tree Coordinator to host more than 40 State teachers on their tree farm. These educators learn first-hand the many public benefits of healthy forests and the management necessary to protect these forest goods and services—information that then goes back to the classroom, reaching hundreds more schoolchildren.

Programs like EPA's Office of Environmental Education, authorized by the National Environmental Education Act, or USFS's Conservation Education Program, help support Project Learning Tree efforts and enable more Tree Farmers, like Steve and Janet, to reach even more kids. Without these program resources, fewer kids would understand the important connection of our country's well-being to the natural world. Educating the next generation is key to conserving and maintaining healthy forests for the long-run, and these education programs make it happen.

To conclude, AFF recognizes the subcommittee must find areas to reduce spending. We simply ask the subcommittee to consider the impact these reductions may have on the country's more than 10 million family forest owners and every American who benefits daily from the benefits of well-managed, working forests. We urge the subcommittee to work to maintain funding levels for the USFS's Forest Stewardship Program, Forest Health Cooperative Lands Program, Forest Inventory and Analysis Program, Research and Development Program, Conservation Education Initiative, and EPA's Office of Environmental Education.

I thank the subcommittee for giving me the opportunity to provide some insight on these programs and appreciate consideration of my testimony. I am more than happy to answer any questions on these programs and our Tree Farm network.

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#### PREPARED STATEMENT OF THE AMERICAN GEOSCIENCES INSTITUTE

Thank you for this opportunity to provide the American Geosciences Institute's (AGI) perspective on fiscal year 2013 appropriations for geoscience programs within the subcommittee's jurisdiction. AGI is a nonprofit federation of 50 geoscientific and professional associations that represents more than 250,000 geologists, geophysicists, and other Earth scientists who work in industry, academia, and government. Founded in 1948, AGI provides information services to geoscientists, serves as a voice of shared interests in our profession, plays a major role in strengthening geoscience education, and strives to increase public awareness of the vital role the geosciences play in society's use of resources, resilience to natural hazards, and the health of the environment. We ask the subcommittee to support and sustain the critical geoscience work in the United States Geological Survey (USGS), the National Park Service (NPS), and the Smithsonian Institution. Specifically we ask for \$1.2 billion for USGS, \$333 million for NPS's Resource Stewardship Program, and \$857 million for the Smithsonian Institution.

As the U.S. economy improves, the Nation must continue to focus on intersecting needs for energy resources, water resources, mineral resources, soil resources, and healthy ecosystems. To speed up the recovery of our economy and workforce, we need to sustain and efficiently use our natural resources and cost-effectively improve our quality of life and the quality of the environment, while reducing risks from natural hazards. USGS is the Nation's only natural resource science agency that can

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<sup>5</sup> Brett J. Butler. 2010. *Family Forest Owners of the United States, 2006: A Technical Document Supporting the Forest Service 2010 RPA Assessment*.

provide the objective data, observations, analyses, assessments, and scientific solutions to these intersecting critical needs.

*U.S. Geological Survey*

Virtually every American citizen and every Federal, State, and local agency benefits either directly or indirectly from USGS products and services. A wide variety of industries rely on USGS for assessments and data to reduce their costs and risks and to help them develop their own products and services. As was made clear by the National Research Council report "Future Roles and Opportunities for the U.S. Geological Survey", the USGS's value to the Nation goes well beyond the Department of the Interior's stewardship mission for public lands.

USGS addresses a wide range of important problems facing the Nation:

- natural hazards;
- environmental change;
- water resources;
- waste disposal; and
- energy and mineral resources.

AGI in "Critical Needs for the Twenty First Century: The Role of the Geosciences" lists seven critical and policy actions to help the Nation meet these needs through the geosciences, including the USGS (available online at [www.agiweb.org/gap/criticalneeds/index.html](http://www.agiweb.org/gap/criticalneeds/index.html)). With a burgeoning human population, rising demand for natural resources and the rising costs of natural hazards, it is critical to more fully integrate USGS data and understanding into actions for a sustainable world. USGS plays a prominent role in meeting national needs, while growing the economy, building a skilled workforce and ensuring a natural resource-literate public.

AGI strongly supports smart growth of about \$98 million compared to the USGS fiscal year 2013 request for a total budget of \$1.2 billion. Please avoid proposed cuts of \$48 million and distribute an additional \$50 million for energy, minerals, water, hazards, geospatial analyses, mapping, and data preservation. Enhancing infrastructure, observations, data, and understanding builds the workforce inside and outside of USGS and spurs economic growth through wise resource management.

*Mineral Resources Program.*—The value of domestically processed mineral materials was about \$633 billion in 2011. The USGS Mineral Resources Program (MRP) is the only entity, public or private, that provides an analysis and assessment of the raw materials and processed minerals accessible from domestic and global markets. This highly regarded research program is the Nation's premier credible source for regional, national, and global mineral resource and mineral environmental assessments, statistics and research critical for sound economic, mineral-supply, land-use and environmental analysis, planning and decisionmaking. Not only does the program track global commodities, it prepares assessments such as the recent report on rare earth element deposits in the United States.

The data and analyses of the MRP are used by the Department of the Interior, Department of Defense, the Central Intelligence Agency, the Department of State, the Federal Reserve, other Federal, State and local government entities, foreign governments, private companies, and the general public. Analyses based on the MRP data are essential for guiding economic and environmental policy and for providing options for land-use decisions posed by industry, government, and private land owners. We urge the subcommittee to support the Mineral Resources Program at a level of \$54 million so that it may perform its core missions without a loss of critical information and jobs. This level is the same as the fiscal year 2010 and fiscal year 2005 levels and more than the fiscal year 2013 request of \$45 million.

Please avoid proposed cuts of \$5.25 million in Mineral Resources to research related to minerals and human health, research on rare earth elements, analysis, and assessments of resources in Alaska and in other countries, jobs associated with this work and external funding for States and universities.

AGI appreciates the consolidation of energy, minerals and environmental health, but we are concerned about two significant proposed cuts. Please avoid cuts of \$1 million to the Energy Resources Program's State Cooperative Project for assessments of coal and oil shale resources. Please avoid cuts of \$2 million to Toxic Substances Hydrology to reduce research on pharmaceuticals, pesticides, and other emerging contamination as well as environmentally robust approaches to uranium resource extraction and shale gas development.

*Water Program.*—AGI is concerned with the decreased funding in the President's request for USGS's Water Resources Programs. The USGS is the Nation's premier Federal water science agency and knowledge about water quality and quantity is necessary for economic growth and to avoid catastrophes. Going forward for fiscal year 2013, AGI supports efficient budgets to sustain many critical water programs including National Streamflow Information, Ground Water Monitoring Network, the



National Water Quality Assessment (NAWQA), Hydrologic Research and Development, Hydrologic Networks and Cooperative Water. We respectfully ask that water programs in the fiscal year 2013 request be restored to a total budget of \$231 million, by removing proposed cuts to the Cooperative Water program (–\$5 million in request), the Water Resources Research Act (–\$6.5 million), the National Water Quality Assessment Program (–\$6.5 million), and Hydrologic Networks and Analysis (–\$3.7 million).

Please avoid proposed cuts to the Cooperative Water program to eliminate research and monitoring of local to State level water quality and availability or cuts to Water Resources Research which eliminates research grants to 54 institutes at universities. Please avoid proposed cuts to the National Water Quality Assessment Program for reductions in monitoring sites, well water sampling, and laboratory methods development for pharmaceuticals, pesticides, antibiotics, and other emerging contaminants in water systems or to the Hydrologic Networks and Analysis which eliminates real time and archived water resources data for all users.

*National Earthquake Hazards Reduction Program and Other Natural Hazards.*—A key role for the USGS is providing the research, monitoring, and assessment that are critically needed to better prepare for and respond to natural hazards. The tragic earthquake/tsunami in Japan and the Indian Ocean, the massive earthquakes in New Zealand, Chile, Haiti, Pakistan, and Wenchuan, and the local earthquake in Mineral, Virginia remind us of the need for preparation, education, mitigation, and rapid response to natural hazards. Several National Academies' reports and studies by other hazard experts have shown that mitigation and preparation reduces fatalities, injuries, and economic losses. With great forethought, the Earthquake Hazards Reduction Authorization Act of 2000 (Public Law 106–503) called for modernization of existing seismic networks and for the development of the Advanced National Seismic System (ANSS)—a nationwide network of shaking measurement systems focused on urban areas. ANSS can provide real-time earthquake information to emergency responders as well as building and ground shaking data for engineers and scientists seeking to understand earthquake processes and mitigate damage.

With 2,142 of 7,100 stations in operation at the end of fiscal year 2011, the ANSS is far from achieving its goals. Critical investments now will help to reduce earthquake risks; help to create jobs and grow the economy by improving and modernizing seismic networks and the built environment; help support external earthquake research and education efforts; and help to support other major earthquake science initiatives, such as the EarthScope Observatories run by NSF. A major component of EarthScope is a seismic network that is moving across the country and is appropriately complemented and connected to ANSS. Given all of these factors, now is really the time to increase investments in USGS–National Earthquake Hazards Reduction Program (NEHRP) through the Earthquake Hazards Program. AGI strongly supports reauthorization of NEHRP in 2012 (H.R. 3479/S. 646), the passage of the Volcano Warning Act (S. 566) and appropriations to meet the goals of both measures in fiscal year 2013. AGI strongly supports robust appropriations of at least the request for the Earthquake Hazards Program (\$58.9 million), the Volcano Hazards Program (\$25 million) and Landslide Hazards Program (\$3.9 million).

*National Cooperative Geologic Mapping Program.*—AGI is very grateful to the Congress for passing the re-authorization of the National Cooperative Geologic Mapping Program (NCGMP) in the 2009 public lands omnibus (Public Law 111–11, section 11001). This important partnership between the USGS, State geological surveys, and universities provides the Nation with fundamental data for addressing natural hazard mitigation, water resource management, environmental remediation, land-use planning, and raw material resource development. AGI supports a modest increase of \$1.5 million for the NCGMP for a total of \$29.5 million in fiscal year 2013. This additional support would restore the Federal and State Partnerships to almost fiscal year 2010 levels; still far less than authorized levels of \$64 million.

*National Geological and Geophysical Data Preservation Program.*—The data preservation program (Public Law 109–58, section 351) is administered by USGS in partnership with State geological surveys and other stakeholders. Private and public entities collect geologic and geophysical data in the form of paper records, digital files, and physical samples. Often these data and samples are given to State geological surveys either voluntarily or because of regulatory statutes. These data are worth far more than the cost of preserving them because they provide information about natural resources and natural hazards that are used by others for business or safety. The program generates more value in terms of economic development, environmental stewardship, hazard mitigation, and fulfilling regulatory requirements than it costs to run.

The President's budget request for fiscal year 2013 places the National Geological and Geophysical Data Preservation and the Biological Information Management and

Delivery Program within a single subactivity called science synthesis, analysis, and research. AGI supports an appropriation of \$1 million, the same as the fiscal year 2010 amount to sustain the program.

*Smithsonian Institution*

The Smithsonian's National Museum of Natural History plays a dual role in communicating the excitement of the geosciences and enhancing knowledge through research and preservation of geoscience collections. AGI asks the subcommittee to support Smithsonian research with steady funds that are a tiny fraction of the overall budget, but will dramatically improve the facilities and their benefit to the country. We strongly support the President's request of \$856.8 million for the Smithsonian Institution in fiscal year 2013.

*National Park Service*

The national parks are very important to the geoscience community and the public as unique national treasures that showcase the geologic splendor of our country and offer unparalleled opportunities for research, education, and outdoor activities. NPS's Geologic Resources Division was established in 1995 to provide park managers with geologic expertise. Working in conjunction with USGS and other partners, the division helps ensure that geoscientists are becoming part of an integrated approach to science-based resource management in parks. AGI supports the President's small increase (\$333 million for NPS Resource Stewardship for fiscal year 2013) so the NPS can adequately address the treasured geologic resources in the National Parks, especially as the National Parks approach their 100th anniversary.

Thank you for the opportunity to present this testimony to the subcommittee.

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PREPARED STATEMENT OF THE AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM

REQUEST SUMMARY

On behalf of the Nation's Tribal Colleges and Universities (TCUs), which compose the American Indian Higher Education Consortium (AIHEC), thank you for this opportunity to present our fiscal year 2013 appropriations recommendations for the 29 colleges funded under the Tribally Controlled Colleges and Universities Assistance Act (Tribal College Act); the Bureau of Indian Education postsecondary institutions; and the Institute of American Indian Arts. The Bureau of Indian Education administers these programs, save for the Institute of American Indian Arts, which is congressionally chartered and funded directly through the Department.

In fiscal year 2013, TCUs seek \$82,872,000 for institutional operations, an endowment program, and technical assistance grants under the Tribally Controlled Colleges and Universities Assistance Act of 1978 or Tribal College Act; of which, \$73.5 million for titles I and II grants (27 TCUs); \$109,000 for title III (endowment grants), and \$601,000 for technical assistance. In fiscal year 2011, the clear intent of the Congress was to level fund the institutional operating grants for the TCUs funded under titles I and II of the Tribal College Act, having appropriated the same funding level for the overall pot of funds available to support Tribal College Act programs. However, because of a spike in enrollments at the TCUs, the operations funding actually dropped by \$549 per Indian student. TCUs are being penalized for their successful efforts to recruit and retain students. Our fiscal year 2013 request restores the funding for institutional operating grants to the fiscal year 2010 level based on the per Indian student allocation.

AIHEC's membership also includes tribally controlled postsecondary career and technical institutions whose institutional operations funding is authorized under title V of the act; AIHEC supports their request for \$9.372 million. There are three other TCUs funded under separate authorities within Interior, Environment, and Related Agencies appropriations, namely:

- Haskell Indian Nations University;
- Southwestern Indian Polytechnic Institute; and
- the Institute of American Indian Arts.

AIHEC supports their independent requests for support of the institutional operating budgets of these institutions.

NEED FOR CHANGE IN FUNDING STRATEGY

Today there are 37 TCUs operating on 75 campuses in 15 States. These institutions, accredited by independent, regional accreditation agencies and like all institutions of higher education, must undergo stringent performance reviews on a periodic basis to retain their accreditation status, were begun specifically to serve the higher education needs of American Indians. Annually, these institutions serve students

from more than 250 federally recognized tribes, more than 75 percent of whom are eligible to receive Federal financial aid.

A process should be articulated, beginning in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill, to compare and fund TCUs annually on a “per Indian student” basis, as authorized under the Tribally Controlled Colleges and Universities Assistance Act, rather than a lump sum. The current funding strategy fails to take into account annual growth in TCU student populations, so what might look like “level” funding year to year actually translates into annual funding decreases. TCU student enrollments are growing as TCUs work to help meet national education (completion) and accountability (retention) goals, but the overall funding pot is remaining nearly stagnant. In fiscal year 2011 alone, TCUs grew by more than 1,660 full-time Indian students. This growth, encouraged by the Federal Government, resulted in a loss of funding of \$549/full-time Indian student, or \$9.2 million, in just 1 year, compared to the TCUs’ fiscal year 2010 funding level.

The Congress put the student-based funding formula in law to help reflect the realities of operating small and geographically remote higher education institutions engaged in strengthening tribal communities and growing American Indians in post-secondary education. But over the years, appropriations have focused on the overall dollar amount, with no attention to how that impacts a TCU’s actual operating budget when allocated per student. It is imperative that a student-focused formula be employed when determining funding priorities.

This is not simply a matter of appropriations fluctuating greatly and continually falling short of an authorization; it effectively impedes our institutions from having the necessary resources to grow their programs in response to the changing needs of their students and the communities they serve. Ultimately, the TCUs need to be fully funded at the authorized level of \$8,000 per Indian student. To illustrate the reasonableness of this request, Howard University (HU), located in the District of Columbia, is the only other minority-serving institution, besides the TCUs, to receive basic institutional operations funding from the Federal Government. The similarity ends there as HU’s Federal support (exclusive of its medical school) amounts to more than \$19,000 per student. In contrast, the majority of the TCUs currently receives \$5,235 per Indian student, with no Federal funding toward basic operations for the non-Indian students, which account for approximately 20 percent of TCU enrollments. HU needs this funding—no question. So do TCUs.

#### FURTHER JUSTIFICATIONS

*Tribal Colleges and Universities Provide Critical Access to Vital Postsecondary Education Opportunities.*—Tribal Colleges and Universities provide access to higher education for American Indians and others living in some of the Nation’s most rural and economically depressed areas. According to U.S. Census data,<sup>1</sup> the annual per capita income of the U.S. population is \$26,059. By contrast, the annual per capita income of American Indians is \$15,671 or about 40 percent less. In addition to serving their student populations, TCUs offer a variety of much needed community outreach programs.

*Tribal Colleges and Universities Are Producing a New Generation of Highly Trained American Indian Teachers, Tribal Government Leaders, Nurses, Engineers, Computer Programmers, and Other Much-Needed Professionals.*—By teaching the job skills most in demand on their reservations, TCUs are laying a solid foundation for tribal economic growth, with benefits for surrounding communities. In contrast to the high rates of unemployment on reservations, graduates of TCUs are employed in “high need” occupational areas such as Head Start teachers, elementary and secondary school teachers, and nurses/healthcare providers. Just as important, the vast majority of tribal college graduates remain in their tribal communities, applying their newly acquired skills and knowledge where they are most needed.

*Tribal Colleges and Universities Meet the Strict Standards of Mainstream Accreditation Boards Offering Top-Quality Academic Programs; Contributing to the Achievement of the National Graduation Goal, and Serving as Effective Bridges to 4-Year Institutions of Higher Learning.*—A growing number of TCUs have attained a 10-year accreditation term, the longest term granted to any higher education institution. All TCUs offer associate degrees with 13 offering bachelor’s and 2 conferring master’s degrees, making TCUs a critical component in achieving the national goal to once again lead the world in the percentage of the population with college degrees by 2020. Additionally, TCUs’ transfer function from 2-year to 4-year degree institutions is significant. An independent survey of TCU graduates conducted for the

<sup>1</sup>SOURCE.—U.S. Census Bureau, 2010 American Community Survey.

American Indian College Fund indicated that more than 80 percent of respondents who attended a mainstream college prior to enrolling at a TCU did not finish the degree they were pursuing at the mainstream college. The rate of completion markedly improved for those who attended a TCU prior to beginning a degree program at a mainstream institution. After completing tribal college coursework, less than one-half of respondents dropped out of mainstream colleges, and nearly 40 percent went on to earn a bachelor's degree. This clearly illustrates TCUs' positive impact on the persistence of American Indian students in pursuit of baccalaureate degrees. The overwhelming majority of respondents felt that their TCU experience had prepared them well for further education and noted that it had a very positive influence on their personal and professional achievements.

#### ADDITIONAL FACTS

*Enrollment Gains and New Tribal Colleges and Universities.*—Compounding existing funding disparities is the fact that although the numbers of TCUs and students enrolled in them have dramatically increased since 1981, appropriations have increased at a disproportionately low rate. Since they were first funded, the number of tribal colleges has quadrupled and continues to grow; Indian student enrollments have risen more than 370 percent. Between fiscal year 2005 and fiscal year 2012, five additional TCUs have become accredited and eligible for funding under title I of the Tribal College Act. TCUs are in many ways victims of their own successes. The growing number of tribally chartered colleges and universities being established and increasing enrollments have forced TCUs to slice an already inadequate annual funding pie into even smaller pieces.

*Local Tax and Revenue Bases.*—TCUs cannot rely on a local tax base for revenue. Although tribes have the sovereign authority to tax, high reservation poverty rates, the trust status of reservation lands, and the lack of strong reservation economies hinder the creation of a reservation tax base. As noted earlier, on Indian reservations that are home to TCUs, the unemployment rate can well exceed 60 percent.

*Federal Trust Responsibility.*—The emergence of TCUs is a direct result of the special relationship between American Indian tribes and the Federal Government. TCUs are founded and chartered by their respective American Indian tribes, which hold a special legal relationship with the Federal Government, actualized by more than 400 treaties, several Supreme Court decisions, prior congressional action, and the ceding of more than 1 billion acres of land to the Federal Government. Beyond the trust responsibility, the fact remains that TCUs are providing a public service that no other institutions of higher education are willing, or able, to provide by helping the Federal Government fulfill its responsibility to the American people, particularly in rural America. Despite the fact that only enrolled members of a federally recognized tribe or the biological child of a tribal member may be counted as Indian students when determining an institution's share of the operating funds, TCUs have open enrollment policies. Approximately 20 percent of TCU enrollments are non-Indians. These institutions are simply and effectively providing access to quality higher education opportunities to reservation community residents.

*Gaming and the Tribal Colleges and Universities.*—Although several of the reservations served by TCUs do have gaming operations, these are not the mega casinos located in proximity to urban outlets and featured in the mainstream media. Only a handful of TCUs receive regular income from the chartering tribe's gaming revenue, and the amounts received vary greatly from year to year. Most reservation casinos are small businesses and use the gaming revenue to improve the local standard of living and potentially diversify into other, more sustainable areas of economic development. In the interim, where relevant, local TCUs offer courses in casino management and hospitality services to formally train tribal members to work in the local tribally run casinos.

Although some form of gaming is legalized in 48 States, the Federal Government has not used the revenues generated from State gaming as a justification to decrease Federal funding to public colleges or universities that are State-run.

It has been implied that those tribes that operate the few enormously successful and widely publicized casinos should be financing higher education for all American Indians. However, no State is expected to share its gaming revenue with a non-gaming State.

#### PRESIDENT'S BUDGET AND APPROPRIATIONS REQUEST FOR FISCAL YEAR 2012

As noted earlier, it has been three decades since the Tribal College Act was first funded, and the TCUs have yet to receive the congressionally authorized per Indian student funding level. To fully fund the TCUs institutional operating grants would require an increase of \$27 million more than the current funding level. However,

we do recognize the budget constraints the Nation is currently facing and consequently, we are not requesting that level of increase in fiscal year 2013, but rather seek to restore funding to the fiscal year 2010 level of \$5,784 per Indian student, which calls for an increase of \$ \$6.1 million more than fiscal year 2012 and \$3.7 million more than the President's fiscal year 2013 budget request. Additionally, we seek to maintain level funding for the technical assistance grants, as included in the President's fiscal year 2013 budget request. Details of the request are outlined in the Request Summary above.

#### CONCLUSION

TCUs provide quality higher education to many thousands of American Indians who might otherwise not have access to such opportunities. The modest Federal investment that has been made in TCUs has paid great dividends in terms of employment, education, and economic development. Continuation of this investment makes sound moral and fiscal sense.

We greatly appreciate your past and continued support of the Nation's TCUs and your serious consideration of our fiscal year 2013 appropriations requests.

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#### PREPARED STATEMENT OF THE AMERICAN INSTITUTE OF BIOLOGICAL SCIENCES

The American Institute of Biological Sciences (AIBS) appreciates the opportunity to provide testimony in support of appropriations for the United States Geological Survey (USGS), United States Forest Service (USFS), and Environmental Protection Agency (EPA) for fiscal year 2013. AIBS encourages the Congress to provide the USGS with at least \$1.2 billion in fiscal year 2013, with at least \$177.9 million for the Ecosystems activity. We further request that the Congress provide the USFS Forest and Rangeland Research program with at least \$295.3 million, and EPA's Office of Research and Development with at least \$600 million.

AIBS is a nonprofit scientific association dedicated to advancing biological research and education for the welfare of society. AIBS works to ensure that the public, legislators, funders, and the community of biologists have access to and use information that will guide them in making informed decisions about matters that require biological knowledge. Founded in 1947 as a part of the National Academy of Sciences, AIBS became an independent, member-governed organization in the 1950s. Today, AIBS has nearly 160-member organizations and is headquartered in Reston, Virginia, with a Public Policy Office in Washington, DC.

#### U.S. GEOLOGICAL SURVEY

USGS provides unbiased, independent research, data, and assessments that are needed by public and private sector decisionmakers. Data generated by the USGS save taxpayers money by reducing economic losses from natural disasters, allowing more effective management of water and natural resources, and providing essential geospatial information that is needed for commercial activity and natural resource management. The data collected by the USGS are not available from other sources and our Nation cannot afford to sacrifice this information.

The ecosystems activity within USGS underpins the agency's other science mission areas by providing information needed for understanding the impacts of water use, energy exploration and production, and natural hazards on natural systems. The USGS conducts research on and monitoring of fish, wildlife, and vegetation—data that informs management decisions by other Interior bureaus regarding protected species and land use. USGS science is also used to control invasive species and wildlife diseases that can cause billions of dollars in economic losses. Collectively, the knowledge generated by these USGS programs is used by Federal and State natural resource managers to maintain healthy and diverse ecosystems while balancing the needs of public use.

Other examples of successful USGS ecosystem initiatives include:

- Development of comprehensive geospatial data products that characterize the risk of wildfires on all lands in the United States. These products are used to allocate firefighting resources and to plan fuel reduction projects.
- Identification of white-nose syndrome, a fungus that is devastating U.S. bat populations and could jeopardize the multi-billion dollar pest control services provided by bats.
- Identification and evaluation of control measures for Asian carp, sea lamprey, Burmese pythons, and other invasive species.
- Study of the impacts of solar energy and other next generation energy sources on wildlife and endangered species.

Through the Cooperative Research Units, the USGS and their partners address pressing issues facing natural resource managers at the local, State, and Federal levels. Examples of recent research initiatives include studying the effects of the Gulf of Mexico oil spill on wildlife and fisheries, and improving management of elk and waterfowl. In addition to providing research expertise, these partnerships at 40 universities in 38 States serve as important training centers for America's next generation of scientists and resource managers. More than 500 graduate students each year receive training by USGS scientists at Cooperative Research Units. The program is also an efficient use of resources: each Federal dollar invested in the program is leveraged more than three-fold.

The National Streamflow Information Program within the Water Resources mission area provides needed information for resource managers and scientists. Its national network of streamgages records changes in streamflow due to alterations in precipitation, land use, and water use. This information is vital to State and local governments, utilities, and resource managers who make decisions about water use.

The requested fiscal year 2013 budget would support several science priorities. The proposed budget would enable the USGS to develop methodologies to better prevent, detect, and control Asian carp and other invasive species. USGS would also be able to provide enhanced surveillance and diagnostic tools, and to develop management tools for white-nose syndrome and other ecologically and economically costly wildlife diseases. Additionally, USGS would be able to study and better inform decisions about new energy sources. Importantly, the proposed budget would increase support for USGS research on high-priority conservation and land-use issues faced by other Interior bureaus, which lack intramural scientific resources to study these issues.

Although the proposed budget supports many USGS priorities, the requested funding level would result in cuts to other programs that support agency core missions. For instance, USGS would have to diminish efforts to assess the Nation's water quality and reduce studies on the impacts of environmental contaminants. Given the agency's critical role in informing the environmental and economic health of the Nation, more support is justified. We urge the Congress to fully fund the USGS by restoring administration-proposed reductions to core science programs and operations costs while maintaining the proposed increases for other areas.

In summary, the USGS is uniquely positioned to provide a scientific context for many of the Nation's biological and environmental challenges, including water quality and use, energy independence, and conservation of biological diversity. Biological science programs within the USGS gather long-term data not available from other sources. These data have contributed fundamentally to our understanding of the status and dynamics of biological populations and have improved our understanding of how ecosystems function, all of which is necessary for predicting the impacts of land management practices and other human activities on the natural environment. This array of research expertise not only serves the core missions of the Department of the Interior, but also contributes to management decisions made by other agencies and private sector organizations. USGS science is also cost-effective, as the agency's activities help to identify the most effective management actions. In short, increased investments in these important research activities will yield dividends.

#### U.S. FOREST SERVICE

USFS research provides scientific information and new technologies to support sustainable management of the Nation's forests and rangelands. These products and services increase the basic biological and physical knowledge of the composition, structure, and function of forest, rangeland, and aquatic ecosystems.

The fiscal year 2013 budget request would cut funding for the Forest and Rangeland Research by \$2.5 million. If enacted, the budget would reduce the USFS's capacity to conduct research relevant to wildfires, control of invasive species, and management of wildlife and fish. Given the importance of this scientific work to the management of public and private lands, we urge the Congress to fund the program at the fiscal year 2012 enacted level.

#### ENVIRONMENTAL PROTECTION AGENCY

The Office of Research and Development (ORD) supports valuable extramural and intramural research that is used to identify and mitigate environmental problems facing our Nation. ORD research informs decisions made by public health and safety managers, natural resource managers, businesses, and other stakeholders concerned about air and water pollution, human health, and land management and restoration. In short, ORD provides the scientific basis upon which EPA monitoring and enforcement programs are built.

Despite the important role played by ORD, its funding has declined by 11 percent since fiscal year 2004, when it peaked at \$646.5 million. At \$575.6 million, the budget request for fiscal year 2013 falls far short of addressing past and current shortfalls. We ask that the Congress restore funding for ORD to at least the fiscal year 2010 level.

The Ecosystem Services Research program within ORD is responsible for enhancing, protecting, and restoring ecosystem services, such as clean air and water, rich soil for crop production, pollination, and flood control. The program has been chronically underfunded, according to the EPA Science Advisory Board (SAB). Indeed, the current level of funding “provides inadequate funding for research that supports multiple EPA regulatory programs and that the SAB has characterized as transdisciplinary with the ‘potential to be transformative for environmental decisionmaking’ . . .” according to an SAB analysis of the fiscal year 2012 budget request. The fiscal year 2013 request fails to correct this problem, instead proposing a reduction of \$600,000. Moreover, funding for EPA ecosystem research has been cut nearly in half since 2004. We ask that the Congress address the chronic underfunding of the program.

The Science to Achieve Results (STAR) program supports valuable research on human health and the environment through competitively awarded research grants. The program enables EPA to fill information gaps that are not addressed by intramural EPA research programs or by other agencies. A report by the National Academy of Sciences found that the “STAR program is an important part of the overall EPA research program.” That same report recommends that funding for the STAR program should be at 15 to 20 percent of the overall ORD budget, “even in budget-constrained times.” Despite a proposed increase for the program, the fiscal year 2013 request would fund STAR at less than 15 percent of the overall ORD budget. We urge the Congress to fund STAR at the recommended level.

The STAR Graduate Fellowship contributes to the training of the next generation of scientists by supporting graduate students pursuing an advanced degree in environmental science. The National Academy of Sciences called the fellowship “a valuable mechanism for enabling a continuing supply of graduate students in environmental sciences and engineering.” Since its inception in 1995, this successful program has supported the education and training of 1,500 fellows who have gone on to pursue careers as scientists and educators. The agency’s request would flat fund the program. Given the fellowship’s valuable role in preparing environmental scientists and engineers, we ask for the program’s funding to be increased accordingly.

ORD’s Safe and Sustainable Water Resources program supports research that underpins safe and sustainable water. In addition to helping to ensure safe drinking water for society, the program’s research focuses on better understanding resiliency of watersheds to stressors and factors that affect watershed restoration. The budget request would allow the program to pursue research that will inform decisions about water safety and to ensure the sustainability of our coastal watersheds and estuaries.

In conclusion, we urge the Congress to restore funding for the ORD to the fiscal year 2010 enacted level. These appropriation levels would allow ORD to address a backlog of research needs.

Thank you for your thoughtful consideration of this request.

PREPARED STATEMENT OF THE AMERICAN LUNG ASSOCIATION

SUMMARY: FUNDING RECOMMENDATIONS

[In millions of dollars]

	Amount
U.S. Environmental Protection Agency:	
Improving Air Quality and Addressing Climate Change:	
Federal Stationary Source Regulation .....	34.1
Federal Support of Air Quality Management .....	134.8
Climate Protection Programs .....	108.0
Clean Air Allowance Trading Program .....	20.8
State and Local Air Quality Management Grants .....	301.5
Diesel Emission Reduction Act Grants .....	30.0
Federal Vehicle and Fuels Certification .....	101.9
State Indoor Radon Grants .....	8.0
Indoor Air: including Radon Program .....	4.1
Research: Air, Climate, and Energy .....	105.8

## SUMMARY: FUNDING RECOMMENDATIONS—Continued

[In millions of dollars]

	Amount
Enforcement .....	15.8

The American Lung Association is pleased to support the Environmental Protection Agency's (EPA) program to improve the nation's air during fiscal year 2013. The American Lung Association was founded in 1904 to fight tuberculosis and today, our mission is to save lives by improving lung health and preventing lung disease. We urge the subcommittee to support ensuring that the U.S. Environmental Protection Agency has the necessary resources to protect the public health from air pollution, and we urge the subcommittee to pass an fiscal year 2013 bill free from any policy riders.

Protecting the public from the health threats of pollution is a core mission of the EPA, and it has a long history of success. Furthermore, the public expects EPA to implement the Clean Air Act and strongly supports EPA's effort to reduce air pollution. In March, we released a bipartisan public opinion poll that shows strong public support the EPA's efforts to update clean air protections. Nearly three-quarters (73 percent) of voters say that we do not have to choose between air quality and a strong economy—we can achieve both. And a 2-to-1 majority (60 to 31 percent) believes that strengthening safeguards against pollution will create, not destroy, jobs by encouraging innovation.

Implementing the Clean Air Act to protect health and save lives is a tremendous responsibility and the EPA workload is vast. In fiscal year 2013, we expect EPA to update health-based air quality standards; implement rules to clean up toxic pollution from major sources such as power plants; clean up toxic pollution from automobile tailpipes; aggressively enforce the law to ensure compliance and protect the public; support State and local air pollution cleanup; continue research on the health impacts of air pollution; improve air pollution monitoring; and ensure that the Clean Air Act is implemented in a way that protects the most vulnerable. As a Nation, we need EPA to be able to do all of these things. Below, we have highlighted key provisions of the President's fiscal year 2013 budget that deserve your attention and/or support.

## IMPROVING AIR QUALITY AND ADDRESSING CLIMATE CHANGE

We support the President's budget increases to improve air quality and address climate change. Specifically, we support EPA's request for the Federal Stationary Source Regulation budget increase of \$6.8 million, including an additional \$2.4 million to fund the review of existing Clean Air Act standards for criteria pollutants including ozone and particulate matter to ensure that the air pollution health standards effectively convey to local communities when the air is unhealthy to breathe, as required by law; as well as the requested \$2 million for the development of new source performance standards to reduce greenhouse gases. As EPA advances clean air protections, more coordination will be needed and we urge you to provide the resources to do so as requested.

We also support EPA's request for an additional \$8.5 million for Climate Protection Programs, including \$2.9 million for the Greenhouse Gas Reporting Program, and the \$2 million requested by EPA to develop Carbon Pollution Standards for Power Plants. Higher temperatures can enhance the conditions for ozone formation. Even with the steps that are in place to reduce ozone, evidence warns that changes in climate are likely to increase ozone levels in the future in large parts of the United States. It is clear that EPA is taking a careful and common sense approach to addressing climate change, including setting carbon pollution standards for power plants.

The American Lung Association supports the increase requested by EPA to provide Federal Support for Air Quality Management of \$11.9 million (including \$531,000 for science and technology needs) to assist States, tribal, and local air pollution agencies in the development and implementation of plans to meet standards established by EPA. People who live near major sources of pollution often face the greatest health risk. Through development of faster, electronic reporting, closing of data gaps, and continuing to develop the science necessary to reduce pollution to healthy levels, EPA supports States, tribes, and local agencies and directly benefits communities.

The Clean Air Allowance Trading Program is responsible for development, implementation, and assessment, and provides regulatory and modeling support for ef-



forts to address major regional and national air issues from stationary sources. Clean air allowance trading programs help implement the National Ambient Air Quality Standards (NAAQS) and reduce acid deposition, toxics deposition, and regional haze. Pollutants include sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and, as a co-benefit of SO<sub>2</sub> emission reductions, mercury. Please support a funding level of \$792,000 (including \$715,000 to meet science and technology needs) to implement this important program.

Finally, we urge the Congress to provide at least the requested \$101.9 million for the EPA Federal Vehicle Fuels Standards and Certifications Programs. It is critically important to increase the budget for EPA's Federal Vehicle Fuels Standards and Certifications Programs, particularly to improve the effectiveness of the certification and compliance testing programs in the face of increasing demand, more challenging oversight requirements, and the increasing diversity of technologies. Currently, EPA conducts very limited testing of small imported engines but a high fraction of these engines fail the test. Additional resources are needed to improve testing and compliance for this important program to protect public health.

We strongly support EPA's planned work to update gasoline sulfur and tailpipe standards. Light duty cars and trucks remain a significant source of air pollution. This work is vital to address any adverse air quality impacts that may result from increased use of renewable fuels.

#### INDOOR AIR AND RADIATION

Indoor air quality is a major concern for the American Lung Association, and we support the \$17.8 million budget request for the Reducing Risks from Indoor Air Program to promote comprehensive asthma care that integrates management of environmental asthma triggers and healthcare services through community based programs, and we appreciate EPA's special attention to communities most at risk including children, low-income and minority populations.

However, we strongly oppose the \$1.9 million cut to the Indoor Air Radon Program (including \$200,000 for science and technology needs) and the elimination of the \$8 million State radon categorical grants proposed in the President's budget. Exposure to radon continues to be a significant risk to human health, and is the largest cause of lung cancer after tobacco.<sup>1</sup> Without the guidance and funding support from EPA, State programs will simply not be able to protect the public from the threat of radon. Please fully restore these programs.

Please restore the Tools for Schools which has succeeded in improving environmental conditions and reducing asthma triggers in schools across the country. More schools need this help. Please fund this important program.

#### SUPPORT FOR STATE AND LOCAL AIR POLLUTION CONTROL

The American Lung Association strongly supports increased funding for State and local air pollution agencies, which are on the front lines in the effort to improve air quality across the Nation. These agencies will be called on to put in place the revised and new safeguards set under the Clean Air Act and must adopt and enforce a range of new emissions reduction programs—including the recently finalized Mercury and Air Toxics Standards for Power Plants that will save up to 11,000 lives per year when fully implemented. At this critical juncture, State and local air pollution agencies need more resources, not less, to ensure proper implementation of the Clean Air Act and protection of the public so we strongly support the requested additional \$65.8 million for State and Local Air Quality Management Grants.

However, we strongly oppose cuts in the President's budget to the widely supported Diesel Emission Reduction Act (DERA) program that was reauthorized in late 2010. Twenty million old diesel engines are in use today that pollute communities and threaten the public and workers. Immense opportunities remain to reduce diesel emissions and protect public health through the DERA program. Please restore funding to the \$30 million level.

As mentioned previously, we strongly oppose the elimination of the \$8 million State radon categorical grants as proposed in the President's budget. Without the financial support from EPA, the State programs will not be able to protect the public from the pervasive threat of radon.

<sup>1</sup>U.S. Environmental Protection Agency. *EPA's Assessment of Risks from Radon in Homes* (2003).

## RESEARCH: AIR, CLIMATE, AND ENERGY

The American Lung Association strongly supports EPA's Air, Climate and Energy Research Program. Research is essential to improve the understanding of the health effects of air pollution and determining what levels of pollution should be set to protect the public with an adequate margin of safety. Specifically, we urge the Congress to provide at least the additional \$15 million requested in the President's fiscal year 2013 budget for improved air quality monitoring. Improving the Nation's air pollution monitoring network is absolutely critical in providing better information to enhance Federal, State and local knowledge and empower efforts to protect the health of their communities. Continued investment in other areas of research, especially in climate change and biofuels, is also vital to informing future agency action.

## ENFORCEMENT

The American Lung Association supports EPA's request for enforcement funding to ensure that air pollution standards and requirements are being met to protect public health. In order to effectively protect the public and promote justice for disproportionately impacted populations, EPA must have the ability to enforce penalties for permit violations and respond to civil enforcement actions authorized by the Clean Air Act. We ask the Congress to fully fund EPA's enforcement program appropriation request of \$15.8 million, in the interests of the Nation's youngest, oldest, and most economically challenged citizens.

## CONCLUSION

For 40 years the Clean Air Act has charged EPA to protect the public from air pollution and fulfill the promise of air that is clean and healthy for all to breathe. We urge the subcommittee to ensure that EPA is meeting the required deadlines and updating standards to reflect the best science with the maximum health protection, and to pass and fiscal year 2013 bill free of any policy riders. Thank you for the opportunity to present the recommendations of the American Lung Association. Every day we are fighting for clean, healthy air for all Americans to breathe.

## PREPARED STATEMENT OF THE AMERICAN SOCIETY FOR MICROBIOLOGY

The American Society for Microbiology (ASM) is pleased to submit the following testimony on the fiscal year 2013 appropriation for science and technology (S&T) programs at the Environmental Protection Agency (EPA). The ASM is the largest single life science organization in the world with more than 38,000 members.

The administration's proposed fiscal year 2013 budget of \$807.3 million for EPA's S&T activities is \$13.5 million; a 1.7-percent increase more than the fiscal year 2012 enacted level. This request is roughly 10 percent of the total EPA budget proposal, and it provides crucial resources for EPA's science based regulatory responsibilities. The S&T funding supports research and development (R&D) efforts, personnel costs, laboratory purchases, and other operating expenses, resources necessary to strengthen the science underlying EPA's environmental standards and their enforcement.

The fiscal year 2013 EPA budget provides critical resources for the Agency's current strategic plan, which identifies five goals to guide EPA research, education, regulatory, compliance, and enforcement functions during fiscal year 2011–2015:

- Goal 1: Taking Action on Climate Change and Improving Air Quality
- Goal 2: Protecting America's Waters
- Goal 3: Cleaning Up Communities and Advancing Sustainable Development
- Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution
- Goal 5: Enforcing Environmental Laws

EPA has developed five cross-cutting strategies to help achieve the Strategic Plan's goals, one of which is "advancing science, research, and technological innovation." EPA's strategic successes depend upon best practice science capabilities enabled by adequate S&T funding. EPA research programs contribute new knowledge to regulatory science; analyze environmental samples; provide technical support to Federal, State, and local labs; monitor regulated pollutants; check compliance and enforce Federal regulations; and respond to emergencies.

In the past year, EPA monitored United States air quality following Japan's nuclear disaster, awarded grants to universities and health departments to develop new controls for bed bug infestations, and accepted a congressional directive to evaluate the potential impacts of hydraulic fracturing on drinking water. In January, EPA announced its fiscal year 2012–2013 "priority goals"—selected as measurable and achievable within 2 years, designed to advance the agency's long-term stra-

tegic objectives. One priority goal is the clean-up of 22,100 contaminated U.S. sites by September 30, 2013. As specified in the administration's request, the fiscal year 2013 budget also would support restoring water quality in the Great Lakes, implementing new computing tools to improve environmental monitoring data-gathering, and developing new standards for vehicles' greenhouse gas emissions. Such EPA actions require frequent testing and a thorough understanding of current scientific knowledge.

ENVIRONMENTAL PROTECTION AGENCY FUNDING BUILDS TECHNICAL EXPERTISE IN  
ENVIRONMENTAL SCIENCES

The EPA Office of Research and Development (ORD) currently manages research programs in six priority areas to advance environmental science:

- air, climate, and energy;
- safe and sustainable water resources;
- sustainable and healthy communities;
- chemical safety for sustainability;
- human health risk assessment; and
- homeland security research.

EPA scientists and engineers conduct this research at ORD's three national laboratories, four national centers, and two offices situated in 14 facilities. These centers and labs are responsible for studies spanning the agency's S&T research portfolio:

- National Exposure Research Laboratory—employs more than 400 scientists, engineers, and staff to develop the knowledge and tools needed for environmental risk assessments as well as optimal responses to contaminants.
- National Health and Environmental Effects Research Laboratory—conducts research on the effects of contaminants and environmental stressors on human health and ecosystems, to identify and evaluate risks.
- National Risk Management Research Laboratory—focuses on practical actions to solve environmental problems like improving air quality, cleaning contaminated sites, and reducing greenhouse gas emissions.
- National Center for Computational Toxicology—uses high-throughput screening technologies, systems biology, and advanced computer models to develop better tools that can screen thousands of chemicals for toxicity.
- National Center for Environmental Assessment—prepares technical reports and risk assessments on how pollutants, etc., might impact human health and the environment; also develops new risk assessment methods and tools.
- National Center for Environmental Research—manages EPA's competitive grants and fellowship programs to develop the next generation of U.S. scientists and engineers.
- National Homeland Security Research Center—created in 2002, provides the scientific knowledge to counter biological, chemical, and radiological pollutants.

Research at EPA's Microbiological and Chemical Exposure Assessment Research Division (MCEARD) is concerned about microorganisms in the environment that could be beneficial or harmful to human health. MCEARD scientists have established risk assessment tools and methods to detect molds, bacteria like *Escherichia coli*, viruses, *Giardia* parasites, and other microbes in water, soil, and air samples. The agency's researchers have contributed significantly to commonly used protocols for monitoring microbial contaminants throughout the United States.

Across its six priority programs, ORD is placing more emphasis on finding sustainable solutions, within a sustainability focused operational framework recently developed by the National Research Council at EPA's request. In addition, the six programs routinely leverage collaborations with other EPA offices, Federal agencies, and State and local stakeholders. With its Federal partners, EPA's S&T expertise is integral to the Nation's homeland security efforts. EPA is the lead agency for Federal preparations against terrorist attacks via water and for decontamination of indoor and outdoor areas post-attack. Biosecurity-related discoveries by ORD scientists and engineers also have clear applications to other sectors of public health and environmental sciences. As part of its homeland security responsibilities, EPA will use fiscal year 2013 funds to implement a Regional Center of Expertise for Chemical Warfare Agent Laboratories, coordinating agency efforts into a more efficient operation.

ENVIRONMENTAL PROTECTION AGENCY FUNDING PROTECTS AGAINST THREATS TO  
HEALTHY ENVIRONMENTS

Every action taken by EPA to protect public health and the environment must be supported by solid S&T expertise and risk assessments. In the fiscal year 2013

budget, S&T funding distributed among EPA's five strategic goals would fall less than fiscal year 2011 levels, but slightly more than fiscal year 2012 enacted levels with one exception:

- taking action on climate change and improving air quality, \$271 million (4.3-percent increase);
- protecting America's waters, \$151 million (1.2-percent increase);
- cleaning up communities and advancing sustainable development, \$183 million (2.3-percent decrease);
- ensuring the safety of chemicals and preventing pollution, \$185 million (2.4-percent increase); and
- enforcing environmental laws, \$18.5 million (2.5-percent increase).

To achieve EPA's strategic goals, fiscal year 2013 funds will support prioritized actions in the coming year, all dependent upon S&T capabilities, including the following:

- About 70 Federal rules directing EPA's air toxic control efforts are due for review, and EPA experts and health risk data will shape the resultant standards and their enforcement.
- EPA will replace outdated technologies to detect air contaminants currently used in the national monitoring networks, using S&T funds to develop improved monitors for ambient air pollutants that are more cost-effective for EPA, State, and local agencies.
- Fiscal year 2013 increases include funds for the Drinking Water program that will provide additional technical assistance to States. By September 30, 2013, EPA also will have collaborated with 20 States to specifically improve small drinking water systems. A partnership created last August with the U.S. Department of Agriculture will direct fiscal year 2013 EPA resources toward protecting rural drinking water and wastewater systems.
- With the Department of Energy and the U.S. Geological Survey, EPA researchers will prepare a detailed study of potential air, ecosystem, and water quality impacts of hydraulic fracturing.
- The EPA Pollution Prevention Program will focus its R&D efforts on evaluating and encouraging greater use of greener chemicals, products, and technologies.

EPA programs play a role in preserving healthy environments in U.S. communities. In January, EPA provided nearly \$10 million in grants to 38 States, territories, and tribes to protect swimmers at beaches against bacterial and other contamination. A recent annual EPA report showed that EPA actions in fiscal year 2011 stopped more than 1.8 billion pounds of harmful pollution in the Nation's air, land, and waters. In the past year, EPA safeguarded our food supply by issuing compliance orders to several beef feedlots in the Midwest and warning against consuming fish from contaminated waters in Texas. The agency also announced improvements to its Integrated Risk Information System (IRIS), an online repository of EPA's scientific evaluations of health risks associated with environmental contaminants. There currently are 540 chemical substances in the IRIS database.

#### *Environmental Protection Agency Funding Stimulates Scientific and Economic Innovation*

In fiscal year 2013, EPA grants will continue to support both the university researchers who make new discoveries in environmental sciences and the educational institutions that train our future scientists and engineers. One example is EPA's principal sponsorship of the University of California's Center for Environmental Implications of Nanotechnology, created in 2008 to help design environmentally safe nanomaterials for what is expected to become a \$1 trillion industry in the near future. Another is the exemplary Science To Achieve Results (STAR) fellowship program, which supports graduate environmental study.

ASM recommends that the Congress provide increased funding for EPA science programs in the fiscal year 2013 budget for the agency. EPA's effectiveness in enforcing Federal environmental standards clearly depends upon the quality of EPA science and technology and increased resources are needed for the important EPA mission of protecting the public against unhealthy environments. The external portion of EPA's S&T funds which goes to universities is of major importance in training the next generation of scientists and engineers who will implement more cost-effective and sustainable protection of human health and the environment.

PREPARED STATEMENT OF THE AMERICAN SOCIETY OF AGRONOMY; CROP SCIENCE SOCIETY OF AMERICA; AND SOIL SCIENCE SOCIETY OF AMERICA

Dear Chairman Reed, Ranking Member Murkowski and members of the subcommittee: On behalf of the American Society of Agronomy (ASA), Crop Science Society of America (CSSA), and the Soil Science Society of America (SSSA), I am pleased to submit comments in strong support of enhanced public investment in the U.S. Forest Service (USFS), U.S. Geological Survey, and U.S. Environmental Protection Agency. ASA, CSSA, and SSSA urge the subcommittee to support USFS at a minimum level of \$4.86 billion; the U.S. Geological Survey at a level of \$1.1 billion, and the U.S. Environmental Protection Agency, Science and Technology appropriation at \$807 million.

ASA, CSSA, and SSSA represent more than 18,000 members in academia, industry, and government, and 13,000 Certified Crop Advisers. The largest coalition of professionals dedicated to the agronomic, crop, and soil science disciplines in the United States, ASA, CSSA, and SSSA are dedicated to utilizing science in order to meet our growing food, feed, fiber, and fuel needs. With an ever-expanding global population and increasing food demands, investment in food and agriculture research is essential to maintaining our Nation's food, economic and national security.

*U.S. Forest Service*

USFS sustains the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations, and the health of soils represents a vital component of forest management.

*Forest and Rangeland Research*

ASA, CSSA, and SSSA urge the subcommittee to support funding for Forest and Rangeland Research at a level of \$292 million in fiscal year 2013 to maintain an essential level for basic research. The research and development arm of USFS provides scientific information and new technologies to support the sustainable management of the Nation's forests and rangelands. This knowledge and technology is essential to foster healthy watersheds, forest products, wildlife protection, outdoor recreation opportunities and other benefits across the United States.

*Water, Air, and Soil Research and Development Program*

USFS scientists in this department have conducted essential research such as developing a software tool to predict the impact of contaminant releases, including radioactive materials, to surface waters (which was later used for assessment purposes at Japan's Fukushima Daiichi nuclear powerplant). In another project, researchers with USFS's Eastern Forest Environmental Threat Assessment Center applied models to measure water supply stress in relation to carbon and biodiversity. All of these tools provide important information for decisionmakers.

*National Forest System*

ASA, CSSA, and SSSA support a funding level of \$1.6 billion for the National Forest System, as requested in the President's fiscal year 2013 budget proposal. This funding is essential to not only provide for the maintenance of forests and grasslands that contribute to air and water quality, plants, and wildlife, but also to respond to the public's interests and needs. The National Forest System programs support water-quality protection and improvement; recreation opportunities for the public; energy for the Nation; forest products; wildlife habitat; and forage for domestic animals—all while maintaining or improving the health of the land.

*U.S. Geological Survey*

ASA, CSSA, and SSSA support the President's 2013 budget request for \$1.1 billion for USGS, a \$34.5 million increase more than the fiscal year 2012 enacted level. USGS is uniquely positioned to address many of the Nation's greatest challenges. USGS plays a crucial role in reducing risks from earthquakes, tsunamis, floods, landslides, wildfires, and other natural hazards, assessing water quality and quantity, providing geospatial data to improve agricultural production, soil management, and crop adaptation. In addition, the science provided by the USGS is increasingly in demand as new energy supplies are developed, competition for water grows, and the cost of natural disasters expands. USGS is working in every State and has nearly 400 offices across the country and works with more than 2,000 Federal, State, local, tribal and private organizations.

*Environmental Protection Agency*

In order to fulfill its mission of protecting human health and the environment, we need to maintain investments in the Environmental Protection Agency's ecologi-

cal and exploratory research as well as partnerships with academia and State and local government.

*Science and Technology*

ASA, CSSA, and SSSA support the President's budget request of \$807 million for the EPA Science and Technology appropriations account. This request includes \$576 million for research through the Office of Research and Development (ORD), which conducts intramural and extramural research across a broad spectrum of disciplines. ORD seeks out the science and engineering solutions necessary to realizing a healthy, productive, and sustainable environment. ORD has worked with the National Institutes of Health (NIH) to develop models for how chemicals could impact human health, partnered with major cities to investigate solutions to water security issues, and collaborated with local municipalities to improve stormwater management practices.

*Science To Achieve Results*

ASA, CSSA, and SSSA support the President's budget request of \$81 million for the Science to Achieve Results (STAR) grants and fellowships that are awarded to scientists and universities throughout the country to conduct targeted research in a competitive and independently peer reviewed program. This research has addressed children's health issues, hydraulic fracturing, potential endocrine disruptors, water infrastructure, and air monitoring.

Thank you for your consideration of our requests.

PREPARED STATEMENT OF THE AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS; CITY PARKS ALLIANCE; INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION; LEAGUE OF AMERICAN BICYCLISTS; PGA OF AMERICA; AND THE TRUST FOR PUBLIC LAND

To the Chair and members of the subcommittee, as national organizations representing people who design, create, manage, protect and use the Nation's urban parks, we are writing to express our strong support for the Land and Water Conservation Fund (LWCF) in fiscal year 2013 and to urge you to allocate robust funding to this valuable program in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill, including the proposed LWCF stateside competitive grant program.

At this time of national fiscal crisis, investments that create jobs and grow our economy must be paramount. LWCF benefits local economies, communities, and the environment. Natural amenities like parks, open space, and rivers fuel economic investment, particularly when they are close to our population centers. Parks, greenways, and trails augment surrounding property values—contributing to higher tax revenues—encourage tourism, and attract employers drawn to the enhanced quality of life for residents. The shared outdoor spaces also provide opportunities for recreation and exercise critical to countering skyrocketing rates of childhood obesity and other health problems. Moreover, our parks and public lands protect critical drinking water supplies through watershed, forest, and wetland conservation.

Already, outdoor recreation activities contribute \$730 billion annually to the U.S. economy, supporting 6.5 million jobs, according to the Outdoor Industry Foundation. New investments in parks could quickly create an added 100,000 to 200,000 positions—jobs based largely in local communities and, thus, hard to outsource.

As you begin the process of drafting the fiscal year 2013 budget, we request \$450 million in funding for LWCF. These investments will support public land conservation and ensure access to the outdoors for Americans, in cities and rural communities alike. We also encourage your support for the proposed stateside competitive matching grant program that would be allocated \$20 million under the authorities found in sections 3, 5, and 6 of the LWCF Act. Through this proposed competitive program, States would be eligible to apply for projects which:

- enhance and create urban parks and community green spaces;
- develop public access to rivers, lakes, streams, and other bodies of water through water trails and blueways; and
- conserve rural landscapes.

This matching grant program would leverage private and philanthropic support at the local level, where urban parks have fostered a vital network of private-public partnerships to sustain them. The public values supported by these targeted LWCF investments are critically important to the future health of local communities and their residents.

The entire suite of LWCF programs protects natural resource lands, outdoor recreation opportunities and working forests at the local, State and Federal levels, ensuring that critical wildlife habitat, hunting and fishing access, State and local

parks, Civil War battlefields, productive forests, and other important lands are protected for future generations. The LWCF stateside program is the Government's primary investment tool for ensuring that children and families have access to close-to-home recreation. It has funded more than 41,000 projects including sports fields, outdoor recreation facilities and trails touching all 50 States.

LWCF receipts are not revenues for general purposes—they are payments to the Government specifically intended for conservation spending. More than \$17.5 billion has been siphoned from the LWCF trust fund since the program's inception in 1965; these funds have been diverted from their original conservation purpose with no accountability. This chronic redirection of funding has created a large backlog of conservation needs, including already-negotiated acquisitions from willing sellers, and has led States and Federal land management agencies to postpone or cancel many important projects.

The LWCF is one of the most important long-term investments we can make to help spur our economy, create jobs by putting more Americans back to work in tourism and recreation, and help Americans stay healthier by making it easier to spend more time outside.

By working together to protect our natural heritage and leveraging resources like LWCF to provide children and families with access and opportunities to enjoy the outdoors, we can make our communities healthier, sustainable, and more economically competitive.

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PREPARED STATEMENT OF THE ANIMAL WELFARE INSTITUTE

Thank you for the opportunity to submit testimony regarding fiscal year 2013 funding for White-Nose Syndrome activities of the U.S. Fish and Wildlife Service (FWS); U.S. Geological Service; Bureau of Land Management (BLM); and the U.S. Forest Service (USFS); and for the Wild Horse and Burro program of the Bureau of Land Management.

Since the Congress last received testimony on the devastation being wrought on bat populations by White-Nose Syndrome (WNS), the picture has grown more alarming. In January, FWS released new estimates of the death toll: Having now spread to 20 States (this time last year it was 16) and 4 Canadian provinces, with more than 200 sites affected, WNS has caused the deaths of at least 5.7 million hibernating bats. Mortality rates at many affected sites continue to be at or near 100 percent. Insect-eating bats provide pest-control services worth at least \$3.7 billion, and possibly as much as \$53 billion, per year to U.S. agriculture. When the death toll stood at 1 million, scientists estimated that that many bats could have eaten nearly 700 tons of insects per year. With the disappearance of bats due to White-Nose Syndrome—necessitating greater use of pesticides and raising the price of food for consumers—our country's agriculture industry is at risk of serious economic losses that will likely be noticeable in 4 to 5 years. There are public health impacts as well due to greater numbers of disease-carrying insects.

The above-mentioned agencies have been hard at work to understand the fungus, *Geomyces destructans*, involved in the deaths of so many bats, to identify steps to control and prevent its spread, and assist States with WNS oversight, surveillance, research, education, and outreach. Scientists succeeded in mapping the genome of the fungus and identifying its origin. Now, having also been able to conclude that *Geomyces destructans* does indeed cause WNS, they are in a better position to deal with it. Projects underway include but are not limited to:

- detailed studies of the fungus, its transmission, and possible means of mitigation, including nonchemical control; and
- improving WNS detection techniques; and developing a better understanding both of bats' resistance and susceptibility to infection and of the persistence of the fungus in the environment.

Additional priorities include assessing the post-WNS world, evaluating remnant populations, and determining the broader ecological impacts of WNS.

We very much appreciate the Congress's concern over this wildlife, environmental, and economic disaster, and the steps it took in the fiscal year 2012 appropriations redirecting \$4 million in FWS spending to WNS, as well as instructing BLM and USFS to prioritize research related to WNS and the inventorying and monitoring of bat resources on agency lands. There is a need, however, for new funds to support the many research, surveillance, prevention, and mitigation efforts needed to address this increasingly urgent problem. As noted above, much has been accomplished since the disease was first detected and scientists are on the verge of accomplishing a good deal more. Modest increases in the agencies' budgets for WNS will prevent the unraveling of this hard-won progress.

*U.S. Fish and Wildlife Service: +\$4.5 Million*

FWS leads the Federal Government's WNS efforts and supports all of the working groups under the White-Nose Syndrome National Plan. Its accomplishments include assembling an investigative team, support for research and State response activities, developing national and State plans, putting containment protocols in place, and providing surveillance.

We ask the subcommittee to maintain the President's fiscal year 2013 recovery fund request of \$81.909 million, including the requested \$1.897 million within that amount for WNS, to be supplemented by an additional \$2.603 million for WNS, for a total of \$4.5 million, for an incremental increase in the Congress's fiscal year 2012 commitment.

These funds are needed for the following:

- Interagency coordination, providing and relaying scientific information and guidance to and among Federal and State agencies, tribes, landowners, recreation, and conservation groups to ensure best practices on WNS-related issues, such as research findings, status of disease spread, and fungus decontamination procedures;
- identifying priorities for applied research that will assist in combating WNS and managing its spread, and funding projects that support these goals;
- support to State wildlife agencies to conduct disease surveillance, monitor bat populations, implement conservation measures, and conduct research; and
- conservation action for bat species in decline due to WNS, including assessing populations and spectrum of threats and providing guidance to Federal and State agencies and private landowners on the needs of species.

*U.S. Geological Survey: +\$1 Million + 1 FTE*

We ask the subcommittee to maintain the \$1 million increase requested in the President's fiscal year 2013 budget in order to allow enhancements to USGS's WNS surveillance and diagnostic capabilities, and to support research on topics such as the following:

- Immunology and pathogenesis (the origin, development, and resultant effects of WNS);
- vaccine development;
- prevalence and survival of WNS fungus in cave environments; and
- modeling WNS disease processes.

These activities support the goals of the following working groups of the National Plan:

- diagnostics;
- disease management;
- epidemiological and ecological research;
- disease surveillance; and
- conservation and recovery.

*National Park Service: +\$300,000*

Fourteen parks have significant cave resources (there are 4,000 caves in NPS sites), account for 2,600 jobs, and generate \$105 million in "value added" to the local communities. Seven of these sites are affected by WNS; they receive approximately 22 million visitors per year. We ask the subcommittee to provide \$300,000 for the National Park Service's WNS efforts, which include the following:

- Preventing WNS spread by conducting visitor decontamination and monitoring flow of visitors on an as-needed basis;
- conducting on-the-ground surveillance of disease; and
- monitoring for disease presence or absence on NPS lands.

These activities support the goals of the National Plan Disease Management Working Group.

*Bureau of Land Management: +\$1 Million*

In order for BLM to comply with the Congress's fiscal year 2012 directive to "prioritize research related to WNS in bats and the inventory and monitoring of bat resources on BLM-administered lands", we ask the subcommittee to provide \$1 million for BLM's WNS efforts. This will fund conducting bat inventories of the BLM's presently known caves and abandoned mines, which will support the goals of the National Plan Disease Management Working Group.

*U.S. Forest Service: +\$1.5 Million*

In order for USFS to comply with the Congress's fiscal year 2012 directive to "prioritize research related to WNS as well as inventory and monitoring of bat resources on Forest Service lands", we ask the subcommittee to provide \$1.5 million. With this level of funding, the USFS will be able to undertake the following:



- Research on topics such as enhancing environmental conditions for bat survival in the face of WNS, possible biological controls for WNS, and ways to measure the status and fitness of bat populations;
- preventing WNS spread by conducting visitor decontamination and monitoring flow of visitors on an as-needed basis;
- conducting on-the-ground surveillance of disease;
- monitoring for disease presence or absence; and
- managing forests to optimize bat habitat.

Among other pests in their diet, bats eat mosquitoes and gypsy moths, and there are 15 beetles and 10 moths in the diet of the little brown bat alone, one of the species badly affected by WNS. Massachusetts expects an increase in defoliation by the winter moth, which is also found in Connecticut and New Hampshire, all of whose bat populations have been significantly decimated by WNS. More research into the economic impact on forests from the loss of bat populations is greatly needed.

These activities support the goals of the Disease Management, Epidemiological and Ecological Research, and Conservation and Recovery Working Groups of the National Plan.

#### *Wild Free-Roaming Horses and Burros Act*

The wild horse is as much a symbol of American heritage as the image of Uncle Sam and baseball. Currently, these wild horses are at risk of mistreatment by BLM, which misuses most of its budget to round up and warehouse wild horses and burros to make room for privately owned cattle. Wild horses have been removed from more than 19 million of the 52 million acres allocated to them by the Congress. Since 2004, wild horses have been at risk of being sold to killer-buyers who make a profit by sending horses to slaughter for human consumption. AWI requests that any increase in appropriations under the Wild Free-Roaming Horses and Burros Act be solely used for implementation of humane, on-the-range management methods such as immunocontraception versus unnecessary roundup. AWI strongly encourages that this “no-kill” language also be maintained to ensure the BLM does not kill healthy wild horses and burros:

“*Provided*, That appropriations herein made shall not be available for the sale or destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors”.

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#### PREPARED STATEMENT OF THE ARCTIC SLOPE NATIVE ASSOCIATION LIMITED

Thank you for the honor and opportunity to provide testimony. My name is Marie Carroll and I am the President/Chief Executive Officer of the Arctic Slope Native Association Limited (ASNA) based out of the northernmost community of the United States of America, Barrow, Alaska. We operate the Samuel Simmonds Memorial Hospital under the Self Determination Act through a title V 683 Compact with the Indian Health Service (IHS). Our service area is the size of the State of Minnesota.

IHS began the work to replace our 48-year-old hospital in 1991. In 1996, ASNA took over management of the health facilities under 638 Compact with IHS. Since then, ASNA took over the project justification and other related documents to get the project in line with the IHS facilities construction program. ASNA is constructing the hospital through a title V hospital construction agreement with IHS. I am pleased to report to you that our hospital construction project is on time and on budget, it is also the first project of its size to be constructed by a tribal health organization under title V. We anticipate the completion of the project in December of this year. IHS and ASNA have agreed to go through the acceptance and commissioning process jointly at the end of this year.

ASNA plans to move from the 48-year-old, 2 by 4 facility to a more modern hospital in April 2013. However, we have a challenge because our staffing package was excluded in the fiscal year 2013 President’s budget. IHS has told ASNA that they did not recommend a staffing package for fiscal year 2013 because of the uncertainty of full funding for our construction budget in fiscal year 2012. Thanks to the Congress our project was fully funded in fiscal year 2012 which has kept our project on time and on budget without additional cost of delaying a project in the Arctic environment. Which brings me to the final point, ASNA has been responsible in carrying out the construction program, we are now without a staffing package to bring a new hospital on line in April unless our staffing package be fully funded along with other tribal facilities opening in fiscal year 2013 at least through the portion of the fiscal year that the facilities are operational.

We are grateful for the new facility that will benefit not only the Alaskan Native people who reside in the northernmost communities in our country, it will also benefit everyone who lives there or visits our region because we operate the only hospital north of the Arctic Circle.

In my language we end our public statements by simply saying, Quyanaq, meaning thank you.

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PREPARED STATEMENT OF THE ARCTIC SLOPE NATIVE ASSOCIATION; THE CHICKASAW NATION OF OKLAHOMA; THE CHOCTAW NATION OF OKLAHOMA; THE CITIZEN POTAWATOMI NATION; THE KODIAK AREA NATIVE ASSOCIATION; THE NEZ PERCE TRIBE; THE PORT GAMBLE S'KLALLAM TRIBE; THE SOUTHCENTRAL FOUNDATION; THE SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM; THE ST. CROIX CHIPPEWA INDIANS OF WISCONSIN; AND THE TANANA CHIEFS CONFERENCE

My name is Lloyd Miller and I am a partner in the law firm of Sonosky, Chambers, Sachse, Endreson & Perry, LLP, of Washington, DC. I am submitting this testimony on behalf of 11 tribes and tribal organizations that experienced contract support cost shortfalls but who have been denied their day in court, due to no fault of their own. On behalf of these 11 tribes and tribal organizations we request that the Committee include language which would deem their claims to have been timely filed so that they can finally have their day in court. The language would not guarantee any outcome on the claims, and would only assure that the tribes and tribal organizations are permitted to bring them.

The 11 tribes and tribal organizations named here were all caught in a double catch-22 that was not of their making.

The first catch-22 concerned two law suits that were pending before New Mexico Federal Judge Leroy Hansen. One was a class action lawsuit against the Bureau of Indian Affairs over unpaid contract support costs, and is called the *Ramah* case.<sup>1</sup> The other was a class action law suit against the Indian Health Service over unpaid contract support costs and is called the *Zuni* case.<sup>2</sup> These were essentially identical law suits. The *Ramah* BIA suit was filed in 1990, and the *Zuni* IHS suit was filed in 2001.

In the BIA class action case, Judge Hansen ruled in 1993 that individual tribal contractors did not need to individually “present” their own claims to the Government in order to be covered by the law suit. Instead, Judge Hansen ruled, the claims that were filed by the Ramah Navajo Chapter were sufficient to cover all tribal contractors. Later, in 1999 and 2001, portions of this lawsuit were settled and all qualifying tribal contractors in the country shared in the settlements.<sup>3</sup>

The *Zuni* class action law suit against IHS was filed in 2001, and for 4 years it was handled by Judge Hansen. Since Judge Hansen had already ruled in the *Ramah* case that individual tribal contractors did not need to present their individual claims in order to be covered by the class action law suit—and because Judge Hansen’s decision was the only decision in the country to address this issue—individual tribal contractors likewise relied on the 2001 *Zuni* class action law suit to protect their claims. They did not file individual claims.

In 2005, the *Zuni* law suit was assigned to a new Judge. Within a few weeks the Government informed the new Judge that the Government intended to challenge Judge Hansen’s earlier 1993 ruling. Shortly after this development—again, in 2005—all of the 11 tribes and tribal organizations named above filed individual claims against the Government. The claims reached back as far back as fiscal year 1996 (5 years before the *Zuni* case was filed, but 9 years before the 2005 claims were filed). Eventually, the new Judge handling the *Zuni* case, Judge Johnson, announced that he disagreed with Judge Hansen’s 1993 decision. Judge Hansen ruled that a class action law suit does not protect individual tribal contractor’s claims if those claims have not been separately presented to the Government within 6 years after they first accrued. (Partly for this reason, Judge Johnson ended up refusing to certify the *Zuni* case as a class action. It was later dismissed.)

This was the first catch-22. The 11 tribes and tribal organizations named here relied on Judge Hansen’s ruling that a class action lawsuit relieves individual tribal contractors of the burden of filing their own claims. No one could have predicted that the *Zuni* case being handled by Judge Hansen would be transferred to Judge

<sup>1</sup> *Ramah Navajo Chapter v. Lujan*, No. 1:90-cv-00957 (D.N.M. filed Oct. 4, 1990).

<sup>2</sup> *Pueblo of Zuni v. United States*, No. 1:01-cv-01046 (D.N.M. filed Sept. 10, 2001).

<sup>3</sup> *Ramah Navajo Chapter v. Babbitt*, 50 F. Supp. 2d 1091 (D.N.M. 1999); *Ramah Navajo Chapter v. Norton*, 250 F. Supp. 2d 1303 (D.N.M. 2002).

Johnson, and that Judge Johnson would then disagree with Judge Hansen and require all tribal contractors to present their claims one by one.

The second catch-22 concerns what happens when a class action law suit is not certified. The usual rule is that individuals who are covered by an uncertified class action are protected during the time that the law suit was pending. They do not lose any rights. If the class is not certified, the individuals are then free to go forward on their own, and they are given the extra time that the law suit was pending to pursue their own individual claims. This is called “class action tolling”, because the class action law suit “tolls” the time for the individual to act on his or her own.

That is the usual rule. But when the 11 tribes and tribal organizations sought to rely on the usual “class action tolling rule” to pursue their individual claims, the Federal Circuit Court of Appeals held that the “class action tolling rule” does not apply in Government contract litigation. As a result, claims that were filed more than 6 years after the claims arose are considered untimely.<sup>4</sup>

This is the second catch-22. In 2001, these 11 tribes and tribal organizations assumed that the usual class action tolling rules would protect them if there were ever any problem with the *Zuni* class action law suit, only to learn, for the very first time in 2009, that the usual rules do not apply to this kind of law suit. By then—even by 2005—it was too late to cure the problem of the claims having been presented too late.

Two catch-22 situations should not stand in the way of tribes having their day in court on legitimate assertions that the Government underpaid their contract support cost requirements. For this reason, we request that the Committee consider including in the bill the following language:

“: *Provided*, That claims presented to an Indian Health Service contracting officer on or before October 31, 2005, and involving claims which accrued after October 1, 1995, and on or before September 30, 1999, shall be deemed timely presented”.

The proposed language would deem the claims that were filed in 2005, and covering contract years 1996–1999, to have been timely filed. If enacted, each of the 11 tribes and tribal organizations will finally have its day in court. The proposed language does not guarantee any outcome, just a day in court.

Thank you for the opportunity to present this testimony.

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PREPARED STATEMENT OF THE ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION

My name is Thomas “Stoney” Anketell, I am a member of the Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Reservation. On behalf of the Fort Peck Tribes, I am pleased to present testimony on the fiscal year 2013 budget. We are a large, land-based tribe located in northeastern Montana. The Fort Peck Reservation encompasses 2 million acres. The Reservation Native American population is approaching 8,000 and our tribal enrollment is more than 12,000 members. Our greatest need is healthcare, infrastructure, economic development and public safety.

The tribes’ unemployment rate on the reservation is 56 percent. Of our tribal members who are working, 4 in 10 live below the poverty level. Given the enormous unemployment and poverty rates on the reservation, our needs for the Bureau of Indian Affairs (BIA), Indian Health Service (IHS), and Environmental Protection Agency (EPA) programs and services are substantial.

The United States has a continuing trust responsibility to assist tribes address the basic governmental services such as safe drinking water, public safety, and healthcare. More than 20 years ago, an earlier Congress noted that when there is community stability—with core governmental services being met—“Indian tribes are in the best position to implement economic development plans, taking into account the available natural resources, labor force, financial resources and markets.” If the Federal Government could provide greater assistance to us with these core governmental services, our members would be much better off.

Contrary to what some may think, the appropriation of funds for Tribal Governments is not a discretionary act by the United States, rather these appropriations represent the Federal Government’s fulfillment of its mandatory obligation under

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<sup>4</sup>*Arctic Slope Native Assoc., Ltd. v. Sebelius*, 583 F.3d 785 (Fed. Cir. 2009). Subsequent cases have ruled that the “equitable tolling” doctrine also does not apply in this setting to preserve the timeliness of claims more than 6 years old. See, e.g., *Menominee Indian Tribe of Wisconsin v. United States*, \_\_\_ F. Supp. 2d \_\_\_, 2012 WL 192815 (D.D.C. 2012).

the treaties and agreements entered into with tribal governments. We kept our word. The United States must do the same.

BUREAU OF INDIAN AFFAIRS

*The Fort Peck Reservation Rural Water System.*—The health status of a community is directly related to the quality of our available water. That is why the Fort Peck Tribes took the lead in building the Fort Peck Reservation Rural Water System project, a Project that will provide quality drinking water to the Reservation and surrounding communities. The Congress enacted the Fort Peck Reservation Rural Water System Act of 2000, Public Law 106–382, to ensure a safe and adequate drinking water supply to all of the residents of the Fort Peck Indian Reservation. Under the law, the BIA has the statutory obligation to fund the operation and maintenance of this Project. We are very excited that the BIA has included \$750,000 in programmatic funding for the operation of this important Project in its budget. However, the cost of operating this Project in fiscal year 2013 will be \$1.866 million. Thus, the BIA will need an additional \$1.11 million to meet its statutory obligation with regard to the operation of the Fort Peck Reservation Rural Water Project if the Congress appropriates only what the BIA has requested.

The tribes and the Bureau of Reclamation have completed construction of many components of this \$200 million project, including the raw water intake facility and the water treatment facility. The integrity of the Water Treatment facility is vital, as the EPA has determined that the well that now provide water to the City of Poplar, the seat of tribal government, home to the BIA and IHS agency and the location of the Poplar schools, is contaminated by a brine plume. Again, while the BIA budget includes \$750,000 for the O&M of this important Project, more funding is needed. Specifically, an additional \$1.11 million is needed to fully operate the Fort Peck Reservation Rural Water System in fiscal year 2013.

*Office of Indian Energy and Economic Development and Road Maintenance.*—The tribes are very supportive of the BIA's request for \$8.5 million for energy development in Indian country. However, we are concerned that of this amount \$2.5 million will be directed only at the Fort Berthold Reservation. We believe that these resources should be more equitably distributed among the tribes who are presented with the opportunities now being experienced at Fort Berthold.

The Bakken formation, which is in play at Fort Berthold extends to the Fort Peck Reservation. An April 2008 USGS Report determined that there are 3 to 4.3 billion barrels of recoverable oil in the Bakken formation alone. This represents a once in a lifetime opportunity for our tribal government—working in close collaboration with our Federal trustee—to use the bounty of our natural resources to create jobs and spur sustainable economic development to erase the persistently high rates of unemployment and poverty on our Reservation.

However, our experience—like that at Fort Berthold a few years ago—is that the BIA Regional and Agency staff often do not have adequate technical expertise in the complex field of energy development, and they do not always appreciate that “time is of the essence” when it comes to energy development.

Consequently, the Fort Peck Agency's long delays in processing mineral leases and other critical energy development paperwork often frustrate our energy development plans and serve only to push oil, gas and other types of energy and mineral development off the Reservation. In fact, BIA approval of oil and gas leases can take so long that Indian probates have been known to open and close before any BIA action is ever taken. We know from the experience at Fort Berthold that if the BIA makes an investment in the people at the agency level to ensure that they have the knowledge and capacity to work in the field of energy development great things can happen. We believe the same opportunities exist on the Fort Peck Reservation and the BIA needs to make the same commitment that it made to the Fort Berthold Tribes to the Fort Peck Tribes.

Another disincentive to drilling on Indian lands is the \$6,500 that the BLM charges for a permit application to drill on Federal land, including Indian and tribal trust lands. In fiscal year 2010, the Appropriations Committee increased this fee from \$4,000 to \$6,500. In theory, this fee is intended to cover the BLM's cost of processing the drilling permit application. However, the funds collected on Indian lands are not dedicated to processing permits on Indian lands. Moreover, the fee is highly disproportionate to the \$75 that the State of Montana charges to process the same kind of permit on State fee land. This is creates a disincentive for developers to consider Indian and tribal lands. We would ask that Indian lands be exempt from the BLM fee.

Closely related to economic development is the adequacy and safety of our public roads. We have seen the increased fatalities at Fort Berthold resulting from the ex-

plosion of truck traffic on the reservation resulting from oil drilling. Paved roads have deteriorated rapidly from the increased traffic, often by overweight vehicles. Please reverse the harmful trend of the last 30 years, and increase funding for the BIA Road Maintenance Program by \$10 million, so that tribes can provide routine and emergency road maintenance services to ensure the safety of our existing roads. Years of budget cuts have undermined our ability to maintain our transportation infrastructure to an adequate design standard. This is a public safety issue.

*Funding for Public Safety and Detention.*—The need for increased law enforcement and tribal courts remains a priority for the Fort Peck Tribes. We greatly appreciate the increases the Congress has recently provided for public safety programs. These increases, however, are insufficient to fulfill the United States' basic trust responsibility in the areas of health and safety. Our Reservation needs more officers and the resources they require to patrol a large land base. This must be matched with additional resources for Tribal Courts and detention facilities.

I want to particularly support the \$6.5 million requested to fund the operations of the newly constructed detention facilities. The Fort Peck Tribes received a grant from the Department of Justice to rebuild our detention facilities. We have entered into a contract with the BIA for the operation of this newly expanded facility and are excited. We will be operational in fiscal year 2013. This new facility will allow us to better house and care for our prisoners close to their families and the community support that they need to become productive members of our society again. Please ensure that the BIA and OFMC have the resources needed to maintain these facilities after they are built. We lack infrastructure. When built, these facilities must be properly maintained or they will deteriorate far sooner under our harsh Montana winters.

#### INDIAN HEALTH SERVICE

Indian country continues to suffer higher rates of infant mortality, suicide, accident, alcoholism, diabetes, and heart disease when compared with other minorities and the general American population. Yet money directed to healthcare, especially preventative care—such as routine checkups and health education that clearly improves the quality of life and helps avoid more expensive health care costs in the future—has not been provided to tribal communities. The Federal Government has a trust responsibility to provide healthcare to Native Americans, an obligation that was paid for by the Native people of this county with millions of acres of land, resources, and the sacrifice of our traditional way of life.

*Fort Peck Dialysis Center.*—There is a desperate need on our Reservation for a fully staffed and equipped health facility capable of providing a full range of medical services to our members. The IHS needs to evaluate and plan the process for new facilities in Montana, including the urgent expansion of the Fort Peck Tribal Dialysis Unit to 18 stations (from 10) or construction of a new dialysis unit. We are now at capacity, serving 33 patients 6 days a week. We have additional 73–100 pre-renal patients. If we cannot expand our services, these patients will have to travel great distances for this life-sustaining care. The Indian Health Care Improvement Act now allows the Indian Health Service to dedicate resources to dialysis, which is an important aspect of healthcare in Indian communities. We request that the subcommittee direct the Indian Health Service to report to the Congress on its efforts to address the need for dialysis treatment in Indian country, especially rural areas such as the Rocky Mountain Region.

*Contract Health.*—We recognize the significance of the requested \$20 million increase in Contract Health Care but this increase is inadequate to address the growing healthcare crisis in Indian country. The Fort Peck Tribes alone need a near doubling of our inadequate Contract Health Care budget—to \$11 million—to meet the growing health demands of our more than 12,000 tribal members. Far too many members are not referred out for Contract Health Care Services which their primary healthcare providers determine are medically necessary because we only have CHS dollars to treat life threatening illnesses and injuries.

Currently, the IHS does not refer individuals for necessary medical care, even when they have medical insurance, because the IHS does not want to pay the minimal co-pays or deductible for these services. As a result, our members do not get the care they need until it reaches the critical “life or limb” stage at which point the IHS would still only have to pay the minimal co-pay or deductible. It would seem that it would be far better public policy to pay the co-pay or the deductible for preventive care rather than let medical conditions worsen until a person's health deteriorates to a life-threatening life or limb crisis. Yet, the IHS will not reconsider its interpretation of the payor-of-last resort policy to allow for these sound health policy decisions to be made and implemented within available healthcare funds.

At a minimum, the Congress should request that a study be conducted to examine how CHS funds are expended and to make recommendations that will help save lives.

ENVIRONMENTAL PROTECTION AGENCY

Finally, I want to express the tribes' strong support for the increased funding for tribal environmental programs. Specifically, I urge the subcommittee to support the \$96.3 million for the Tribal General Assistance Program (Tribal GAP program). The Fort Peck Tribes were one of the first tribes in the country to obtain Treatment as a State Status under the Clean Water Act and one of the first to obtain Class I air designation for our Reservation. For the Fort Peck Tribes, protecting the land and resources that our ancestors fought so hard to preserve for us is our paramount mission. We work closely with our Federal and State partners to accomplish this goal and appreciate the continuing support of the Congress for these efforts. The tribal GAP program is critical to maintaining tribal capacity in these areas.

Thank you for providing me the opportunity to present the views of the Fort Peck Tribes.

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PREPARED STATEMENT OF THE ASSOCIATION OF AMERICAN STATE GEOLOGISTS

SUMMARY

Within the United States Geological Survey (USGS) budget, we recommend that a sum of \$29.5 million be budgeted for the National Cooperative Geologic Mapping Program in fiscal year 2013, rather than the proposed \$28 million, by not implementing the proposed \$1.5 million cut to the base program, and by incorporating funding for two new initiatives:

- WaterSMART; and
- Hydraulic Fracturing.

Also within the USGS budget, we strongly support the National Geological and Geophysical Data Preservation Program, and we are pleased that plans as we understand them call for funding of this activity at least equal to the fiscal year 2012 (\$996,000) level as part of the program with which this activity has been merged.

We believe that USGS is responsible for programs that are essential for the functioning of the U.S. Government and of the Nation, for optimization of the health, wealth, and security of the American people, as well as preservation and appreciation of our natural heritage.

Whether at the U.S. Federal level, the U.S. State level, or in national or regional jurisdictions throughout the world, geological survey agencies fulfill the role of maintaining systematic information on the landmass administered by the Government they serve, as well as additional roles where geologic information is needed by Government.

Whereas academic research institutes have a conceptual mandate, geological survey agencies have a unique and essential spatial mandate associated with their landmass. While academic centers focus on research and education, geological surveys are engaged in mapping over areas, and monitoring over time, as essential roles that accompany their needed research roles.

This jurisdiction-wide, long-term function builds and maintains a body of knowledge regarding an understanding and accounting of earth materials, processes, and geologic history, based on mapping, monitoring, and research. Benefits for society result, as this systematic, accessible, and authoritative knowledge is used in relation to energy, mineral, and water resources, as well as hazards. Management of these issues, guided by sound information, is needed by society to ensure orderly progress toward their objectives.

In a Federal system, both Federal and State governments require geological survey agencies to carry out their mission and mandates in an informed manner. States strongly endorse and support the unique Federal role of the USGS, which addresses national programs, specialized capabilities, and the needs of the Federal Government. State geological surveys meanwhile work closely with users on the priorities of each State. In our roles, we benefit from partnerships with USGS, while our roles were strongly endorsed last year by a paper released by the American Institute of Professional Geologists.

While USGS functions with a budget of more than \$1 billion, supported by on the order of 10,000 employees, State geological surveys in total are funded at a level of \$250 million per year, and are supported by more than 2,000 employees.

The work of the U.S. Federal and State geological surveys is closely coordinated. State geological surveys therefore have a great interest in the role of the USGS, as this role is a major factor in fulfillment of our roles.

The President's budget proposal outlines support for successful and effective USGS programs that stimulate economic development, that save lives and property from natural disasters, and that protect the environment and public health. Through competitive grants and partnership programs, USGS directly benefits from collaboration with leading experts across the Nation.

We endorse identification of priorities to which resources need to be shifted. We agree with the importance of a National Groundwater Monitoring Network, other water programs such as those related to stream gages, improved disaster mitigation and response, improved information needed to guide the economic benefits and risks of hydraulic fracturing, and increased attention to rare earth element research and assessment.

We note with concern, however, potential reduction to important programs, including the minerals program, coal assessments, and several water programs. We are particularly concerned about proposed reductions to partnership and grant programs that promote efficiency, as well as preserving long-term datasets.

Proposed reductions to the minerals programs are difficult to reconcile with the rapidly growing urgency of the efforts that are needed to ensure our access to materials that allow our economy to function. We endorse conservation and recycling, and we recognize that increasing global population and standard of living will require more mining.

Most mineral commodities occur in the United States, where these materials can be mined using the world's best practices for environmental stewardship and health and safety for workers and the public. The USGS has a vital role in documenting domestic production and reserves, and in assessing the likelihood of future discoveries that will add to our mineral and energy resources.

The dominance of China as a producer and consumer of mineral and energy commodities is a major factor that will influence our future. This can best be understood by utilizing critical data that are collected and reported by the USGS. USGS minerals data collection was considered to be an essential Government function in two 2008 National Academy of Sciences reports. We therefore believe these are programs and functions that should not be cut.

We also are concerned about proposed reductions to energy-related programs, such as grants to States for coal resource assessments. Coal remains a major source of inexpensive electricity for America, while coal and other carbon-based energy fuels such as unconventional sources of oil and natural gas will continue to dominate global energy supply for years to come. It therefore is important that research is developing ways to reduce fossil-fuel-related emissions.

While the Department of Energy maintains information on domestic energy production, USGS's role in long-term forecasting of energy supplies is unique and necessary. Much of this work is done in collaboration with States, using data largely compiled and provided by States, and the Association of American State Geologists supports this working relationship.

State Geologists recognize, however, that geologic maps showing sediment and rock materials at and below the land surface are the foundation that guides all programs dealing with issues such as energy, minerals, construction, water, and hazards.

In Ohio, for example, developers and engineers who used modern geologic maps saved about \$50,000 for every project. Typically, many projects use the same map, multiplying these cost savings many times over. Furthermore, economists documented Kentucky's geologic maps to be worth 25 to 39 times the cost of the mapping.

Less than one-half of the United States, however, is covered by adequate geologic maps, and many maps need to be updated due to the progress of science, new technology, and much new data. USGS therefore needs to have a vibrant geologic mapping program, as do State geological surveys nationwide, and we welcome the Federal role in maintenance of standards and coordination.

Geologic mapping at the resolution and coverage done by geological survey agencies is clearly a role for Government, because the public benefits and cost savings are broad, and businesses must limit their work to small areas of immediate interest to their activity.

While the mapping is guided by the accumulated knowledge of Government geologists, geologic mapping commonly utilizes surveys conducted by the private-sector, such as immensely useful new airborne laser elevation surveys known as LiDAR.

We therefore place emphasis on our advocacy for the National Cooperative Geologic Mapping Program, a subactivity within the USGS Core Science Systems Activ-

ity, funded at \$26.3 million in fiscal year 2012. Given its proven record in stimulating economic development and protecting the public, we believe that this program should grow to its authorized level of \$64 million per year in upcoming years.

All Federal dollars in the portions of this program that we are involved with are matched one to one with State dollars. Despite this, significant State geologic mapping resources that could be used to match Federal dollars are being left on the table.

We certainly are pleased, however, that the President's budget proposal recognizes the key role of geologic mapping in pressing priorities, in particular related to water and hydraulic fracturing, by proposing transfers to the program in relation to these topics.

Given the importance of geologic mapping, however, we not only endorse these proposed transfers, but we also suggest that a proposed reduction to the base of the program not be implemented, thus resulting in a further expansion of this crucial activity. We also note that it is good that the National Cooperative Geologic Mapping Act provides clear guidance for distribution of these proposed increases.

In turn, geologic mapping is underpinned by precious data and materials accumulated by scientists over decades. We thus recognize the fundamental importance of the National Geological and Geophysical Data Preservation Program, also a subactivity within the Core Science Systems Activity, funded at about \$1 million in fiscal year 2012. This is another cooperative program with States, which doubles the Federal investment.

The 2002 National Academy of Sciences report on Geoscience Data and Collections—National Resources in Peril made the case for preserving these irreplaceable data and physical samples and led to congressional authorization of this program at \$30 million per year within the Energy Policy Act of 2005. We have seen many uses for these data and samples in exploration for domestic mineral and energy resources. We believe that this program should grow.

In the President's budget proposal, we note that this program has been merged with allied activity, and we applaud efficiencies that will be thus achieved, while we strongly support the activity being maintained at a funding level at least equivalent to that of fiscal year 2012.

In summary, the Association of American State Geologists strongly endorses the President's fiscal year 2013 budget proposal for USGS, because we strongly endorse what we regard as the essential role that USGS fulfills in building and maintaining essential information needed by the U.S. Government and by people nationwide.

In particular, we endorse programs that are operated as partnerships, thus leveraging funds, as well as encouraging coordination, efficiency, and adoption of nationwide standards. Nevertheless, we have concerns about proposed reductions in important programs.

We appreciate this opportunity to offer information that we hope will be helpful for the work of the subcommittee.

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#### PREPARED STATEMENT OF THE ASSOCIATION OF ART MUSEUM DIRECTORS

Thank you for the opportunity to submit a statement for the record regarding fiscal year 2013 appropriations for the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH). We respectfully request that the subcommittee approve a funding level of \$155 million for the NEA and \$155 million for the NEH, which would restore them to their fiscal year 2011 levels.

The Association of Art Museum Directors (AAMD) is composed of the directors of more than 200 art museums in the United States, as well as several in Canada and Mexico. Its mission is to support its membership in fostering vibrant communities. The AAMD is a current grantee of the NEA.

Both the NEA and the NEH help museums achieve their mission of preserving, exhibiting and interpreting art to the broadest possible audiences. To cite a recent example, the Los Angeles County Museum of Art (LACMA) received grants from both the NEA and the NEH to support the exhibition *Children of the Plumed Serpent: The Legacy of Quetzalcoatl in Ancient Mexico*, its accompanying catalogue and educational activities.

According to the exhibition Web site:

"Recent scholarship demonstrates that a confederacy of city-states in southern Mexico . . . successfully resisted both Aztec and Spanish subjugation. *Children of the Plumed Serpent* explores the extraordinary wonders in fresco, codices, polychrome ceramics, gold, turquoise, shell, textiles, and other precious materials that were produced by these confederacies between AD 1200 and 1500, as their influence spread throughout Mesoamerica by means of vast networks of trade and ex-



change. A ruling class of nobles, or caciques, believing that Quetzalcoatl, the human incarnation of the Plumed Serpent, had founded their royal lineages, called themselves the ‘Children of the Plumed Serpent’ . . . The culture hero Quetzalcoatl, the Plumed Serpent, epitomizes a Mexican sense of national identity that is deeply rooted in the heroic qualities of its ancient art.”

*Children of the Plumed Serpent* opens at LACMA on April 1, 2012. After its run in Los Angeles it will travel to the Dallas Museum of Art. Together, the NEA and NEH contributed nearly 25 percent of the cost of the exhibition, which totaled approximately \$1.3 million. As is always the case, the NEA and NEH “seal of approval” leveraged other contributions. There is no doubt that the Federal grants had a huge impact in keeping *Children of the Plumed Serpent* in its desired format and scope.

The exhibition highlights the role of museums in cultural exchange and collaboration. The U.S. Department of State, having determined it to be in the national interest of the United States, awarded it protection from seizure, assuring that the works would be returned to their lenders. Further, LACMA collaborated with two important cultural institutions in Mexico, the National Council for Culture and the Arts and the National Institute for Anthropology and History. The exhibition also received indemnity from the Federal Council on the Arts and the Humanities, which is administered by the NEA and without which many objects would not be able to travel to the United States.

(In connection with the indemnity program, which the Congress expanded in 2007, we respectfully suggest that it may be time to look again at raising the limits available for domestic and international exhibitions.)

The educational outreach of the exhibition is targeted to low-income, primarily Hispanic parts of the metropolitan area, and will include bilingual materials. Typically, attendance at the museum is about 12-percent Hispanic, but it doubles when there is a Latin American exhibition. Attendance for *Children of the Plumed Serpent* is estimated at about 100,000 people in its LACMA venue. For the past decade, LACMA has had a Latin American Initiative, with at least one exhibition per year. Last year’s show, *Contested Visions in the Spanish Colonial World*, which examined the significance of indigenous peoples within the artistic landscape of colonial Latin America, also received an NEH planning grant and a grant from NEA; attendance was 56,748. That exhibition was on view at LACMA from November 6, 2011 through January 29, 2012 and is currently touring to two museums in Mexico.

More information about the exhibition is available online at: [www.lacma.org/art/exhibition/children-plumed-serpent-legacy-quetzalcoatl-ancient-mexico](http://www.lacma.org/art/exhibition/children-plumed-serpent-legacy-quetzalcoatl-ancient-mexico).

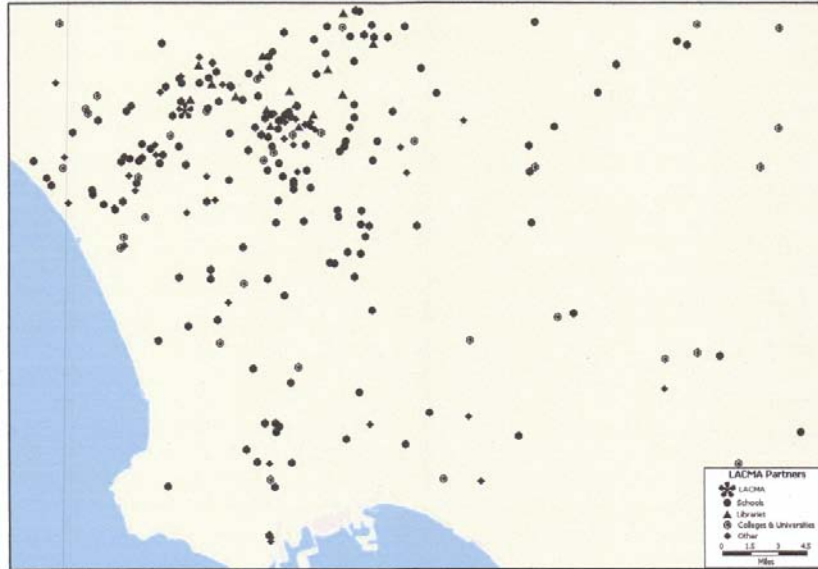
Museum staff notes that the majority of the cost of exhibitions often comes down to labor and materials—shipping, crating, couriers to accompany the art, and installation. This was dramatically illustrated recently by the ongoing creation and installation of *Levitated Mass*, which entailed quarrying and transporting a 340-ton boulder more than 100 miles across southern California. As LACMA director Michael Govan told the Los Angeles Times:

“This is not money used for buying something but for building something: it goes to concrete workers, truckers, quarry workers, so this money is being injected into the economy and lives of working people. It’s not unlike the impulse of the 1930s WPA Works Progress Administration to put craftspeople in a down economy to work. For me, there is a key distinction: Are you putting money into the pockets of a European gallery or putting money into the American economy?”

To put into context the educational scope of the museum: it serves between 600,000 and 1 million people a year, including more than 300,000 through its education programs. Education activities include art-making programs in schools and libraries, tours of the museum for students and adults, art classes for children, teenagers, and adults, summer and holiday art camps for children, programs for college students, high school internships, family days, workshops and curriculum materials for teachers, lectures, concerts, films, conversations with artists, and more. Across the entire State, the museum’s education programs reach 351 organizations including 217 schools, 67 colleges and universities, 31 community organizations, 22 cultural organizations, and 14 healthcare organizations. Nearly 70,000 individuals and families are members of LACMA; membership fees start at \$25 for college students, which entitles them to free admission all year. All children under 18 are NexGen members, which allows them free admission and free admission for one accompanying adult.

LACMA is also a proud participant in the Blue Star Museums initiative, which offers free admission to military families from Memorial Day to Labor Day.

The map below shows the extent of the museum's outreach, with each dot symbolizing an organization that uses LACMA's educational services.



The AAMD mapping project, which is supported in part by an NEA grant, now encompasses 100 museums, including.

Please note that the maps are generally produced in color and with more detail. The map depicted was altered to fit the testimony format required by the subcommittee.

Using data from the U.S. Census Bureau, the mapping project gives museums the capacity to analyze their community service by geography and socio-economic level, allowing them to target resources to where they are most needed. For example, just last week a museum requested a list of majority-minority census tracts in its service area.

With the NEA's help, the mapping project has given us a new level of understanding of the reach and depth of museum programming in their communities. Further, surveys of our membership show that one-third of them offer free admission to all, while two-thirds offer free admission to children. The average full price of admission for adults is under \$10, but nearly all offer steep discounts and/or free days. One hundred percent of AAMD member museums serve K-12 schools; 93 percent serve colleges and universities; and 68 percent of our museums serve preschools. In total, AAMD members serve about 40,000 schools across the Nation. One-third have programs for people with Alzheimer's, and their caregivers, and an increasing number offer art instruction for medical and nursing students, which has been proven to increase their powers of observation, leading to better diagnostic skills.

None of this work is possible, however, unless museums can care for and present art to the public. In these basic, core functions, the help of the NEA and NEH has been and continues to be invaluable.

Thank you again for the opportunity to submit testimony for the record.

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PREPARED STATEMENT OF THE ASSOCIATION OF PUBLIC AND LAND-GRANT  
UNIVERSITIES

On behalf of the Association of Public and Land-Grant Universities (APLU) Board on Natural Resources (BNR), we thank you for your support of science and research programs within the United States Geological Survey (USGS) and the Environmental Protection Agency. We appreciate the opportunity to provide recommendations for the following programs within USGS:

—\$8.8 million for the Water Resources Research Institutes; and

—\$18.9 million for the Cooperative Fish and Wildlife Research Units.

Within the Environmental Protection Agency, we recommend \$81 million for the Science to Achieve Results extramural grants and fellowship programs.

APLU BNR requests at least \$8.8 million for the Water Resources Research Institutes (WRRRI). The APLU BNR request is based on the following:

- \$7 million in base grants for the WRRRI as authorized by section 104(b) of the Water Resources Research Act, including State-based competitive grants; and
- \$1.8 million to support activities authorized by section 104(g) of the act, and a national competitive grants program.

Federal funding for the WRRRI program is the catalyst that moves States and cities to invest in university-based research to address their own water management issues. State WRRRI take the relatively modest amount of Federal funding appropriated, match it 2:1 with State, local, and other funds and use it to put university scientists to work finding solutions to the most pressing local and State water problems that are of national importance. The Institutes have raised more than \$15 in other funds for every \$1 funded through this program. The added benefit is that often research to address State and local problems helps solve problems that are of regional and national importance. Many of the projects funded through this program provide the knowledge for State or local managers to implement new Federal laws and regulations. Perhaps most important, the Federal funding provides the driving force of collaboration in water research and education among local, State, Federal and university water professionals. This program is essential to solving State, regional and inter-jurisdictional water resources problems. For example, the Idaho Institute conducted work in 2011 for the City of Boise and the National Renewable Energy Laboratory to determine whether the Boise Front geothermal aquifer was adequate for supplying current and increased withdrawals. Similarly, Institutes in Louisiana, California and North Carolina have made major contributions in emergency planning and hurricane recovery, protecting groundwater aquifers from sea water intrusion, and reducing water treatment costs.

The institutes also train the next generation of water resource managers and scientists. Last year, these institutes provided research support for more than 1,400 undergraduate and graduate students at more than 150 universities studying water-related issues in the fields of agriculture, biology, chemistry, Earth sciences, engineering and public policy. Institute-sponsored students receive training in both the classroom and the field, often working should-to-shoulder with the top research scientists in their field on vanguard projects of significant regional importance.

In addition to training students directly, Water Resources Research Institutes work with local residents to overcome water-related issues. For example, the California Institute for Water Resources, like most of its peers, holds field days, demonstrations, workshops, classes, webinars, and offers other means of education in an effort to transfer their research information to as many users as possible. Outreach that succeeds in changing a farmer's approach to nitrogen application or reducing a homeowner's misuse of lawn treatments can reduce the need for restrictive regulation.

APLU BNR requests at least \$18.9 million for the Cooperative Fish and Wildlife Research Units (CRU). This program serves to:

- train the next generation of fish and wildlife managers;
- conduct research designed to meet the needs of unit cooperators; and
- provide technical assistance to State and Federal personnel and other natural resource managers.

Originally established to provide training for students in fish and wildlife biology, the units were formally recognized by the Cooperative Units Act of 1960 (Public Law 86-686). The CRU provide experience and training for approximately 600 graduate students per year, a critical need as State and Federal workforces face unprecedented retirements over the next 5 to 10 years. The CRU also provides valuable mission-oriented research for their biggest clients, the U.S. Fish and Wildlife Service and cooperating State agencies. Today, there are 40 Cooperative Research Units in 38 States.

Each unit is a true Federal-State-university collaboration in that it is a partnership between USGS, a State natural resource agency, a host university, and the Wildlife Management Institute. For every \$1 the Federal Government puts into the program, \$3 more are leveraged through the other partners. The U.S. economy has long relied on the bountiful natural resources bestowed upon this land. Federal investment in the CRU will be returned many times over through the training of future natural resource managers who will guide the Nation in sustainable use of our natural resources. The research conducted by CRU scientists directly supports the difficult management challenges faced by natural resources managers. The exam-

ples below demonstrate the value of the CRUs to wildlife issues with local and national importance.

—The Minnesota Cooperative Fish & Wildlife Research Unit currently has 3 Federal employees, 3 post-doctoral research fellows and a total of 12 graduate students. Current research funded by the Minnesota Department of Natural Resources and Federal agencies totals \$4.9 million. Among the numerous projects being conducted by unit personnel, a project determining the olfactory sensitivity of Asian carp to putative hormonal sex pheromones has recently received national attention. The Asian carp is an invasive species that threatens many of the Nation's freshwater native fish because they are more competitive than native fish for food. The Minnesota CRU hopes to use the sex pheromones to attract and trap Asian carp, removing them permanently from the Nation's freshwater lakes and rivers.

—The Idaho Cooperative Fish and Wildlife Research Unit has 3 Federal scientists who are training 22 graduate students and supervise 8 year-round staff plus 15 seasonal staff and 5 work-study students. Total grants and contracts for these three scientists exceed \$1.5 million and include projects related to gray wolf monitoring and population estimation, improving fish passage at lower Columbia River dams, and defining "recovery" for endangered species.

APLU BNR supports the President's request of \$81 million for the Science to Achieve Results (STAR) grants and fellowship programs. The STAR program funds extramural research grants and graduate fellowships. Using a competitive and peer-reviewed process, the STAR program supports targeted research in support of EPA's mission. The funded research falls into three areas: grants awarded to individuals or small groups, grants awarded to multidisciplinary teams, and fellowships for masters and doctoral students. The STAR program allows EPA to solicit independent research apart from the research EPA itself conducts. Because the research is conducted at many of the best universities across the Nation, it is not unusual for the findings to be published in highly respected, peer-reviewed journals, allowing for widespread dissemination of the research.

*About Association of Public and Land-Grant Universities and the Board on Natural Resources*

APLU's membership consists of 221 State universities, land-grant universities, State-university systems and related organizations. The Board's mission is to promote university-based programs dealing with natural resources, wildlife, ecology, energy, and the environment. BNR representatives are chosen by their President's office to serve and currently number more than 500 scientists and educators, who are some of the Nation's leading research and educational expertise in environmental and natural-resource disciplines. APLU institutions enroll more than 3.5 million undergraduate students and 1.1 million graduate students, employ more than 645,000 faculty members, and conduct nearly two-thirds of all federally funded academic research, totaling more than \$34 billion annually.

PREPARED STATEMENT OF THE ASSOCIATION OF STATE DRINKING WATER ADMINISTRATORS

WHO WE ARE

Edward G. Hallock, president, on behalf of the Association of State Drinking Water Administrators (ASDWA), is pleased to provide testimony to the Interior, Environment and Related Agencies Subcommittee on fiscal year 2013 appropriations for the Environmental Protection Agency. ASDWA represents the State drinking water programs in the 50 States, territories, District of Columbia, and the Navajo Nation in their efforts to provide safe drinking water to more than 275 million consumers nationwide.

SUMMARY OF REQUEST

ASDWA respectfully requests that, for fiscal year 2013, the subcommittee appropriate funding for three State drinking water programs at levels commensurate with Federal expectations for performance; that ensure appropriate public health protection; and that will result in enhancing economic stability and prosperity in American cities and towns. ASDWA requests \$200 million for the Public Water System Supervision (PWSS) program; \$1.287 billion for the Drinking Water State Revolving Loan Fund (DWSRF) program; and \$10 million for State drinking water program security initiatives. A more complete explanation of the needs represented by these requested amounts and justification for these requested levels follows.

## HOW STATES USE FEDERAL FUNDS

*States Need Increased Federal Support To Maintain Overall Public Health Protection.*—State drinking water programs strive to meet public health protection goals through two principal funding programs:

- the Public Water System Supervision Program (PWSS); and
- the Drinking Water State Revolving Loan Fund (DWSRF) Program.

These two programs, with their attendant State match requirements, provide the means for States to work with drinking water systems to ensure that American citizens can turn on their taps with confidence that the water is both safe to drink and the supply is adequate. In recent years, State drinking water programs have accepted additional responsibilities to work with all public water systems to ensure that critical drinking water infrastructure is protected; that plans are in place to respond to both natural and manmade disasters; and that communities are better positioned to support both physical and economic resilience in times of crisis.

Vibrant and sustainable communities, their citizens, workforce, and businesses all depend on a safe, reliable, and adequate supply of drinking water. Economies only grow and sustain themselves when they have reliable water supplies. More than 90 percent of the population receives water used for bathing, cooking, and drinking from a public water system. Firefighting also relies on potable water from public water systems to ensure public safety. Even people who have their own private wells to meet their daily water needs will visit other homes or businesses served by a public water system. As important as public water systems are to the quality of water we drink and our health, the majority of water produced by public water systems is used by businesses for a variety of purposes, including processing, cooling, and product manufacturing. The availability of adequate supplies of water is often a critical factor in attracting new industries to communities. Public water systems—and the cities, villages, schools, and businesses they support—rely on State drinking water programs to ensure they are in compliance with all applicable Federal requirements and the water is safe to drink. A number of incidents in the United States over the past several years that have led to illnesses or deaths from unsafe drinking water serve as stark reminders of the critical nature of the work that State drinking water programs do every day and the dangers of inadequately funded programs.

*The Public Water System Supervision Program.*—To meet the requirements of the Safe Drinking Water Act, States have accepted primary enforcement responsibility for oversight of regulatory compliance and technical assistance efforts for more than 155,000 public water systems to ensure potential health-based violations do not occur or are remedied in a timely manner. More than 90 contaminants are regulated in Federal drinking water regulations and, the pace of regulatory activity has accelerated in recent years. Since 1996, State drinking water programs have participated in the development and implementation of more than 25 new Federal regulations and strategic initiatives designed to enhance the protection of public health. States are also implementing an array of proactive initiatives to protect public health from “the source to the tap”. These include source water assessments and protections; technical assistance with water treatment and distribution; and enhancement of overall water system performance capabilities. In recent years, States have also taken on an increasingly prominent role in working with Federal and local partners to help ensure sufficient water quantity. In short, State activities go well beyond simply ensuring compliance at the tap.

*The Drinking Water State Revolving Loan Fund Program.*—Drinking water in the United States is among the safest and most reliable in the world, but it is threatened by aging infrastructure. The DWSRF program is helping, but greater levels of Federal support are needed. The payback on this investment has been exceptional. In the core DWSRF program, \$12.4 billion in cumulative capitalization grants and \$2 billion in American Reinvestment and Recovery Act (ARRA) funds since 1997 have been leveraged by States into nearly \$22 billion in infrastructure loans to small and large communities across the country. Such investments pay tremendous dividends—both in supporting our economy and in protecting our citizens’ health. State drinking water programs have also used DWSRF funds to support the technical assistance and training needs of numerous small drinking water systems and to help these often challenged water systems obtain the technical, managerial, and financial proficiency needed to meet the requirements of the SDWA.

*State Drinking Water Security Responsibilities.*—State drinking water programs are critical partners in emergency planning, response, and resiliency at all levels of government. State primacy agencies provide key resources and critical support regardless of whether the emergency is rooted in terrorism, natural disasters, or cyber intrusions. States continually work toward integrating security considerations

throughout all aspects of their drinking water programs. Technological advances in contaminant detection and decontamination capabilities, new economic risk and impact analysis models, and enhancements in cyber security techniques also demand State program awareness, implementation, and outreach to the water community.

#### WHY INCREASED FUNDING IS URGENTLY NEEDED

*State Drinking Water Programs are Hard Pressed.*—States must accomplish all of the above-described activities, and take on new responsibilities, in the context of the continuing economic downturn. This has meant operating with less State-provided financial support—which has historically compensated for inadequate Federal funding. State drinking water programs have often been expected to do more with less and States have always responded with commitment and ingenuity. However, State drinking water programs are now in crisis and are stretched to the breaking point. Insufficient Federal support for this critical program increases the likelihood of a contamination event that puts the public's health at risk.

*State Funding Gap Continues To Grow; States Cannot Keep Up.*—Although the 1996 SDWA Amendments authorized the PWSS program at \$100 million per year, appropriated amounts have only recently reached that authorized level—a level that now, more than 16 years from the date of those amendments, falls far short of the need. \$105 million was appropriated for the PWSS program in fiscal year 2012. The President's fiscal year 2013 budget requests \$109 million for the PWSS grant—an amount that is woefully inadequate for the enormity of the task faced by State drinking water programs. A few years ago, State drinking water program administrators identified an annual shortfall nationally of approximately \$360 million between available funds and those needed to administer their programs. That gap only continues to grow and has a number of negative consequences. Many States are simply unable to implement major provisions of the newer regulations, leaving the work undone or ceding the responsibility back to EPA where it is likely to languish because of EPA's own resource constraints and lack of “on the ground” expertise. This situation has created a significant implementation crisis in several regions of the country and is ultimately delaying implementation of critically needed public health protections.

#### FISCAL YEAR 2013 REQUEST LEVELS AND SAFE DRINKING WATER ACT PROGRAM OBLIGATIONS

*The Public Water System Supervision Program.*—The number of regulations requiring State implementation and oversight as well as performance expectations continue to grow while at the same time, the Federal funding support necessary to maintain compliance levels and meet expectations has been essentially “flat-lined” or included only meager increases. Inflation has further eroded these inadequate funding levels. State drinking water programs are hard pressed to understand a justification for these funding levels since they are engaged in the critical phases of implementing the LT 2/Stage 2 Rule cluster (two sophisticated and complex initiatives to control disinfection by-products and microbial contaminants), the recently promulgated Ground Water Rule, and changes to the Lead and Copper Rule. States want to offer the flexibilities allowed under these and other rules to local water systems; however, fewer State resources mean less opportunity to work one-on-one with water systems to meet their individual needs. Looking ahead, States expect that new rules for perchlorate and carcinogenic volatile organic carbon compounds will be forthcoming in the near future as well as revisions to the Total Coliform Rule.

ASDWA respectfully requests that the fiscal year 2013 funding for the PWSS program be appropriated at \$200 million. This figure begins to fill the above-described resource gap and is based on the expense of implementing new drinking water rules, taking on a number of other new initiatives, and accounting for the eroding effects of inflation.

*The Drinking Water State Revolving Loan Fund Program.*—States were very encouraged by the \$1.387 billion appropriated for the DWSRF in fiscal year 2010 but are disappointed at the subsequent downward trend—\$963 million in fiscal year 2011 and \$919 million in fiscal year 2012 and the alarming administration request of \$850 million for fiscal year 2013—a figure not seen since 2008. The primary purpose of the DWSRF is to improve public health protection by facilitating water system compliance with national primary drinking water regulations through the provision of loans to improve drinking water infrastructure. Water infrastructure is needed for public health protection as well as a sustainable economy, as explained above. States have very effectively and efficiently leveraged Federal dollars with State contributions to provide assistance to more than 8,500 projects, improving health protection for millions of Americans. According to the most recent figures available, this

equals a 177.4-percent return on the Federal investment. Approximately 72 percent of projects and 38 percent of assistance has been provided to small communities (serving less than 10,000 people). However, EPA's most recent National Drinking Water Infrastructure Needs Survey (2007) indicated that water system needs total \$334.8 billion over the next 20 years to comply with SDWA mandates. States believe the \$2 billion in ARRA funds and the fiscal year 2010 appropriated level were very substantial down payments on addressing those needs and filling the infrastructure gap. In light of these indicators of success and documented needs, we believe funding at the \$1.287 billion level will better enable the DWSRF to meet the SDWA compliance and public health protection goals for which it was designed.

ASDWA respectfully requests \$1.287 billion in fiscal year 2012 funding for the DWSRF program. This was the amount appropriated in fiscal year 2011 and ASDWA believes this is an appropriate funding level on an ongoing basis.

*Security Responsibilities.*—After 7 years of supporting State security programs through a small grant of approximately \$5 million in EPA's appropriation, no funds have been provided for this purpose since fiscal year 2009 and none are requested for fiscal year 2013. State drinking water programs need funds to continue to maintain and expand their security activities, particularly for small and medium water systems and to support utility-based mutual aid networks for all drinking water systems. It is very difficult to understand why this grant has been zeroed out of EPA's proposed budget. Given the realities exemplified by ongoing Homeland Security initiatives, the goals of the National Infrastructure Protection Plan, and the lessons learned from Hurricanes Katrina, chronic flooding in the Midwest, and most recently, from the 2011 Northeast experience with Hurricane Irene and Tropical Storm Lee, State drinking water programs are working more closely than ever with their water utilities to evaluate, assist, and support drinking water systems' preparedness, response, and resiliency capabilities. States continue to expand their efforts to reflect a more resilient "all hazards" approach to water security and to focus their efforts toward smaller water systems. These systems rely heavily on the States to help them meet their needs and identify potential funding sources.

ASDWA respectfully requests \$10 million in fiscal year 2012 funding for the State security initiatives. These funds would be commensurate with the security tasks state drinking water programs must take on.

#### CONCLUSION

In conclusion, ASDWA respectfully recommends that Federal fiscal year 2013 budget needs for the provision of safe drinking water be adequately funded by the Congress. A strong drinking water program supported by the Federal-State partnership will ensure that the quality of drinking water in this country will not deteriorate and, in fact, will continue to improve—so that the public can be assured that a glass of water is safe to drink no matter where they travel or live. States are willing and committed partners. However, additional Federal financial assistance is needed to meet ongoing and ever growing regulatory and security needs. The financial needs of these programs is particularly acute when one considers that the Budget Control Act of 2011 sequestration may well cut an additional 9 percent from whatever is ultimately appropriated. In 1996, the Congress provided the authority to ensure that the burden would not go unsupported. For fiscal year 2013, ASDWA asks that the promise of that support be realized.

#### PREPARED STATEMENT OF BAT CONSERVATION INTERNATIONAL

Chairman Reed, Ranking Member Murkowski, and members of the subcommittee, thank you for the opportunity to submit testimony. Bat Conservation International (BCI) is a nonprofit organization that conducts and supports science-based research, education, and conservation to ensure that bats will still be helping to maintain healthy environments and human economies far into the future. We are based in Austin, Texas, with a membership of more than 10,000 from all 50 of the United States. We respectfully request \$7.8 million plus one full-time employee in fiscal year 2013 funding to address White-nose Syndrome (WNS), a disease decimating North American bats.

WNS poses the gravest threat ever faced by U.S. bats. Since its discovery in 2006, the disease has killed at least 5.7 million bats. It is named for the previously unknown, cold-loving white fungus that causes the disease, found on the faces and wings of infected bats. WNS-infected bats awaken frequently during hibernation, burning the fat reserves they need to survive the winter. They often emerge early from hibernation, before the return of warm weather and insects, only to freeze or starve to death. The disease or its associated fungus has spread to 20 States and

4 Canadian provinces in the 6 years since WNS was first observed in a cave near Albany, New York. The Northeastern United States has borne the brunt of WNS so far, but the disease or its fungus has spread as far south as Alabama. It has also reached as far west as Oklahoma, in a location closer to the Pacific Ocean than to the site of WNS's first observation in New York.

Biologists consider the WNS die-off to be North America's most precipitous wild-life decline in the past century. The disease strikes hibernating bats—those that sleep through the winter in caves and mines—and has affected every hibernating bat species in its geographic path. Of the Nation's 47 bat species, 25 hibernate, and all of these hibernating species are considered at risk of the disease. WNS or the fungus currently affects nine species, including the federally endangered Indiana and gray bats, which could well be even closer to extinction as a result. Some WNS-infected sites experience mortality rates of almost 100 percent. Losses are so severe that researchers are predicting regional extinctions of the little brown bat—previously one of America's most common mammals—in Northeastern States within 15 years.

Bats provide many benefits to humankind. As primary predators of night-flying insects, bats are critical to maintaining the balance of nature. A bat can eat one-half to all of its body weight in insects per night, consuming vast numbers of pests that damage crops such as corn, cotton, and potatoes. A study published last year in the journal "Science" estimates the value of bats to the U.S. agriculture industry ranges from \$3.7 to \$53 billion per year. Bats also eat insects that damage forests and spread disease. Some bat species pollinate crops and disperse seeds. Research of bat biology has yielded important chemical products, including a medication to prevent strokes. Bat droppings in caves support unique ecosystems, including microorganisms that could be used in detoxifying industrial wastes and producing safer pesticides and antibiotics.

The loss of bats would have serious ecological and economic consequences. With millions of bats dead from WNS, their would-be prey insects are surviving to attack crops and forests. The "Science" article argues that, as a result of WNS, North American agriculture will begin noting economic losses within 3 to 4 years, with especially severe impacts to the Midwest and Great Plains regions. In addition to crop losses, farmers will need to use more pesticides, increasing the financial strain on farming families, raising the price of food for consumers, and releasing more chemicals into our environment. Bats are important predators, so their disappearance could have broad, ripple effects on the environment that we cannot yet assess.

Population declines from WNS could lead to listing more bat species under the Federal Endangered Species Act, as well as State-level statutes, which would cause far-ranging economic costs. Due to WNS, the Fish and Wildlife Service (FWS) is conducting a status review of the little brown bat and listing reviews of the northern long-eared bat and eastern small-footed bat. At the State level, Ohio and Wisconsin have each listed four bat species, and other States are considering designations. Bat species affected by WNS have broad geographic distributions and complex ecological patterns, which would likely require very high recovery costs. Finally, regulations stemming from listing more bat species would have economic impacts on industries such as mining, defense, energy, forestry, construction, transportation, tourism, and outdoor recreation.

BCI appreciates the commitment the Congress has demonstrated toward fighting WNS. In fiscal year 2010, the Congress made an appropriation of \$1.9 million to FWS for WNS. In the fiscal year 2012 spending package, the Congress directed FWS to spend no less than \$4 million on WNS, and directed Bureau of Land Management (BLM) and United States Forest Service (USFS) to prioritize WNS activities. We thank the Congress for recognizing not only the gravity of WNS, but also the institutional and geographic scope of the response needed to fight the disease. The Federal Government—in conjunction with partners in State, local, and tribal agencies, academic institutions, and nonprofits—has mounted an admirable response to the disease within the framework of the National Plan for Assisting States, Federal Agencies, and Tribes in Managing White Nose Syndrome in Bats (National Plan).

The increases for WNS requested in the President's fiscal year 2013 budget will enable Federal agencies to capitalize on, and add to, the hard-won progress they have made against WNS. Researchers have answered many of the basic science questions about this previously unknown disease, and are ready to apply the knowledge to exploring management and conservation measures. Failing to fund WNS this year will undermine the accomplishments Federal agencies and their partners have made to fight this devastating epidemic.

BCI therefore supports the requests for WNS funding in the President's fiscal year 2013 budget, and we urge the subcommittee to maintain them. If the subcommittee can invest more in fighting WNS to protect bats and the valuable con-



tributions bats make to the economy, agriculture, and the environment, we suggest the following outlays.

*U.S. Fish and Wildlife Service—\$4.5 Million*

We ask the subcommittee to maintain the \$1.897 million for WNS in the President's fiscal year 2013 budget, and to maintain the President's fiscal year 2013 Recovery Fund request of \$81.909 million. An additional \$2.603 million for WNS—for a total of \$4.5 million—would incrementally increase the Congress's fiscal year 2012 commitment.

This will fund:

*Research.*—Identify priorities for applied research that will assist in combating WNS and managing its spread, and fund projects that support these goals.

*Interagency Coordination.*—Provide and relay scientific information and guidance to and among Federal and State agencies, tribes, landowners, recreation, and conservation groups to ensure best practices on WNS-related issues, such as research findings, status of disease spread, and fungus decontamination procedures.

*State Support.*—Provide funding for State wildlife agencies to conduct disease surveillance, monitor bat populations, implement conservation measures, and conduct research.

*Conservation Action for Bat Species in Decline Due to White Nose Syndrome.*—Assess populations and threats; provide guidance on needs of species to Federal and State agencies and private land owners.

*U.S. Geological Survey—\$1 Million Plus One Full-Time Equivalent*

We ask the subcommittee to maintain the requested increase in the President's fiscal year 2013 budget for \$1 million and one full-time employee to carry out work related to WNS.

This will support:

- Enhancing WNS surveillance and diagnostic capabilities.
- Research, on topics such as:
  - Vaccine development;
  - Pathogenesis—the origin, development, and resultant effects—of WNS;
  - Prevalence and survival of WNS fungus in cave environments;
  - Modeling WNS disease processes.

These activities support the goals of the following working groups of the National Plan:

- Diagnostics;
- Disease management;
- Epidemiological and ecological research;
- Disease surveillance; and
- Conservation and recovery.

*National Park Service—\$300,000*

We ask the subcommittee to provide \$300,000 for the National Park Service's WNS efforts.

This will fund:

- Preventing WNS spread by conducting visitor decontamination and monitoring flow of visitors on an as-needed basis.
- Conducting on-the-ground surveillance of disease.
- Monitoring for disease presence or absence.

These activities support the goals of the National Plan Disease Management Working Group.

*Bureau of Land Management—\$1 Million*

In order for BLM to continue the Congress's fiscal year 2012 directive to “prioritize research related to WNS in bats and the inventory and monitoring of bat resources on Bureau-administered lands”, we ask the subcommittee to provide \$1 million for BLM's WNS efforts.

This will fund bat inventories of the BLM's presently known caves and abandoned mines, supporting the goals of the National Plan Disease Management Working Group.

*U.S. Forest Service—\$1 Million*

In order for USFS to continue the Congress's fiscal year 2012 directive to “prioritize research related to White Nose Syndrome as well as inventory and monitoring of bat resources on Forest Service lands”, we ask the committee to provide

\$1 million to be divided between the Research and Development branch and the National Forest System branch.

This will fund:

- Research, on topics such as:
    - Enhancing environmental conditions for bat survival in the face of WNS.
    - Possible biological controls for WNS.
    - Ways to measure the status and fitness of bat populations.
  - Preventing WNS spread by conducting visitor decontamination and monitoring flow of visitors on an as-needed basis.
  - Conducting on-the-ground surveillance of disease.
  - Monitoring for disease presence or absence.
  - Managing forests to optimize bat habitat.
- These activities support the goals of the following National Plan Working Groups:
- Disease management;
  - Epidemiological and ecological research; and
  - Conservation and recovery.

Money spent on WNS is a wise investment. First, preventing the spread of WNS will spare businesses the regulatory and other impacts of bat die-offs. In addition, implementing WNS response generates jobs. Finally, conducting WNS research, management, and prevention now will reduce future expenses to the U.S. economy resulting from pest impacts to agriculture and forestry, businesses affected by additional bat listings, and the cost of listed-species recovery. In this case, an ounce of prevention is truly worth a pound of cure.

Thank you for the opportunity to share BCI's position on this serious matter, and we respectfully ask you to consider our urgent request.

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PREPARED STATEMENT OF THE BERNALILLO BOARD OF COUNTY COMMISSIONERS

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF.

The LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical, and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the LWCF request in fiscal year 2013, the U.S. Fish and Wildlife Service included an allocation of \$1.5 million for Middle Rio Grande National Wildlife Refuge (NWR). I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for LWCF for this important project.

The 570-acre Price's Dairy property is located in the South Valley of Albuquerque, New Mexico, 5 miles south of downtown. This tract is one of the largest remaining farms in the Middle Rio Grande Valley and the largest agricultural property within the Albuquerque metro region. The city of Albuquerque is among the fastest-growing urban areas in the United States, and its developing sprawl contributes to a loss of history and culture while placing significant stress on the natural resources of the Valley and the Rio Grande.

Over the years, various attempts have been made to preserve this property. During that time, other large-acreage properties on the river have been subdivided and developed and the water rights sold to support other needs. With a landowner who seeks a conservation outcome, the opportunity exists now to protect this section of the Rio Grande, engage the next generation through environmental education and outreach, and support economic development on the south side of the city. This is a property that has high environmental values but also will benefit New Mexico residents and visitors far into the future.

These conservation efforts culminated on September 29, 2011, with an announcement by Secretary of the Interior Ken Salazar and the U.S. Fish and Wildlife Serv-

ice (FWS) to authorize the Price's Dairy property as the Middle Rio Grande National Wildlife Refuge (MRGNWR). The unit would be the first urban refuge in the FWS southwest region. Overwhelming public support for the new refuge was generated throughout the FWS's planning process, and it was named one of the 50 State projects under the Obama administration's America's Great Outdoors Initiative.

The creation of this new refuge will protect the natural resource values of the property that would be lost through subdivision and development, bolster environmental education and outreach for local students and residents, and provide a gateway to the larger regional park system. In addition, because of the property's significant senior water rights, the protection of this property would also add to the health and vitality of the adjacent Rio Grande, which is struggling to support the people and wildlife that depend on it for water. About 70 percent of the State's population—more than 1.3 million people—live in the 10 counties along the Rio Grande.

The FWS proposal creating the new MRGNWR emphasizes restoration of river, bosque, and wildlife habitats on the property. The section of the river next to Price's Dairy has been designated critical habitat for Rio Grande silvery minnow and southwestern willow flycatcher, two endangered species. The restoration of the landscape and the redistribution of acquired senior water rights on the property to increase instream flows would meet objectives to improve habitats and their viability, lower the threat to fish and wildlife of drought, and mitigate expected effects of climate change. Price's Dairy provides an important waypoint for migratory birds such as sandhill cranes, Arctic geese, and varied duck species that move up and down the river from summer breeding grounds in the north to wintering havens in the south.

The river corridor also provides an opportunity for hiking and biking along the planned Rio Grande Trail, which is proposed to parallel the river as it cuts through New Mexico from north to south. The MRGNWR would provide an important trailhead for this system and also be a new southern terminus of the city of Albuquerque's existing Paseo del Bosque Trail. These recreational connections would improve public access to the Rio Grande and underscore the significant Federal, State, local, and private efforts to promote recreation and the outdoors.

As an urban refuge, the MRGNWR will connect Albuquerque residents to the outdoors in ways not previously available. The refuge plan calls for the eventual construction of an onsite environmental education center to enhance student learning and connection with nature. The refuge unit could also become the site of agricultural extension offices, a native plant materials center, small farm demonstration plots that promote regionally cherished crops, and university-level scientific and agricultural research.

Protection of Price's Dairy offers myriad benefits for the public. As open space and as a trailhead, it would provide recreational opportunities for an underserved part of the Albuquerque metro area. Its proximity to the Rio Grande, large undeveloped acreage, and existing farming activity offer the FWS and State agencies an opportunity to engage in sound environmental restoration practices while connecting young people and urban residents to the natural world. With the attraction of a FWS visitor's center and the nearby access to Interstate 25, there are also economic benefits to the South Valley.

The acquisition of the property and associated senior water rights is expected to cost up to \$20 million. Demonstrating the importance of the project to the Albuquerque metropolitan area, the Bernalillo County Board of Commissioners, of which I am a member, unanimously voted on September 28, 2010 to appropriate \$5 million in county funds for the acquisition. These funds were made available only over a period of 2 years from approval and expire in late September 2012. To match these funds, other funding is being sought from a variety of local, State and Federal sources, and the landowner agreement in place requires a Phase I closing by the end of June 2012.

To date, in addition to the county funds, \$1 million has been secured from the Albuquerque Metropolitan Flood Control Authority and \$1 million from the Bureau of Reclamation. The fiscal year 2013 President's budget request for FWS includes an allocation of \$1.5 million from the LWCF to the MRGNWR, which may be supplemented by additional LWCF dollars and FWS grants. In order to ensure that this project moves forward in a timely way, the fiscal year 2013 President's budget recommendation is urgently needed, while the effort to secure supplemental local, State, Federal, and private funds continues.

In closing, I urge you to provide funding for the LWCF of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for the Middle Rio Grande NWR. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in New Mexico, and I appreciate your consideration of this funding request.

## PREPARED STATEMENT OF CHUGACH REGIONAL RESOURCES COMMISSION

As Executive Director of the Chugach Regional Resources Commission (CRRC), located in Alaska, I am pleased to submit this testimony reflecting the needs, concerns and requests of CRRC regarding the proposed fiscal year 2013 budget. As is everyone, we are aware of the ongoing economic problems in the United States. While the Government is trimming its spending, the Federal Government must still fulfill its legal and contractual spending obligations. The Bureau of Indian Affairs (BIA) not only has a legal and contractual obligation to provide funding for the CRRC, but the CRRC is able to translate this funding into real economic opportunity for those living in the Prince William Sound region.

After failing to seek funding for CRRC for more than a decade, we are very pleased that the BIA has recognized its obligation to CRRC and has requested \$350,000 for CRRC in fiscal year 2013. In its fiscal year 2013 budget justification, the BIA recognized CRRC's role in developing the capabilities of its member villages to better facilitate their active participation in resource use and allocation issues in Alaska. We urge the subcommittee to support this funding and include it in the final bill.

*Chugach Regional Resource Commission History.*—CRRC is a coalition of Alaska Native Villages, organized in 1987 by the seven Native Villages located in Prince William Sound and Lower Cook Inlet in southcentral Alaska:

- Tatitlek Village IRA Council;
- Chenega IRA Council;
- Port Graham Village Council;
- Nanwalek IRA Council;
- Native Village of Eyak;
- Qutekcak Native Tribe; and
- Valdez Native Tribe.

CRRC was created to address environmental and natural resources issues and to develop culturally sensitive economic projects at the community level to support the sustainable development of the region's natural resources. The Native Villages' action to create a separate entity demonstrates the level of concern and importance they hold for environmental and natural resource management and protection—the creation of CRRC ensured that natural resource and environmental issues received sufficient attention and focused funding.

*Employment.*—Through its many important programs, CRRC has provided employment for up to 35 Native people in the Chugach Region annually—an area that faces high levels of unemployment—through programs that conserve and restore our natural resources.

An investment in CRRC has been translated into real economic opportunities, savings and community investments that have a great impact on the Chugach region. Our employees are able to earn a living to support their families, thereby removing them from the rolls of people needing State and Federal support. In turn, they are able to reinvest in the community, supporting the employment and opportunities of other families. Our programs, as well, support future economic and commercial opportunities for the region—protecting and developing our shellfish and other natural resources.

*Programs.*—CRRC has leveraged its \$350,000 from BIA into almost \$2 million annually to support its several community-based programs. Specifically, the \$350,000 base funding allowed CRRC to maintain core administrative operations, and seek specific projects funding from sources such as the Administration for Native Americans, the Exxon Valdez Oil Spill Trustee Council, the State of Alaska, Bureau of Indian Affairs, U.S. Forest Service, U.S. Fish and Wildlife Service, and the U.S. Department of Education. This diverse funding pool has allowed CRRC to develop and operate several important programs that provide vital services, valuable products, and necessary employment and commercial opportunities. These programs include:

*Alutiiq Pride Shellfish Hatchery.*—The Alutiiq Pride Shellfish Hatchery is the only shellfish hatchery in the State of Alaska. The 20,000 square foot shellfish hatchery is located in Seward, Alaska, and houses shellfish seed, brood stock and algae production facilities. Alutiiq Pride is undertaking a hatchery nursery operation, as well as grow-out operation research to adapt mariculture techniques for the Alaskan Shellfish industry. The Hatchery is also conducting scientific research on blue and red king crab as part of a larger federally-sponsored program. Alutiiq Pride has already been successful in culturing geoduck, oyster, littleneck clam, and razor clam species and is currently working on sea cucumbers. This research has the potential to dramatically increase commercial opportunities for the region in the future. The activities of Alutiiq Pride are especially important for this region considering it is the only shellfish hatchery

in the state, and therefore the only organization in Alaska that can carry out this research and production.

*Natural Resource Curriculum Development.*—Partnering with the University of Alaska, Fairbanks, and the National Oceanic and Atmospheric Administration, CRRC is developing and implementing a model curriculum in natural resource management for Alaska Native students. This curriculum integrates traditional knowledge with Western science. The goal of the program is to encourage more Native students to pursue careers in the sciences. In addition, we are working with the Native American Fish & Wildlife Society and tribes across the country (including Alaska) to develop a university level textbook to accompany these courses.

In addition, we are in the process of completing a K–12 Science Curriculum for Alaska students that integrates Indigenous knowledge with western science. This curriculum is being piloted in various villages in Alaska and a thorough evaluation process will ensure its success and mobility to other schools in Alaska.

*Alaska Migratory Bird Co-Management Council.*—CRRC is a member of the Council responsible for setting regulations governing the spring harvest of migratory birds for Alaska Natives, as well as conducting harvest surveys and various research projects on migratory birds of conservation concern. Our participation in this State wide body ensures the legal harvest of migratory birds by Indigenous subsistence hunters in the Chugach Region.

*Statewide Subsistence Halibut Working Group.*—CRRC participates in this working group, ensuring the halibut resources are secured for subsistence purposes, and to conduct harvest surveys in the Chugach Region.

We urge the Congress to sustain the \$350,000 included in the BIA's fiscal year 2013 budget for CRRC. We appreciate the opportunity to submit this important testimony.

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## PREPARED STATEMENT OF THE CHEROKEE NATION

### INTRODUCTION

Chairman Reed, Ranking Member Murkowski, and members of the subcommittee thank you for accepting testimony into the record on fiscal year 2013 budgetary concerns regarding Native American Issues. Cherokee Nation requests that in setting fiscal year 2013 Bureau of Indian Affairs (BIA) and Indian Health Services (IHS) budget priorities, the Federal Government uphold its Trust Responsibility to tribes.

Cherokee Nation was one of the first tribes to enter into a treaty with the United States. In that tradition, the Cherokee Nation executed a self-determination contract in 1990 under title III of the Indian Self-Determination and Education Assistance Act (ISDEAA), which gave the tribe more authority to administer its programs. In just two decades, Cherokee Nation has taken over the administration of several BIA and IHS programs, including healthcare, education, and law enforcement. ISDEAA is a powerful mechanism that provides tribes with the opportunity to control and administer essential governmental services and engage in local economic and resource development.

Cherokee Nation is the largest employer in northeastern Oklahoma and has an economic impact of more than \$1.06 billion on the State's output level, including \$401 million in State income impacts, and supports 13,527 jobs in a predominantly under-developed, rural region of Oklahoma. While 3,250 people are employed in the Nation's Government, an ever-increasing number of people are employed in the Nation's diverse portfolio of businesses, including hospitality, healthcare, aerospace, and technology sectors.

The combined revenue from the tribe's business operations helps fund essential Government services while offering a foundation to expand and diversify economic development and create job growth in Oklahoma. Therefore, adequate funding for both IHS and BIA is vital to maintain and increase our recent progress and strength.

### FIXED COSTS—CONTRACT SUPPORT COSTS

One of the most important budgetary issues facing Indian Country for the next fiscal year is the funding of contract support by BIA and IHS. In Indian Country, every \$1 lost in contract support costs is \$1 subtracted from healthcare, education, law enforcement, and other critical governmental services. The contract support cost (CSC) deficiency has caused severe financial strains on Cherokee Nation's programs and facilities.

Because CSCs are fixed costs that a contractor must incur, tribes are required to either:

- reduce funds budgeted for critical healthcare, education, and other services under contract to cover the shortfall;
- divert tribal funds to subsidize the Federal contract (when such tribal funds are available); or
- use a combination of these two approaches. For every \$1 million that the Cherokee Nation must divert from direct patient care to cover CSCs, the Cherokee Nation health system must forego 5,800 patient visits.

While the President's fiscal year 2013 budget request for IHS is \$4.42 billion—an increase of \$115.9 million more than the fiscal year 2012 enacted level—IHS sees only a very modest \$5 million increase in IHS funding for contract support. The Cherokee Nation appreciates the increase, but it is less than a 1-percent increase more than the fiscal year 2012 enacted level. At this level, the IHS contract support cost shortfall is estimated to increase to approximately \$100 million in fiscal year 2013. This shortfall will substantially impact Cherokee Nation, which, like other tribes across the United States, operates replacement or joint venture facilities throughout our tribal jurisdiction.

The projected CSC shortfall will force the Cherokee Nation to divert investments in job creation and other important programs to avoid decreasing primary care, dental treatment, and pharmaceutical coverage. As long as the Federal Government maintains the status quo of inadequate funding, the United States is failing in its partnership with tribes and is ignoring its Trust Responsibility.

Fortunately, BIA does not have the same CSC shortfall crisis. Cherokee Nation appreciates the President's budget proposal because it increases Indian self-determination funds by \$8.8 million. This increase must be protected during the appropriations process to avoid the same problems IHS has with CSC funding and BIA should be seen as a model for IHS.

We appreciate past and current efforts to reduce shortfalls, but it is unacceptable for sequestration or domestic deficit reduction efforts to single out tribes by cutting tribally administered health and law enforcement programs. The Federal Government has a moral and legal obligation to fund these essential governmental services. The trust responsibility is not, and should not be viewed as, discretionary spending.

#### INDIAN HEALTH SERVICE

Under a Self-Governance compact with the Department of Health and Human Services, the Cherokee Nation constructs and maintains waterlines and improves sanitary services throughout the region. Furthermore, in conjunction with IHS contract support cost dollars, the tribe operates a sophisticated network of eight rural outpatient health centers that provide Native people with primary medical care, dental service, optometry, radiology, mammography, behavioral health promotion and disease prevention, and a public health nursing program.

In addition to these services, the Cherokee Nation operates WW Hastings Indian Hospital in Tahlequah, Oklahoma. Hastings is a 60-bed facility offering outpatient and ancillary services with more than 300,000 outpatient visits each year and more than 335,000 prescriptions filled annually. Adequate funding is required to continue this successful partnership in fulfillment of the United States' trust obligations and IHS must be exempt from future reductions during appropriations and the sequestration process as prescribed in the Budget Control Act of 2011.

#### EXPANDING THE JOINT VENTURE PROGRAM

The IHS Joint Venture program demonstrates the shared commitment of tribal nations and IHS. This program provides additional health facilities within the Indian health system and the staff necessary to support the facilities across Indian Country. This program has been effective in the Oklahoma City area as well as providing staff at our clinics across eastern Oklahoma. Cherokee Nation requests the Joint Venture program be funded at an adequate level, including CSC funds.

#### INDIAN HEALTH CARE IMPROVEMENT FUND

In addition to the well-documented disparate funding between IHS and other federally funded health programs, funds among the various IHS areas are distributed inequitably. In order to address such inequities, the Indian Health Care Improvement Fund (IHCIF) was created to achieve parity among the IHS areas. Over the years, tribes have recommended the Federal Government implement a time-limited plan to bring all IHS operating units to the 80-percent level. To achieve parity, a \$1 billion investment will be required during a 4-year period.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION BLOCK GRANT FUNDS

The President's fiscal year 2013 budget request for Substance Abuse and Mental Health Services Administration (SAMHSA) is \$3.4 billion, a \$141.9 million decrease from the fiscal year 2012 enacted level. Each State receives block grant (formula) funds from SAMHSA for providing behavioral health services to all residents within the State. However, when an American Indian is in need of behavioral health services, he typically seeks care through an IHS or tribally operated facility, as opposed to a State agency or State-operated facility. As with competitive and discretionary funds, increasing and giving the Cherokee Nation access to this type of funding would expand our opportunity to improve our behavioral health services and better meet the system's current demand.

BUREAU OF INDIAN AFFAIRS

Cherokee Nation compacts with the Department of the Interior to administer a wide array of Federal programs serving American Indians. Full Federal funding is crucial for continued administration of social services, child wellness programs, child abuse services, adult and higher education, housing improvement, law enforcement service, road and bridge construction, planning and maintenance, forestry and real estate programs, and Johnson O'Malley education programs.

INDIAN GUARANTEED LOAN PROGRAM

The Indian Guaranteed Loan Program, established under the Indian Financing Act of 1974, helps Cherokees and other Native Americans access capital by guaranteeing and insuring loans to promote economic development throughout Indian Country. The program leverages appropriated monies by a ratio of 13 to 1. However, in the upcoming budget, the program sees a \$2.1 million reduction to \$5 million because it is purportedly duplicative of programs in other agencies. However, these programs do not replace the Guaranteed Loan Program. Cherokee Nation requests this highly successful program be fully funded so tribes may access loans when attempting to increase their economic livelihood in often economic-depressed regions.

TRIBAL PRIORITY ALLOCATIONS

We join our fellow Self-Governance Tribes in continuing to request funding increases for the fundamental services provided as Tribal Priority Allocations (TPA). Of the 566 federally recognized tribes, 235 tribes manage their own affairs under Self-Governance agreements with the BIA. Although these tribes account for 42 percent of the federally recognized tribes, they received roughly only 15 percent of BIA budget, which bears the responsibility for providing services to all federally recognized tribes. Collectively, most of the varied programs fall under the broad category of "Tribal Priority Allocations."

The President's fiscal year 2013 budget includes \$2.5 billion for BIA, which is \$4.6 million or 0.2 percent less than the fiscal year 2012 enacted level. While this is basically level with fiscal year 2012's budget, any decrease strains tribal governments. Further, the budget proposes a total of \$897.4 million in TPA and these funds must be protected as the budget process proceeds.

SEQUOYAH SCHOOLS AND THE TRIBAL EDUCATION DEPARTMENTS PILOT PROJECT

In 1985, Cherokee Nation gained control of Sequoyah Schools, a former, underperforming BIA boarding school. After years of tribal control, Sequoyah is now regionally and State accredited, consistently meets Adequate Yearly Progress goals and is flourishing. While Sequoyah receives funding from Bureau of Indian Education grants, the Cherokee Nation also utilizes tribal funding from motor vehicle tag sales to fund the School.

The Campus now covers more than 90 acres and houses more than 400 students in grades 7-12 representing 42 tribes. Cherokee Nation and other tribes better understand how to educate our children and provide cultural curricula that revitalizes and protects language and tribal history. The School also creates an academic environment that mirrors college preparatory schools by utilizing an advanced curriculum and using data collection to track student progress and School performance, which allows the administrators to quickly address any deficiencies or problems that develop.

Therefore, Cherokee Nation is very appreciative of the \$2 million appropriated for the Tribal Education Departments (TEDs) Pilot Project in the fiscal year 2012 Department of Education budget. Funding for TEDs is also authorized in No Child Left Behind Act for DOI, but has not been funded. This pilot project will increase the

role of TEDs in education and will help tribes provide an equitable learning environment for our children. Therefore, we request \$2 million in fiscal year 2013 for the TED pilot project.

The pilot project will allow tribes and the Federal Government to utilize a method of funding that has been demonstrated to increase efficiency and self-determination in other areas. The pilot project allows TEDs to receive funding as authorized in the Elementary and Secondary Education Act (ESEA) for education programs and authorizes the TED to directly administer such ESEA programs in a similar fashion as the Cherokee Nation receives and administers funding for IHS and BIA self-governance programs. The Nation respectfully requests this subcommittee work with the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies and Subcommittee on the Interior, Environment, and Related Agencies to ensure the pilot project is funded and that the appropriations act language directs the Department of the Interior and Education to directly provide ESEA funding to the tribes chosen to participate in the pilot project.

#### CONCLUSION

Cherokee Nation is committed to providing Federal services and direct, local-level programs, including job creation, education, health and law enforcement services, in a time when economic issues and desired deficit reduction hinder Federal attempts to accomplish the same. The Federal Government's current fiscal situation does not negate its trust responsibility to Cherokee Nation and Indian Country. Thank you for your continued support and for the opportunity to provide testimony on these critical fiscal year 2013 budget issues. Please contact the Cherokee Nation Washington Office at 202.393.7007 with any questions or requests for additional information.

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#### PREPARED STATEMENT OF THE CHILDREN'S ENVIRONMENTAL HEALTH NETWORK

The Children's Environmental Health Network (CEHN) providing testimony on fiscal year 2013 appropriations, especially appropriations for the Environmental Protection Agency (EPA) and the Agency for Toxic Substances and Disease Registry (ATSDR).

We are writing today to provide testimony on the fiscal year 2013 budget currently before your subcommittee, especially the budget proposed by the President for the Environmental Protection Agency (EPA).

This year, CEHN is celebrating its 20th anniversary as a national nonprofit organization whose mission is to protect the developing child from environmental hazards and promote a healthier environment. The Network's Board and committee members include internationally recognized experts in children's environmental health science and policy who serve on key Federal advisory panels and scientific boards. We recognize that children, in our society, have unique moral standing.

The Network is deeply concerned about the health of the Nation's children and urges the subcommittee to help all children grow up in healthy environments by embracing its role in protecting our environment and our health.

American competitiveness depends on having healthy educated children who grow up to be healthy productive adults. Yet, growing numbers of our children are diagnosed with chronic and developmental illnesses and disabilities. The National Academy of Sciences estimates that toxic environmental exposures play a role in 28 percent of neurobehavioral disorders in children and this does not include other conditions such as asthma or cancers. Thus, it is vital that the Federal programs and activities that protect children from environmental hazards receive adequate resources.

CEHN urges the subcommittee to provide funding at or above the requested levels for the following EPA activities:

- Office of Children's Health Protection (OCHP);
- Children's Environmental Health Research Centers of Excellence;
- Office of Research and Development;
- School and Child Care Environmental Health;
- The Pediatric Environmental Health Specialty Units; and
- The National Children's Study.

CEHN also urges full funding of all activities that advance healthy school and childcare environments for all children.

As epidemiologists see increasing rates of asthma, learning disabilities, and childhood cancers; as parents seek the causes of birth defects; as researchers understand more and more about the fetal origins of disease, policymakers must do a much bet-



ter job of understanding and acting on the connections between children's health and the environments in which they spend their time.

These environments include but go beyond home, school, and childcare settings. A growing number of studies are finding unexpected impacts of prenatal environmental exposures on health in later years. For example, prenatal exposures to either a common air pollutant or a common pesticide have both been linked to lower IQs and poorer working memory at age 7.

Thus, all agencies should assure that their children's programs build on and respond to the growing evidence of the importance of prenatal exposures to a child's health and future.

This evidence also highlights the shortcomings of the Toxic Substances Control Act, which does not adequately protect human health, including that of vulnerable populations such as children. The Network urges you, as Members of Congress, to support the long overdue reform of this important statute to give priority to the protection of human health under this law.

A variety of factors, such as children's developing systems, their unique behaviors and differing exposures, mean that children can be more susceptible than adults to harm from toxic chemicals. Standards and guidelines that are based on adults cannot be assumed to be protective of children. EPA programs of highest importance in the protection of children are described below.

*Environment Protection Agency's Office of Children's Health Protection.*—EPA's efforts to protect children from environmental hazards have been led by OCHP since 1997. Despite an effective track record, funding for OCHP has been level, at approximately \$6 million, since its creation. CEHN strongly supports an increase in funding for OCHP for its work on environmental health in the home, school and child care settings. This valuable work includes the office's interagency work promoting healthy housing and healthy children, where we find that environmental interventions result in great cost savings, not to mention the health problems averted, such as asthma episodes and lead poisoning cases. There is great interest but few resources for these approaches. OCHP—and EPA—must also build on the research on prenatal exposures, an area of growing concern. OCHP should help healthcare providers better understand the science and in translating these findings for clinical consultation and communicating with patients. CEHN urges the subcommittee to provide funds more than the proposed level for OCHP.

*Children's Environmental Health Research Centers of Excellence.*—The Centers, jointly funded by EPA and National Institute of Environmental Health Sciences (NIEHS), play a key role in providing the scientific basis for protecting children from environmental hazards. With their modest budgets, which have been unchanged over more than 10 years, these centers generate valuable research. We were pleased to see the commitment by EPA's Office of Research and Development to this program in the budget language and applaud the recent release of Requests for Proposals for the Children's Centers. A unique aspect of these Centers is the requirement that each Center actively involves its local community in a collaborative partnership, leading both to community-based participatory research projects and to the translation of research findings into child-protective programs and policies. The scientific output of these centers has been outstanding. It was these centers, for example, that generated the findings I mentioned earlier about connections between prenatal exposures and lower IQ at age 7. We urge you to provide full funding for these Centers.

*Office of Research and Development.*—This office is critical in efforts to understand environmental impacts on children's health. Children's environmental health is a priority of EPA's strategic plan and we were pleased to see the mention in the fiscal year 2013 budget supporting continued research on children's issues. Yet the funding and research dedicated to this area is not specifically listed or identified in the plan. If this area is indeed a priority, where are measurable goals on this area of research? Where is the documentation of the amount and type of research conducted as well as how the protection of children is given priority throughout Office of Research and Development (ORD)? We ask that your subcommittee direct the office to improve transparency by tracking and reporting on the funding and research across the office dedicated to children's environmental health.

ORD's focus on sustainability in its work is commended; no truly sustainable development paradigm could be developed without protecting children and their future. Children's environmental health is an issue that cuts across all of ORD's programs. For example, EPA's National Health and Environmental Effects Research Laboratory scientists are protecting children's health through the development of cost-effective methods to test and rank chemicals for their potential to cause developmental neurotoxicity. Historic methods using laboratory animals are expensive and time consuming. To date, only a small number of the thousands of chemicals

currently in commerce have been assessed for their potential toxicity and for their effects on the child's developing nervous system. These new testing methods can screen in hours to days instead of months to years and will provide faster, less expensive ways of assessing potential toxicity.

These new testing methods, however, do not replace the need for continued research in childhood exposures and health effects. Our understanding is that of the \$81 million proposed for the grants program, only \$6.3 million is targeted to children's research (for the centers mentioned above). Much of the research in this field cannot be conducted in a short timeframe and requires sustained funding if scientists are to conduct research and measure effectiveness.

*School and Child Care Environmental Health.*—In America today, millions of infants, toddlers and preschoolers, often as young as 6 weeks to 4 years of age, spend 40–50 hours a week in childcare. Yet, little is known about the environmental health status of the Nation's childcare centers or how to assure that these facilities are protecting this highly vulnerable group of children. Environmental health is rarely if ever considered in licensing centers or training childcare professionals. Similarly, about 54 million children and nearly 7 million adults—20 percent of the total U.S. population—spend up to 40 hours per week inside school facilities every week. Unfortunately, many of these facilities contain unsafe environmental conditions that harm children's health and undermine attendance, achievement, and productivity. Thus, it is vital that EPA maintain and expand its activities for healthy school and child care settings, such as the Indoor Air Quality Tools for Schools program.

*Pediatric Environmental Health Specialty Units.*—Funded jointly by EPA and the Agency for Toxic Substances and Disease Registry, the Pediatric Environmental Health Specialty Units (PEHSUs) form a valuable resource network, with a center in each of the U.S. Federal regions. PEHSU professionals provide medical consultation to healthcare professionals on a wide range of environmental health issues, from individual cases of exposure to advice regarding large-scale community issues. PEHSUs also provide information and resources to school, child care, health and medical, and community groups to help increase the public's understanding of children's environmental health, and help inform policymakers by providing data and background on local or regional environmental health issues and implications for specific populations or areas. We urge the subcommittee to provide adequate funding for both EPA's and ATSDR's portions of this program.

*National Children's Study.*—The National Children's Study (NCS) is examining the effects of environmental influences on the health and development of more than 100,000 children across the United States, following them from before birth until age 21. This landmark longitudinal cohort study—involving a consortium of agencies including Centers for Disease Control and Prevention (CDC) and NIEHS—will be one of the richest research efforts ever geared toward studying children's health and development and will form the basis of child health guidance, interventions, and policy for generations to come. CEHN urges the subcommittee to restore the budget of NCS for fiscal year 2013 to ensure that EPA has sustained funding for the necessary infrastructure for data access and the ability to collaborate with its partners on the NCS.

*Children's Health and Healthy Children Must be an Ongoing Priority for This and Every Administration.*—Since CEHN's creation 20 years ago, great leaps forward have been made. We commend the EPA for its great progress in recognizing children's unique susceptibilities to environmental toxicants. More remains to be done, however. CEHN urges the subcommittee to direct EPA to assure that all of its activities and programs—including regulations, guidelines, assessments and research—specifically consider children.

EPA's work must always assure that children and other vulnerable subpopulations are protected, especially poor children, minority children, farmworker children, and others at risk. A wonderful example doing just that is EPA's long-awaited decision to limit emissions of mercury and other toxicants from power plants. Mercury is a potent neurotoxin, which can permanently damage a child's sensitive nervous system. If we want our children to reach their full potential, we need to get mercury out of their environment. This proposal is a practical, cost-effective, and vital step toward this goal. Other benefits of this rule will be decreased exposures to pollutants that can cause cancer or trigger asthma attacks.

Thank you for the opportunity to testify on these critical issues, and thank you for your concern about the environmental health of children.

## PREPARED STATEMENT OF THE COOK INLET TRIBAL COUNCIL

Chairman Reed and members of the subcommittee, thank you for the opportunity to speak before you today. My name is Gloria O'Neill and I am the President and CEO of Cook Inlet Tribal Council (CITC), an Alaska Native tribal nonprofit organization which serves as the primary education and workforce development center for Native people in Anchorage. CITC has been designated tribal authority through Cook Inlet Region Inc., organized through the Alaska Native Claims Settlement Act and recognized under section 4(b) of the Indian Self-Determination Act and Education Assistance Act, Public Law 93-638. CITC builds human capacity by partnering with individuals to establish and achieve both educational and employment goals that result in lasting, positive change for themselves, their families, and their communities.

*Demographics and Expanding Service Population*

CITC's programs serve Alaska Native and American Indian people in the Cook Inlet Region, which includes Alaska's most urbanized and populated communities, and is home to an Alaska Native/American Indian population of more than 40,000, approximately 40 percent of the Native population of the State of Alaska. In Anchorage alone, the Native population is approximately 22,000, about 20 percent of the total Native population in the State. Anchorage is the fourth-largest Native community in the Nation. CITC's programs address many of the social, economic, and educational challenges faced by Alaska Native people. For example, Alaska Native students are twice as likely to drop out as their non-Native peers; 33 percent of Alaska's unemployed are Alaska Native people, and almost 20 percent of Alaska Native people have incomes below the Federal poverty line—nearly three times the rate of non-Native people.

In-migration from rural, largely Alaska Native communities to the urban areas in the Cook Inlet Region is accelerating as Alaska Native people find it increasingly difficult to make a living in rural Alaska. Fifty-nine percent of CITC's participants have been in Anchorage for 5 years or less; and employment, training, and education are frequently cited as reasons for moving to Anchorage. In contrast, the current Bureau of Indian Affairs funding formula for CITC is based on the population figure of 14,569—from the 1990 census—which leaves CITC with a funding shortfall to meet the needs of the 40,000 Alaska Native and American Indian people currently residing in our service region. CITC is able to create and maintain successful programs, despite this shortfall, due to flexibility granted by the 477 program that allows us to leverage our existing funding and maximize efficiencies.

*Public Law 102-477 is Essential to Effective Service Provision*

The Indian Employment Training and Related Services Demonstration Act, Public Law 102-477, as amended, 25 U.S.C. 3401-3417 (or the "477 program"), administered by the Office of Indian Energy and Economic Development in the Department of the Interior, provides a critical foundation for maximizing the effectiveness of CITC's programs. The law allows the consolidation of funding streams from the U.S. Departments of the Interior (DOI), Health and Human Services (HHS), and Labor (DOL) into a single employment and training program. The 477 program enables flexibility on the part of the receiving organization to plan the programming to best fit the needs of the community and minimize administrative redundancy by merging reporting requirements, while still adhering to the Government Performance Results Act's stringent accountability standards.

*Cook Inlet Tribal Council 477 Programs*

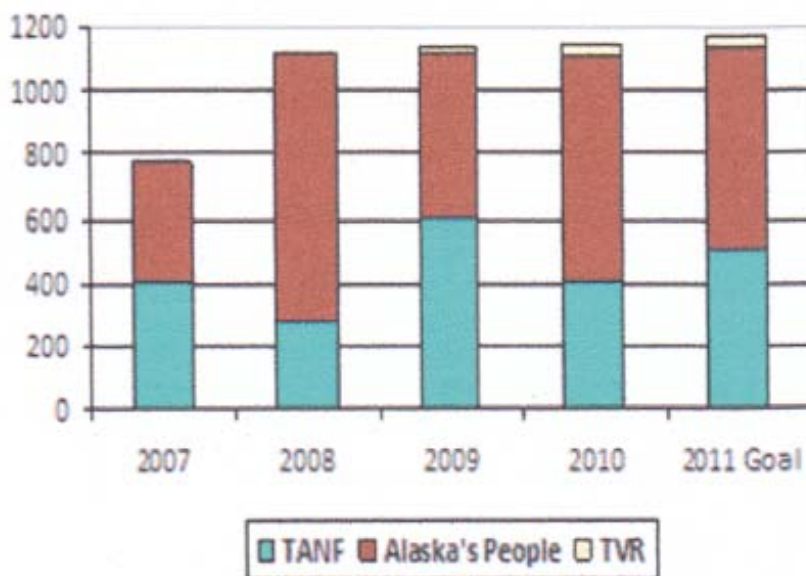
The 477 Program is essential to the success of our program as it allows CITC to increase effectiveness and innovation, enhance interoperability, and eliminate inefficiency while maximizing program outcomes. The wrap-around services we provide include job training and placement, Temporary Assistance for Needy Families (TANF), and child care. CITC's Employment and Training Services Department (ETSD) provides comprehensive services to assist Native job seekers. CITC's employment and training programs are based on the premise that effective solutions to workforce development require integrated approaches to ensuring job readiness, training, and placement. By working closely with State and Federal programs, community and tribal nonprofits, universities, vocational training centers, employers, and Native corporations, CITC is able to provide a wide array of training and employment assistance, coupled with supportive services, to help overcome many barriers to employment.

CITC is the sole provider of tribal TANF in Anchorage, a key component of our 477 program. Our TANF program is built on an integrated service model that connects participants to the range of programs offered throughout CITC's departments.

Through our integrated service model, CITC has reduced caseloads as well as effectively implemented TANF prevention. This is precisely the type of innovation and interoperability that would be impossible without the flexibility provided by the 477 program.

Furthermore, efficiencies gained within the TANF program resulted in a 5-year savings of \$7.1 million—savings that have been re-invested in supportive services and programs going directly to participants. 477 allows tribes and tribal entities (e.g., CITC) to administer federally funded employment and job training programs as a single program, with a single budget and single set of reporting requirement. CITC relies on the 477 program to provide our people more effective and integrated services while reducing costly administrative redundancy.

### CITC Job Placements, 2007-2011



Over the past 5 years CITC 477-supported programs have:

- Provided 8,257 job seekers with career coaching, training, and job search assistance; 5,403 (65 percent) of these individuals were placed in jobs. In 2010, the average hourly wage (AHW) of a job seeker coming to CITC for services was \$9.95—upon leaving CITC their AHW was \$17.23.
- Transitioned 2,270 TANF recipients from welfare to work, with an AHW of \$11.53.
- Provided training opportunities and job placement in critical employment sectors, including:
  - Customer Service/Retail Management (AHW \$11.01);
  - Driver's Education (AHW \$14.16) and CDL Driver's Certification (AHW \$16 Union Apprenticeship (AHW \$number needed);
  - Weatherization Training (AHW \$14.77–\$22.15);
  - Healthcare: CNA, LPN, RN, Medical Coding (AHW \$13.79)

We are proud of the effective programs that we provide and the success that our participants enjoy. The 477 program is critical to our effectiveness, especially in this environment of shrinking funding sources.

#### *Subcommittee Support for 477*

Last year the tribes sought assistance from the Congress regarding two problematic changes the agencies proposed to the administration of the 477 program that would significantly undermine its success:

- ending the practice of transferring 477 program funds to participating tribes and tribal organizations through Public Law 93–638 contracts or Self-Govern-

ance agreements, as authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA); and

—a new requirement that 477 tribes and tribal organizations report their 477 expenditures separately by funding source number for audit purposes.

This subcommittee has been very responsive to the tribes' concerns and supportive of the 477 program. The House/Senate Appropriations conferees on the fiscal year 2012 Interior, Environment, and Related Agencies appropriations bill instructed the Federal agencies to engage in consultations with the 477 tribes and tribal organizations to reach consensus on the transfer and reporting of funds administered by tribes through program plans adopted by tribes and approved by the Department of the Interior under the 477 program.

The Federal agencies and 477 tribes agreed to try to resolve their differences over these issues, which led to the formation of the Public Law 102-477 Administrative Flexibility Work Group. This group has met weekly and included policy and program representatives from DOI, which administers the 477 program, HHS, DOL and the Office of Management and Budget (OMB), as well as representatives from 10 affected tribes and tribal organizations. In the meantime, the agencies agreed to temporarily allow funds to continue to be transferred through ISDEAA and have suspended the reporting requirements instituted in the March 2009 OMB Circular. The agencies and tribes have moved toward consensus in some general areas:

—First, the agencies and tribal representatives agree in principal that the 477 program is one provided for tribes by virtue of their status as Indians. Its targeted purpose is to facilitate employment opportunities for Indian youth and adults, as well as to encourage tribal self-sufficiency consistent with self-determination principles. The 477 program is structured so that tribal program plans, as authorized under the 477 act, are approved and administered by the Bureau of Indian Affairs, and thus can be funded through ISDEAA.

—Second, the both sides have agreed in principal that the 477 act authorizes tribes to develop 477 program plans to integrate services and expenditures from various agency programs in a single, coordinated, comprehensive tribal program plan with a single budget and a single annual report delivered to DOI. The current reporting system includes OMB-approved statistical, narrative, and financial reporting forms. The Federal agencies have identified limited additional reporting information required by law but not currently reported in the consolidated reports provided annually to DOI. Discussion is ongoing as to what, if any, additional information needs to be included in the statistical, narrative, and financial reports.

In spite of this progress, it has become clear that the agencies continue to question one of the fundamental purposes of the 477 program—to allow tribes and tribal organizations to reallocate their funds within their approved 477 program in order to address local issues and programmatic needs in the most effective manner. From our perspective, giving this authority and responsibility to tribes to meet their own needs is exactly the point and strength of the 477 program. It is precisely this flexibility that has allowed us to be so successful. In addition, the tribal representatives have requested, but not received, written confirmation that this funding mechanism will continue without restriction and be available for new programs coming into the 477 program in the future. Finally, the tribes continue to request that the 2009 OMB Circular A-133 be permanently suspended or rescinded.

Given this disagreement of fundamental principle, we urge the subcommittee to remain involved in this issue and supportive of the 477 program. Specifically, we request that the subcommittee maintain section 430, the language on 477 that was included in the bill last year, and amend to clarify the intent of the program by adding following language:

“(3) all funds transferred under an approved Public Law 102-477 plan may be reallocated and rebudgeted by the Indian tribe or tribal organization to best meet the employment, training and related needs of the local community served by the Indian tribe or tribal organization.”

#### *Conclusion*

Mr. Chairman, CITC, as a 477 tribal organization is grateful for this subcommittee's interest in and support for the 477 program. This program is essential to our ability to meet the needs of our people in innovate and efficient ways that allow us to provide wrap around services designed on a model of integration and interoperability. The Tribal Work Group representatives remain concerned that, in the absence of specific legislative authorization as provided in section 430 with the above addition, the spirit, the letter and the opportunities of the Public Law 102-477 law will be subject to changes in implementation from administration to administration.

Thank you for your time and consideration.

## PREPARED STATEMENT OF THE COOPERATIVE ALLIANCE FOR REFUGE ENHANCEMENT

Chairman Reed, Ranking Member Murkowski, and members of the subcommittee, thank you for the opportunity to offer comments on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The National Wildlife Refuge System stands alone as the only land and water conservation system with a mission that prioritizes wildlife and habitat conservation and wildlife-dependent recreation. Since 1995, the Cooperative Alliance for Refuge Enhancement (CARE) has worked to showcase the value of the Refuge System and to secure a strong congressional commitment for conserving these special places. Located in every U.S. State and territory, refuges conserve a diversity of America's environmentally sensitive and economically vital ecosystems, including oceans, coasts, wetlands, deserts, tundra, prairie, and forests. We respectfully request a funding level of \$495 million for the operations and maintenance accounts of the National Wildlife Refuge System (NWRS) for fiscal year 2013.

This testimony is submitted on behalf of CARE's 22 member organizations, which represent approximately 15 million Americans passionate about wildlife conservation and related recreational opportunities.

American Birding Association	National Wildlife Federation
American Fisheries Society	National Wildlife Refuge Association
American Sportfishing Association	Safari Club International
Association of Fish and Wildlife Agencies	The Corps Network
Congressional Sportsmen's Foundation	The Nature Conservancy
Defenders of Wildlife	The Wilderness Society
Ducks Unlimited, Inc.	The Wildlife Society
Izaak Walton League of America	Trout Unlimited
Marine Conservation Institute	U.S. Sportsmen's Alliance
National Audubon Society	Wildlife Forever
National Rifle Association	Wildlife Management Institute

Although CARE strives to make steady progress toward funding the NWRS at \$900 million annually, a budget that more accurately reflects demands on the ground, our request of \$495 million for fiscal year 2013 essentially maintains the NWRS at a flat funding level. It includes only a modest increase more than the fiscal year 2012 appropriation in order to keep fuel in the trucks, pay for rising utilities and building rent, and cover other fixed costs. The NWRS generally requires an annual increase of at least \$15 million to offset these rising costs, but our request for approximately \$8 million in additional funding for fiscal year 2013 accounts for the current salary freeze for Federal employees.

An appropriation of \$495 million in fiscal year 2013 would stabilize the workforce by keeping workforce downsizing plans securely on the shelf, thereby reducing pressure on the U.S. Fish and Wildlife Service (FWS) to cut refuge staff less than already insufficient levels. It would enable refuge staff to continue making progress toward protecting and restoring America's wildlife and habitat, and providing a positive experience for nearly 46 million annual visitors who use refuges for hunting, fishing, watching wildlife, and educational and interpretive programs.

This funding would also allow the NWRS to continue its recently initiated inventory and monitoring program. The need for this program was made clear by the Deepwater Horizon oil spill, which forced FWS staff to hastily catalog the assets of gulf coast refuges in order to recoup the cost of damaged resources from responsible parties. Without adequate baseline data, most refuges are ill-prepared to assess or respond to such impacts, and the inventory and monitoring program is needed to fill the widespread information gaps that exist across the NWRS.

Many years of inadequate budgets have left the NWRS's operations and maintenance (O&M) backlog at nearly \$3.2 billion. While budget increases in fiscal year 2008 through fiscal year 2010 helped immensely, too many visitors still show up to find roads and visitor centers closed, viewing platforms and hiking trails in disrepair, and habitat restoration and nature education programs eliminated.

Annual budgets that do not cover fixed costs are particularly harmful because the NWRS is already stretched thin responding to damages from natural disasters. From fiscal years 2005–2011, the NWRS sustained \$693 million in damages from natural disasters including hurricanes, flooding, tornadoes, fires, a tsunami, and an earthquake. The damages in 2011 alone were almost \$200 million, approximately 40 percent of the NWRS's O&M funds for the year. Of the \$693 million in damages, the Congress appropriated \$254 million in emergency supplemental funding, but the remaining \$439 million has been added to the NWRS's \$2.5 billion deferred maintenance backlog.

Today, more than 35 percent of America's national wildlife refuges have no on-site staff, leaving no one to unlock gates, teach schoolchildren, administer hunting programs, or carry out restoration projects. Refuges with only one or two staff lack the capacity to partner with interested stakeholders, and opportunities for volunteer involvement and leveraging of additional dollars are lost. Non-native, invasive plants have infested approximately 2.5 million acres, and only 10 percent of this acreage was treated in 2011. Further, a crippling shortage of law enforcement officers has left refuges sorely under-protected from illegal activities such as drug production and trafficking, wildlife poaching, illegal border activity, assaults, and many types of natural resource violations. Currently, only 244 full-time law enforcement officers are tasked with managing the 150-million-acre NWRS—the equivalent of one officer per 650,000 acres—which an independent analysis recommends be patrolled by a force of 845 professional officers. For instance, one officer in the Pacific region is responsible for covering nearly 54 million acres of the NWRS alone.

National wildlife refuges are critically important on local and regional scales. According to data from a recent report by Southwick Associates, the NWRS generates \$8 in economic activity for every \$1 appropriated by the Congress. Further, more than 32,500 American jobs are attributed to recreation on refuges. And, as stated in the fiscal year 2013 budget justification for FWS, "On a national level, each \$5 million invested in the Refuge System's appropriations (salary and nonsalary) impacts an average of 83.2 jobs, \$13.6 million in total economic activity, \$5.4 million in job-related income and \$500,000 in tax revenue. Each 1-percent increase or decrease in visitation impacts \$16.9 million in total economic activity, 268 jobs, \$5.4 million in job-related income, and \$608,000 in tax revenue. Therefore, maintaining a healthy visitor program at national wildlife refuges is vital to the economic well-being of communities all across the Nation."

Refuges also provide important environmental and health benefits, such as filtering storm water before it runs downstream to municipal water supplies and, in many areas, reducing flooding by capturing excess rainwater and attenuating coastal storm surges. The Southwick Associates report states that in 2010, refuges generated more than \$32.3 billion in these ecosystem services, a return of more than \$65 for every \$1 appropriated by the Congress.

Refuges are vital places for the American people to connect with nature and get involved. Currently, refuge Friends groups and volunteers do approximately 20 percent of all work on refuges. In 2011, these 1.5 million hours equated to roughly 8 volunteers for every 1 refuge employee, or the equivalent of almost 650 full-time employees. Without staff to oversee volunteers, their commitment and passion is lost, as is their desperately needed contribution to the NWRS.

Funding increases in fiscal year 2008 through fiscal year 2010 allowed for meaningful progress toward properly patrolling and enforcing laws on the NWRS's 150 million acres, maintaining recreation and education programs for the public, sustaining high water quality, completing habitat restoration projects, and more, although our new marine monuments comprising one-third of the NWRS largely remain a major unfunded need. Cutting O&M funding back to fiscal year 2008 levels would result in the elimination of several hundred staff positions and loss of important wildlife management, education, and hunting and fishing programs. The way to keep from reversing recent progress is to fund the NWRS at \$495 million in fiscal year 2013.

On behalf of our more than 15 million members and supporters, CARE thanks the subcommittee for the opportunity to offer comments on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill and we look forward to meeting with you to discuss our request.

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PREPARED STATEMENT OF THE CHOCTAW NATION OF OKLAHOMA

On behalf of Chief Gregory E. Pyle, of the Great Choctaw Nation of Oklahoma, I bring greetings to the distinguished Members of the Committee. I am Mickey Percy, the Executive Director of Health Services. I appreciate this opportunity to provide testimony to the subcommittee on our top budget priorities for fiscal year 2013 in the Indian Health Service.

The Choctaw Nation of Oklahoma is the third-largest Native American tribal government in the United States, with more than 208,000 members. The Choctaw Nation territory consists of all or part of 10 counties in southeast Oklahoma, and we are proudly one of the State's largest employers. The Nation operates numerous programs and services under Self-Governance compacts with the United States, including but not limited to:

- a sophisticated health system serving more than 33,000 patients with a hospital in Talihina, Oklahoma;
- eight outpatient clinics;
- referred specialty care and sanitation facilities construction;
- higher education;
- Johnson O'Malley program;
- housing improvement;
- child welfare and social services;
- law enforcement; and
- many others.

Appropriations for Indian Country remain severely deficient for each of these programs, and it is simply not acceptable for such programs to be further debilitated by budget cuts. Thus, it is essential that programs impacting Indian Country be exempted from any sequestration for fiscal year 2013 and forward.

In my testimony today, I will focus on Indian health and related programs, appropriations which are critical in order to address the health disparities of Native Americans as compared to other Americans. The current funding levels have created a system of rationed healthcare and perpetuate these health disparities for Native people.

*Joint Venture—Increase to \$90 Million*

The Joint Venture program, although a relatively small program, remains the most innovative, timely, and cost-effective means within the Indian Health Service (IHS) to acquire new or replacement health facilities for Indian Country. The IHS Joint Venture program demonstrates the shared commitment of Tribal Nations and the IHS in providing additional health facilities within the Indian health system and the staff necessary to support the facilities. This strategy has been especially effective in the Oklahoma City area, allowing us to replace some antiquated facilities and extending healthcare to underserved tribal citizens in our communities. However, the need for adequate health facilities remains great. We request that funds continue to be appropriated for the Joint Venture program on an annual basis, including the associated contract support costs and adequate operational funds.

*Contract Health Services—Increase of \$200 Million*

Contract Health Services (CHS) remain a high priority for the Choctaw Nation and many other tribes in the Nation. CHS funds all of the referrals from tribal and IHS facilities for specialty care that cannot be delivered at the tribal/IHS clinic or hospital site. Referrals are often deferred or denied, due to lack of funds, despite the determination of medical need by our health providers. The Oklahoma City area and the Choctaw Nation suffer some of the highest deferral/denial rates of CHS cases in the Nation. For example, denied or deferred cases in our health system resulted in some of our patients not receiving necessary diagnostic tests, cancer treatment or neurology services last year.

*Contract Support Costs—Increase of \$100 Million More Than Fiscal Year 2013 President's Request*

One of the most important appropriation issues facing Indian Country is the underfunding of contract support costs (CSC), which negatively affects nearly every single Tribal Nation. This issue is especially significant for Self-Governance/Self-Determination Tribes because it protects direct service operations from sharing in overall funding reductions and limitations. Every dollar in unfunded contract support costs is a direct reduction in healthcare or other services to our tribal citizens.

CSC appropriations go directly to the Tribal Nations at the local level, with immediate positive impact on healthcare and other critical programs. CSC funds mandatory costs for which the Federal Government is legally and contractually responsible to provide. Failing to adequately fund CSC defeats the very program that has most improved health conditions for American Indian and Alaska Natives.

Tribal programs have significantly increased the quality and level of services in our health systems compared to direct service programs. Since contract support costs are fixed costs that a contractor must incur, tribes are required to either:

- reduce funds budgeted for critical healthcare or other services under contract to cover the shortfall;
- divert tribal funds to subsidize the Federal contract (when such tribal funds are available); or
- use a combination of these two approaches.

For every \$1 million that the Choctaw Nation would be required to divert from direct patient care to cover contract support costs, the Nation's health system must forego an estimated 5,800 patient visits.



The reported CSC shortfall is nearly \$5.5 million annually for the Choctaw Nation alone. The President's budget request for fiscal year 2013 includes only a \$5 million increase in IHS CSC funds for all 567 tribes in the country, an amount insufficient to fund even the Choctaw Nation's shortfall for 1 year. This current budget request is woefully inadequate to not only address the present shortfall, but to prevent the shortfall from growing in future years. We urge you to consider the total unfunded need for CSC, which we estimate for fiscal year 2013, will approach \$100 million within the IHS.

*Special Diabetes Program for Indians—Support 5-Year Reauthorization at \$200 Million/Year*

The Special Diabetes Program for Indians (SPDI) was authorized in 1997 in response to an alarming and disproportionate high rate of type 2 diabetes in American Indian and Alaska Native people. Tribal advocacy has contributed greatly to changing the course of this once devastating health menace in Indian Country. Continued innovation and increased funding are required to further arrest the disparity and achieve equity. SDPI funding has been at \$150 million since it was reauthorized in 2004. During this time nearly 400 Indian Health Service, Tribal, and Urban (I/T/U) Indian health programs have assisted in developing innovative and culturally appropriate strategies, vital resources and tools to prevent and treat diabetes. Congressional funding remains the critical factor in the battle against diabetes which translates into documented improvements in blood glucose control, reduced amputation rates and decreased cases of kidney failure, just to name a few of the maladies associated with this disease. The Choctaw Nation has been an aggressive soldier in the fight against diabetes and we ask this subcommittee to support the crusade to ensure the continuation of the SDPI. We also request that you urge your colleagues on the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Subcommittee to increase funding for the SDPI program, which is administered by IHS. Without the SDPI, the epidemic status of Type 2 diabetes will once again be a serious life-changing disease to future generations of our people.

*Indian Health Care Improvement Fund—Request \$45 Million Increase*

Overall funding for the IHS remains at less than 60 percent of need; using the benchmark of the Federal employee benefit package. Deplorably, IHS average funding per patient remains less than that expended on Federal inmates. In addition to the well-documented disparate funding between the IHS and other federally funded health programs, funds among the IHS areas are distributed inequitably. The Oklahoma City area, specifically, suffers a funding level even below that of the average within the IHS. In order to address such inequities and resulting health disparities, the Indian Health Care Improvement Fund (IHCIF) was created to direct funding to the most severely underfunded programs first. Tribal Nations have previously recommended that the Federal Government implement a time-limited plan to bring all IHS Operating Units to the 80-percent level, and the Choctaw Nation supports that position.

In addition, the Choctaw Nation supports these National Indian Program Priorities

*Mandatory Costs—Provide \$304 Million Increase To Maintain Current Services.*—Mandatory cost increases are necessary to maintain the current level of services. These "mandatories" are unavoidable and include medical and general inflation, pay costs, phasing in staff for recently constructed facilities, and population growth.

*Alcohol and Substance Abuse Programs—Provide \$40 Million Increase.*—Alcohol and Substance Abuse Programs (ASAP) and community-based prevention activities are an integrated part of behavioral health programs needed to reduce the incidence of alcohol and substance abuse in American Indian and Alaska Native communities and to address the special needs of Native people dually diagnosed with both mental illness and drug dependency. Youth Region Treatment Centers are also funded by this line item.

*Funding for Implementation of the Indian Health Care Improvement Act.*—Implementation of the IHCIA remains a top priority for Indian Country. IHCIA provides the authority for Indian healthcare, but does not provide any funds to IHS. The American healthcare delivery system has been revolutionized while the Indian healthcare system waited for the reauthorization of the IHCIA. Resources are needed to implement all provisions of the IHCIA.

*Office of Tribal Self-Governance—Increase \$5 Million to the IHS Office of Tribal Self-Governance.*—In 2003, the Congress reduced funding for this office by \$4.5 million, a loss of 43 percent from the previous year. In each subsequent year, this budget was further reduced due to the applied congressional rescissions. As

of 2012, there are 337 Self-Governance (SG) Tribes managing approximately \$1.4 billion in funding. This represents almost 60 percent of all federally recognized tribes and 33 percent of the overall IHS funding. The Self-Governance process serves as a model program for Federal Government outsourcing, which builds tribal infrastructure and provides quality services to Indian people.

We also support the testimony presented by the National Indian Health Board and the National Congress of American Indians.

In closing, on behalf of the Choctaw Nation of Oklahoma, and Chief Gregory E. Pyle, thank you for the honor to provide this testimony and we respectfully urge your consideration and support of these program funding requests in the fiscal year 2013 budget for the IHS.

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PREPARED STATEMENT OF THE CIVIL WAR TRUST

*Introduction*

Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide written testimony. My name is James Lighthizer, and I am the president of the Civil War Trust. I come before you today to respectfully request that the Senate Appropriations Subcommittee on the Interior, Environment, and Related Agencies fund the Civil War Battlefield Preservation Program (CWBPP), financed through the Land and Water Conservation Fund in the Department of the Interior, at its authorized amount of \$10 million.

I would like to start by providing a little information about our organization. The Civil War Trust is a 55,000-member nonprofit organization—the only national one of its kind—dedicated to preserving America’s remaining Civil War battlefields. To date, the Trust has permanently protected more than 32,000 acres of hallowed ground in 20 States, most of it outside National Park Service (NPS) boundaries.

I write to you today regarding the highly effective Federal land conservation program that has made much of our success possible: the Civil War Battlefield Preservation Program (CWBPP). This authorized competitive matching grants program, operated through the National Park Service (NPS) American Battlefield Protection Program office, requires a 1-to-1 Federal/non-Federal match, although on many occasions the Federal dollars are leveraged much more than 1-to-1. The program has successfully promoted cooperative partnerships between State and local governments and the private sector to preserve targeted, high-priority Civil War battlefields outside NPS boundaries. Since it was first funded in fiscal year 1999, the program has been used to protect more than 17,500 acres of our Nation’s hallowed ground.

*Battlefield Lands Are Our Shared American Heritage*

These battlefield lands are an irreplaceable part of our shared national heritage. These lands are consecrated with the blood of brave Americans who fought and died to create the country we are today. By preserving these hallowed grounds, we can rightfully honor all who made the ultimate sacrifice, whether it was on the rolling fields of Gettysburg or the sandy beaches of Fort Wagner.

Development threatens to erase these sacred sites; living history—our shared history—will consequently fade into distant memory. The private sector organizations engaged in battlefield preservation—and we are just one among many nonprofit battlefield preservation groups—are competing with developers to acquire this land. Once these hallowed grounds are lost, they are lost forever.

We estimate that 30 acres of battlefield lands are lost every day. These lands, when preserved, serve as outdoor classrooms to educate current and future generations of Americans about this defining moment in our Nation’s history. In addition, preserved battlefields are economic drivers for communities, bringing in tourism dollars that are extremely important to State and local economies.

With the sesquicentennial commemoration of the Civil War underway, now is the opportune time to reaffirm our national commitment to the protection of these hallowed grounds. Throughout the sesquicentennial, millions are expected to learn about our Nation’s unique history by visiting Civil War sites around the country. This anniversary provides the perfect opportunity to promote preservation of Civil War battlefields.

*Origins of the Program*

In 1990, the Congress created the Civil War Sites Advisory Commission (CWSAC), a blue-ribbon panel composed of lawmakers, historians and preservationists. Its goal: determine how to protect America’s remaining Civil War battlefields. In 1993, the Commission released a study entitled “Report on the Nation’s Civil War Battle-

fields.” The report identified the 384 most historically important Civil War battle-grounds and further prioritized them according to preservation status and historic significance. Eighteen years later, this landmark report and a recent update conducted by NPS remain our guide for targeting only the most historically significant remaining Civil War battlefields.

In addition to creating a prioritized list of battlefield preservation targets, the Commission also recommended that the Congress establish a Federal matching grant program to help the nonprofit sector save high-priority Civil War battlefields. The Commission’s proposal for a Federal matching grant program was the genesis of the Civil War Battlefield Preservation Program.

#### *Congressional Funding and First Successes*

Five years after the “Report on the Nation’s Civil War Battlefields” was released, the Congress acted upon the Commission’s recommendation by setting aside \$8 million over a 3-year period from the Land and Water Conservation Fund for Civil War preservation matching grants. Grants were competitively awarded through the American Battlefield Protection Program (ABPP), an arm of NPS. Funding was solely for acquisition of properties outside NPS boundaries at battlefields identified in the 1993 report. Land could be purchased from willing sellers only; there was—and there remains—no eminent domain authority.

Thanks to the new program, there began an unprecedented and almost-immediate surge in Civil War battlefield preservation. The \$8 million appropriation generated \$24 million for land acquisition by encouraging State and private investment in battlefield land protection. The program inspired the Virginia and Mississippi legislatures to appropriate \$3.4 million and \$2.8 million, respectively, to meet the Federal match. The Civil War Trust alone contributed \$4 million in private sector funds to meet the match.

As a result of the non-Federal funds generated by the program, battlefields like Virginia’s Brandy Station and Manassas received a new lease on life. In addition, other sites such as Prairie Grove in Arkansas, Champion Hill in Mississippi, and Bentonville in North Carolina—just to name a few—were substantially enhanced. Largely because of the success of those first 3 years, the Congress appropriated an additional \$11 million for the program in fiscal year 2002.

#### *Authorization of the Program*

The Civil War Battlefield Preservation Program was first authorized through the Civil War Battlefield Preservation Act of 2002. Supporters on Capitol Hill felt that authorization of the program would convey to the Department of the Interior congressional intent regarding the program’s goals and objectives. The bipartisan bill formally tied the program to the 1993 CWSAC report, creating a Federal conservation program with a highly focused, prioritized list of acquisition targets. It also provided for an annual appropriation of up to \$10 million per year—the level originally recommended by the Commission in 1993. The Civil War Battlefield Preservation Act was passed with the unanimous consent of both the House and Senate in the fall of 2002, and was signed into law by President Bush on December 17, 2002 (Public Law 107–359). Authorization has provided funding predictability for the program’s non-Federal partners, encouraging continued private-sector involvement in battlefield preservation.

#### *Program’s Continued Successes and Reauthorization*

Since the program was first funded in fiscal year 1999, Civil War Battlefield Preservation Program grants have been used to protect 17,500 acres of hallowed ground in 14 States. Among the many battlefields that have benefited from this program are:

- Antietam;
- Maryland;
- Averasboro, North Carolina;
- Chancellorsville, Virginia;
- Chattanooga, Tennessee;
- Corinth, Mississippi;
- Harpers Ferry, West Virginia;
- Mill Springs, Kentucky; and
- Prairie Grove, Arkansas.

The Civil War Battlefield Preservation Program was reauthorized as part of the Omnibus Public Land Management Act of 2009 (H.R. 146), which President Obama signed into law on March 30, 2009 (Public Law 111–11).

*Urgent Need for Funding*

We thank the Senate Appropriations Subcommittee on the Interior, Environment, and Related Agencies for providing \$9 million for the Civil War Battlefield Preservation Program in fiscal year 2012. This appropriation has allowed for the preservation of many historically significant lands at battlefields such as:

- Bentonville;
- North Carolina;
- Franklin, Tennessee;
- Gettysburg, Pennsylvania;
- New Market Heights, Virginia;
- South Mountain, Maryland; and
- Perryville, Kentucky.

To build off the successes of the program in fiscal year 2012, we respectfully ask the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies to fund the Civil War Battlefield Preservation Program at its authorized amount of \$10 million. We recognize that these are difficult economic times and appreciate the constraints on this subcommittee as you work to draft an appropriation bill that meets the needs of the agencies and programs under your jurisdiction. However, we believe that now, as we commemorate the 150th anniversary of the conflict that shaped our Nation, is the opportune time to provide robust funding for the Civil War Battlefield Preservation Program.

Funding at this level will allow for the continued success of the program and the preservation of key battlefield lands that will serve as lasting, tangible legacies for the sesquicentennial. In addition, with time rapidly running out to forever protect these hallowed grounds, funding for this program will soon no longer be necessary. We estimate that in the next 10 years the remaining Civil War battlefield lands will be either paved over or protected. That is why we must act now in order to preserve as much key battlefield land as possible before time runs out.

*Conclusion*

There is no question that the Civil War was a defining moment in our country's history. For 4 long years, North and South clashed in hundreds of battles that reunited our Nation and sounded the death knell for slavery. More than 625,000 soldiers and 50,000 civilians perished as a result of the war.

Preserved battlefields not only honor the memory of our Civil War ancestors, but all of our Nation's brave men and women in uniform. Further, preserved battlefields serve as outdoor classrooms to teach new generations of Americans about the significance of the Civil War—and remind them that the freedoms we enjoy today came at a terrific price.

Mr. Chairman, I sincerely hope you and your subcommittee will consider our request to provide funding of the Civil War Battlefield Preservation Program at its authorized level of \$10 million. We look forward to working with you and other subcommittee members on battlefield protection and other historic preservation issues. Thank you for the opportunity to address the subcommittee.

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PREPARED STATEMENT OF THE COLORADO RIVER BASIN SALINITY CONTROL FORUM

Waters from the Colorado River are used by approximately 35 million people for municipal and industrial purposes and used to irrigate approximately 4 million acres in the United States. Natural and man-induced salt loading to the Colorado River creates environmental and economic damages. The U.S. Bureau of Reclamation (BOR) has estimated the current quantifiable damages at about \$300 million per year. The Congress authorized the Colorado River Basin Salinity Control Program (Program) in 1974 to offset increased damages caused by continued development and use of the waters of the Colorado River. Modeling by BOR indicates that the quantifiable damages would rise to more than \$500 million by the year 2030 without continuation of the Program. The Congress has directed the Secretary of the Interior to implement a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management (BLM). BLM funds these efforts through its Soil, Water and Air Program. BLM's efforts are an essential part of the overall effort. A funding level of \$5.2 million for general water quality improvement efforts within the Colorado River Basin and an additional \$1.5 million for salinity specific projects in 2013 is requested to prevent further degradation of the quality of the Colorado River and increased downstream economic damages.

EPA has identified that more than 60 percent of the salt load of the Colorado River comes from natural sources. The majority of land within the Colorado River

Basin is administered by BLM. In implementing the Colorado River Basin Salinity Control Act in 1974, the Congress recognized that most of the salts in the Colorado River originate from federally owned lands. Title I of the Salinity Control Act deals with the United States commitment to the quality of waters being delivered to Mexico. Title II of the act deals with improving the quality of the water delivered to U.S. users. This testimony deals specific with title II efforts. In 1984, the Congress amended the Salinity Control Act and directed that the Secretary of the Interior develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by BLM. In 2000, the Congress reiterated its directive to the Secretary and requested a report on the implementation of BLM's program (Public Law 106-459). In 2003, BLM employed a Salinity Coordinator to coordinate BLM efforts in the Colorado River Basin States to pursue salinity control studies and to implement specific salinity control practices. With a significant portion of the salt load of the Colorado River coming from BLM administered lands, the BLM portion of the overall program is essential to the success of the effort. Inadequate BLM salinity control efforts will result in significant additional economic damages to water users downstream.

Concentrations of salt in the Colorado River cause approximately \$300 million in quantified damages and significantly more in unquantified damages in the United States and result in poor water quality for United States users. Damages occur from:

- a reduction in the yield of salt-sensitive crops and increased water use for leaching in the agricultural sector;
- a reduction in the useful life of galvanized water pipe systems, water heaters, faucets, garbage disposals, clothes washers, and dishwashers, and increased use of bottled water and water softeners in the household sector;
- an increase in the cost of cooling operations and the cost of water softening, and a decrease in equipment service life in the commercial sector;
- an increase in the use of water and the cost of water treatment, and an increase in sewer fees in the industrial sector;
- a decrease in the life of treatment facilities and pipelines in the utility sector;
- difficulty in meeting wastewater discharge requirements to comply with National Pollutant Discharge Elimination System permit terms and conditions, and an increase in desalination and brine disposal costs due to accumulation of salts in groundwater basins; and
- increased use of imported water for leaching and cost of desalination and brine disposal for recycled water.

The Colorado River Basin Salinity Control Forum (Forum) is composed of gubernatorial appointees from Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. The Forum is charged with reviewing the Colorado River's water quality standards for salinity every 3 years. In so doing, it adopts a Plan of Implementation consistent with these standards. The level of appropriation requested in this testimony is in keeping with the adopted Plan of Implementation. If adequate funds are not appropriated, significant damages from the higher salt concentrations in the water will be more widespread in the United States and Mexico.

In summary, implementation of salinity control practices through BLM has proven to be a very cost-effective method of controlling the salinity of the Colorado River and is an essential component to the overall Colorado River Basin Salinity Control Program. Continuation of adequate funding levels for salinity within the Soil, Water and Air Program will prevent the water quality of the Colorado River from further degradation and significant increases in economic damages to municipal, industrial and irrigation users.

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PREPARED STATEMENT OF THE COLORADO RIVER BOARD OF CALIFORNIA

This testimony is in support of fiscal year 2013 funding for the Department of the Interior's Bureau of Land Management (BLM) associated with the subactivity that assists title II of the Colorado River Basin Salinity Control Act of 1974 (Public Law 93-320). This longstanding successful and cost-effective salinity control program in the Colorado River Basin is being carried out pursuant to the Colorado River Basin Salinity Control Act and the Clean Water Act (Public Law 92-500).

The Colorado River Board of California (Board) is the State agency charged with protecting California's interests and rights in the water and power resources of the Colorado River system. In this capacity, California participates along with the other six Colorado River Basin States through the Colorado River Basin Salinity Control Forum (Forum), the interstate organization responsible for coordinating the Basin States' salinity control efforts. In close cooperation with the U.S. Environmental

Protection Agency (EPA) and pursuant to requirements of the Clean Water Act, the Forum is charged with reviewing the Colorado River water quality standards every 3 years. The Forum adopts a Plan of Implementation consistent with these water quality standards. The level of appropriation being supported in this testimony is consistent with the Forum's 2011 Plan of Implementation. If adequate funds are not appropriated, significant damages associated with increasing salinity concentrations of Colorado River water will become more widespread in the United States and Mexico.

EPA has determined that more than 60 percent of the salt load of the Colorado River comes from natural sources. Due to geological conditions, much of the lands that are controlled and managed by BLM are major contributors of salt to the Colorado River system. Past management practices have led to human-induced and accelerated erosion processes from which soil and rocks have been deposited in various stream beds or flood plains. As a result, salts are dissolved and enter the Colorado River system causing water quality problems downstream.

Through passage of the Colorado River Basin Salinity Control Act in 1974, the Congress recognized that much of the salts in the Colorado River originate on federally owned lands. Title I of the Salinity Control Act deals with the U.S. commitment to efforts related to maintaining the quality of waters being delivered to Mexico pursuant to the 1944 Water Treaty. Title II of the Act deals with improving the quality of the water delivered to U.S. users. In 1984, the Congress amended the Salinity Control Act and directed that the Secretary of the Interior develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by BLM. In 2000, the Congress reiterated its directive to the Secretary and requested a report on the implementation of BLM's program (Public Law 106-459). In 2003, BLM employed a Salinity Coordinator to coordinate BLM efforts in the Colorado River Basin States to pursue salinity control studies and to implement specific salinity control practices. With a significant portion of the salt load of the Colorado River coming from BLM-administered lands, the BLM portion of the overall program is essential to the success of the entire effort.

The BLM's budget justification document for fiscal year 2013 has stated that the BLM continues to implement on-the-ground projects, evaluate progress in cooperation with the U.S. Bureau of Reclamation (Reclamation) and the U.S. Department of Agriculture (USDA), and report salinity control measures in order to further the Plan of Implementation associated with the Federal Salinity Control Program in the Colorado River Basin. The BLM budget, as proposed in the BLM budget justification document, calls for six key performance goals within the BLM's Soil, Water, and Air Management Program. One of the goals is to reduce saline runoff from public lands into the Colorado River system by 10,000 to 20,000 tons of salt from new projects. Additionally, the BLM budget justification document reported a cumulative salt-loading reduction from ongoing BLM efforts in 2011 that totaled 126,000 tons per year. The Soil, Water and Air Management Program subactivity is responsible for reducing the discharge of salts to waters of the Colorado River Basin to ensure usable water supplies to tens of millions of downstream users of which nearly 20 million are located in southern California.

The Congress has charged Federal agencies, including the BLM, to proceed with programs to control the salinity of the Colorado River. BLM's rangeland improvement programs can lead to some of the most cost-effective salinity control measures available. These measures significantly complement programs and activities being considered for implementation by Reclamation through its Basin-wide Program and by the USDA through its on-farm Environmental Quality Incentives Program.

The 2011 Colorado River Basin Salinity Control Advisory Council report states that the funding from BLM's Soil, Water and Air Program has been generally expended on studies, research, and implementation. These studies and research have successfully identified several different tools which could be used to reduce salinity contributions to the Colorado River from publicly administered lands. BLM's efforts are now transitioning toward implementation of salinity control. During the past several years proposals for implementation of salinity control specific efforts have exceeded more than \$1.5 million. The Advisory Council's 2011 report recommends that BLM make at least \$1.5 million available annually for salinity-specific activities in addition to the \$5.2 million expended under the Soil, Water and Air Program for general improvements within the Colorado River Basin. The Colorado River Board supports the Advisory Council's recommendation and urges the subcommittee to specifically designate \$1.5 million for the Colorado River Basin Salinity Control Program.

Over the 28 years since the passage of the Colorado River Basin Salinity Control Act, much has been learned about the impact of salts in the Colorado River system. Currently, the salinity concentration of Colorado River water causes about \$300 mil-

lion in quantifiable damages in the United States annually. Economic and hydrologic modeling by Reclamation indicates that the quantifiable damages could rise to more than \$500 million by the year 2030 without the continuation of the Salinity Control Program. For example, damages can be incurred related to the following activities:

- A reduction in the yield of salt-sensitive crops and increased water use for leaching in the agricultural sector;
- A reduction in the useful life of galvanized water pipe systems, water heaters, faucets, garbage disposals, clothes washers, and dishwashers, and increased use of bottled water and water softeners in the household sector;
- An increase in the use of water for cooling, and the cost of water softening, and a decrease in equipment service life in the commercial sector;
- An increase in the use of water and the cost of water treatment, and an increase in sewer fees in the industrial sector;
- A decrease in the life of treatment facilities and pipelines in the utility sector;
- Difficulty in meeting wastewater discharge requirements to comply with National Pollutant Discharge Elimination System permit terms and conditions, an increase in desalination and brine disposal costs due to accumulation of salts in groundwater basins, and fewer opportunities for recycling and reuse of the water due to groundwater quality deterioration; and
- Increased use of imported water for leaching and the cost of desalination and brine disposal for recycled water.

In addition, the Federal Government has made significant commitments to the Republic of Mexico and to the seven Colorado River Basin States with regard to the delivery of quality water pursuant to the 1944 Water Treaty. In order for those commitments to be honored, it is essential that in fiscal year 2013, and in future fiscal years, that the Congress continue to provide adequate funds to BLM for its salinity control activities within the Colorado River Basin.

The Colorado River is, and will continue to be, a major and vital water resource to the nearly 20 million residents of southern California, including municipal, industrial, and agricultural water users in Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties. The protection and improvement of Colorado River water quality through an effective salinity control program will avoid the additional economic damages to users in California and the other States that rely on Colorado River water resources.

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#### PREPARED STATEMENT OF THE COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

Mr. Chairman and members of the subcommittee, the Columbia River Inter-Tribal Fish Commission (CRITFC) is pleased to share its view on the Department of the Interior, Bureau of Indian Affairs's (BIA) fiscal year 2013 budget. We have specifically identified three funding needs and one allocation recommendation:

- \$7.7 million, an increase of \$3,054,000 more than the President's request for Columbia River Fisheries Management within the Rights Protection Implementation account to meet the base program funding needs of the Commission and the fisheries programs of its member tribes, specifically to implement Federal court-ordered management obligations, including efforts for species listed under the Endangered Species Act;
- \$4.8 million, an increase of \$436,000 more than the President's request, for U.S./Canada Pacific Salmon Treaty within the Rights Protection Implementation account to implement new obligations under the recent agreement adopted by the United States and Canada under the Treaty;
- \$328 million for Public Safety and Justice, Criminal Investigations and Police Services—of which \$718,000 supports enforcement of Federal laws at in-lieu and treaty fishing sites on the Columbia River. This supports the President's request; and
- We request that the subcommittee direct the BIA to allocate Rights Protection Implementation accounts at the 2008 percentages unless or until account holders receive a rationale or justification for a variance.

CRITFC was founded in 1977 by the four Columbia River treaty tribes:

- Confederated Tribes of the Umatilla Indian Reservation;
- Confederated Tribes of the Warm Springs Reservation of Oregon;
- Confederated Tribes and Bands of the Yakama Nation, and Nez Perce Tribe.

CRITFC provides coordination and technical assistance to these tribes in regional, national, and international efforts to protect and restore our shared salmon resource and the habitat upon which it depends. Our collective ancestral homeland covers nearly one-third of the entire Columbia River Basin in the United States.

In 1855, the United States entered into treaties with the four tribes<sup>1</sup> whereupon we ceded millions of acres of our homelands to the United States. In return, the United States pledged to honor our ancestral rights, including the right to fish. Unfortunately, a perilous history brought the salmon resource to the edge of extinction with 12 salmon and steelhead populations in the Columbia Basin listed under the Endangered Species Act (ESA).

Today, the CRITFC tribes are leaders in fisheries restoration and management working with State, Federal, and private entities. CRITFC's member tribes are principals in the region's efforts to halt the decline of salmon, lamprey, and sturgeon populations and rebuild them to levels that support ceremonial, subsistence, and commercial harvests. To achieve these objectives, the tribes' actions emphasize "gravel-to-gravel" management including supplementation of natural stocks, healthy watersheds, and collaborative efforts.

The programs in this testimony are carried out pursuant to the Indian Self-Determination and Assistance Act. Our programs are integrated as much as possible with State and Federal salmon management and restoration efforts.

COLUMBIA RIVER FISHERIES MANAGEMENT WITHIN RIGHTS PROTECTION  
IMPLEMENTATION

We are succeeding. The salmon, returning in greater numbers, tell us so. But along with success, management issues increase the complexity, requiring greater data collection and more sophisticated analyses. Funding shortfalls prohibit the achievement of tribal self-determination goals for fisheries management, ESA recovery effort, protecting nonlisted species, conservation enforcement and treaty fishing access site maintenance. We are seeking an increase of \$3,054,000 more than fiscal year 2012 for a new program base of \$7,712,000 for Columbia River Fisheries Management.

The BIA's Columbia River Fisheries Management line item is the base funding that supports the fishery program efforts of CRITFC and the four member tribes. Unlike State fish and game agencies, the tribes do not have access to Dingell-Johnson/Pittman-Robertson or Wallop-Breaux funding. The increase will be directed to support the core functions of the fisheries management programs of the Commission's member tribes.

In 2008 CRITFC and its member tribes successfully concluded lengthy negotiations resulting in three landmark agreements:

- the Columbia Basin Fish Accords with Federal action agencies overseeing the Federal hydro system in the Columbia Basin;<sup>2</sup>
- a Ten-Year Fisheries Management Plan with Federal, tribal and State parties under *United States of America v State of Oregon*; and
- a new Chinook Chapter of the Pacific Salmon Treaty.<sup>3</sup>

These agreements establish regional and international commitments on harvest and fish production efforts, commitments to critical investments in habitat restoration, and resolving contentious issues by seeking balance of the many demands within the Columbia River basin. While through these agreements the tribes have committed to substantial on-the-ground projects with some additional resources from the Bonneville Power Administration, the overall management responsibilities of the tribal programs have grown exponentially without commensurate increases in BIA base funding capacity. For example, the tribes' leadership in addressing Pacific Lamprey declines is this species' best hope for survival and recovery. The tribes are also addressing unmet mitigation obligations, such as fish losses associated with the John Day and The Dalles dams.

Compounding the challenges in implementing tribal fish management agreements are the impacts that climate change will have on the interior Columbia Basin and the tribe's treaty resources. The University of Washington Climate Impact Group predicts new challenges to salmon management due primarily to thermal effects and runoff timing changes. The CRITFC is being asked to develop mitigation and adaption strategies on behalf of our member tribes. CRITFC and its member tribes currently have insufficient funds to do the technical work and allow policy-level participation in the co-management arena.

The funding provided through the BIA to support tribal fishery programs is crucial to the tribes' and CRITFC's ability to successfully carry out tribal rights protec-

<sup>1</sup>Treaty with the Yakama Tribe, June 9, 1855, 12 Stat. 951;

—Treaty with the Tribes of Middle Oregon, June 25, 1855, 12 Stat. 963;

—Treaty with the Umatilla Tribe, June 9, 1855, 12 Stat. 945;

—Treaty with the Nez Perce Tribe, June 11, 1855, 12 Stat. 957.

<sup>2</sup>The Nez Perce Tribe is not a Columbia Basin Fish Accord signatory.

<sup>3</sup>See "Salmon Win A Triple Crown" at [http://www.critfc.org/text/wana\\_109.pdf](http://www.critfc.org/text/wana_109.pdf).



tion, including these agreements, by providing sound technical, scientific and policy products to diverse public and private forums. Lost purchasing power through rising costs, inflation and lack of pay-cost adjustments to tribal funding has further challenged us to deliver these essential services.

#### U.S./CANADA PACIFIC SALMON TREATY UNDER RIGHTS PROTECTION IMPLEMENTATION

For tribal participants in the Pacific Salmon Treaty, the U.S. Section has identified a program need of \$4.8 million for BIA.

The United States and Canada entered into the Pacific Salmon Treaty in 1985 to conserve and rebuild salmon stocks, provide for optimum production, and control salmon interceptions. The treaty established the Pacific Salmon Commission (PSC) as a forum to collaborate on intermingled salmon stocks. The U.S. Section of the PSC annually develops a coordinated budget for tribal, State and Federal programs to ensure cost and program efficiencies. The Congress increased funding in 2000 in order to implement the 1999 Agreement but funding has significantly eroded since then. In 2008, the United States and Canada adopted a new long-term Treaty agreement after nearly 3 years of negotiations. Both parties agreed to significant new management research and monitoring activities to ensure the conservation and rebuilding of the shared salmon resource.

The \$4.8 million provides for direct tribal participation with the Commission, panels and technical committees. The funding enables the tribes to assist in Treaty implementation and facilitates management protecting trust resources. This funding maintains tribal resource assessment and research programs structured to fulfill required Treaty implementation activities. The fiscal year 2012 recommended level for this program is an increase of \$436,000 more than the President's request and \$600,000 more than the fiscal year 2012 enacted level. Our request correlates to the U.S. Section's recommendation.

The tribal management programs provide needed beneficial and technical support to the U.S. Section. The Pacific Salmon Commission relies heavily on the various technical committees established by the Treaty. The work of these Committees is integral to the task of implementing fishing regimes consistent with the Treaty and the goals of the Parties. Numerous tribal staff appointed to these committees and all of the tribal programs generate data and research to support their efforts. For example, indicator stock tagging and escapement monitoring provides key information for estimating the parties' annual harvest rates on individual stocks, evaluating impacts of management regimes established under the Treaty, and monitoring progress toward the Chinook rebuilding program started in 1984.

#### PUBLIC SAFETY AND JUSTICE, CRIMINAL INVESTIGATIONS AND POLICE SERVICES

Public safety continues to be a high priority for CRITFC and our tribes. Our conservation and criminal enforcement officers are the cornerstone of public safety in the popular and heavily used Columbia Gorge area patrolling 150 miles of the Columbia River, including its shorelines in Oregon and Washington. In this area we are the primary provider of enforcement services at 31 fishing access sites developed pursuant to Public Law 87-14 and Public Law 100-581 for use by treaty fishers. CRITFC's officers have obtained BIA Special Law Enforcement Commissions to aid our efforts protecting and serving tribal members and Federal trust properties along the Columbia River. We are grateful for the support of the BIA Office of Justice Services in obtaining the SLECs. We are also very pleased that the BIA has created OJS District 8 and housed it in Portland. Beginning in February 2011, CRITFC entered into a Public Law 93-638 contract with BIA for enforcement services along the Columbia River. That contract provides funding for two enforcement positions.

It's important that CRITFC build its enforcement capacity more than the level of the two officers currently funded by the BIA Office of Justice Services. Our immediate priority is to add two officers. Funding for two additional officers would cost \$313,560 plus indirect. Full funding for this project would be a total budget of \$716,053 plus indirect which would support four officers, a sergeant and a dispatcher.

In summary, through combined efforts of the four tribes supported by a staff of experts, we are proven natural resource managers. Our activities benefit the region while also essential to the U.S. obligation under treaties, Federal trust responsibility, Federal statutes, and court orders. We ask for your continued support of our efforts. We are prepared to provide additional information you may require on the Department of the Interior's BIA budget.

## PREPARED STATEMENT OF DANCE/USA

Mr. Chairman and distinguished members of the subcommittee, Dance/USA is grateful for this opportunity to submit testimony on behalf of our members across the United States. We urge the Committee to designate a total of \$155 million to the National Endowment for the Arts (NEA) for fiscal year 2013. This testimony is intended to highlight the importance of the Federal investment in the arts to sustaining a vibrant cultural community to our national character.

Dance/USA, the national service organization for not-for-profit professional dance, believes that dance is essential to a healthy society, demonstrating the infinite possibilities for human expression and potential, and facilitating communication within and across cultures. Dance/USA sustains and advances professional dance by addressing the needs, concerns, and interests of artists, administrators, and organizations. By providing services and national leadership, Dance/USA enhances the infrastructure for dance creation, education and dissemination. To fulfill its mission, Dance/USA offers a variety of programs, including data research and regional professional development, and works with organizations within and outside the arts field with whom common goals are shared. Dance/USA's membership currently consists of more than 450 ballet, modern, ethnic, jazz, culturally specific, traditional and tap companies, dance service and presenting organizations, artist managers, individuals, and other organizations nationally and internationally. Dance/USA's member companies range in size from operating budgets of under \$100,000 to more than \$50 million.

The NEA makes it possible for everyone to enjoy and benefit from the performing arts. Before the establishment of the NEA in 1965, the arts were limited mostly to a few big cities. The Arts Endowment has helped to strengthen regional theater, opera, ballet and other artistic disciplines that Americans now enjoy. NEA funding provides access to the arts in regions with histories of inaccessibility due to economic or geographic limitations. The Endowment embodies the ideal that no one should be deprived of the opportunity to have art in their lives. The Arts Endowment has helped the arts become accessible to more Americans, which in turn has increased public participation in the arts.

Despite diminished resource, the NEA awards more than 1,000 grants annually to nonprofit arts organizations for projects that encourage artistic creativity. These grants help nurture the growth and artistic excellence of thousands of arts organizations and artists in every corner of the country. NEA grants also preserve and enhance our Nation's diverse cultural heritage. The modest public investment in the Nation's cultural life results in both new and classic works of art, reaching the residents of all 50 States.

NEA grants are instrumental in leveraging private funding. On average, each \$1 from an NEA grant generates at least \$8 from other sources. Government cultural funding plays a catalytic leadership role that is essential in generating private support for the arts.

The NEA is a great investment in the economic growth of every community. The return of the Federal Government's small investment in the arts is striking. The nonprofit arts industry generates \$166.2 billion annually in economic activity, supports 5.7 million full-time equivalent jobs, and returns \$12.6 billion to the Federal Government in income taxes. Measured against direct Federal cultural spending of about \$1.4 billion, that's a return of nearly nine to one. Few other Federal investments realize such economic benefits, not to mention the intangible benefits that only the arts make possible. Even in the face of tremendous cutbacks in recent years, the NEA continues to be a beacon for arts organizations across the country.

## NEA GRANTS AT WORK

NEA grants are awarded to dance organizations through its core programs:

- Art Works;
- Challenge America Fast Track Grants; and
- Federal/State Partnerships.

The following are some examples of the impact of NEA funding on dance programs from the NEA's 2012 Art Works Program:

*Alabama Dance Council*  
Birmingham, Alabama  
\$10,000

To support the presentation of the 2012 statewide Alabama Dance Festival that will feature performances by Ronald K. Brown's Evidence: A Dance Company and Brazz Dance Theater, showcases of Alabama dance companies, pre-professional and

professional master classes, professional dance development workshops, summer intensive auditions, and dance education workshops.

*Ballet Hispanic of New York*  
New York, New York  
\$20,000

To support the creation and presentation of a new work by artistic director Eduardo Vilaro. The work, titled *Reina*, will be inspired by the music of Celia Cruz, the Queen of Salsa.

*Chicago Dancing Festival*  
Lombard, Illinois  
\$10,000

To support the presentation of local and national dance companies as part of the 2012 Chicago Dancing Festival. Activities include performances, open rehearsals, open company classes, and moderated lecture-demonstrations.

*Nai-Ni Chen Dance Company*  
Fort Lee, New Jersey  
\$10,000

To support dance performances and education and outreach activities based on the ancient legends and folklore of the Chinese dragon. The project includes curriculum guides for students and teachers.

*Ragamala Dance*  
Minneapolis, Minnesota  
\$20,000

To support the creation and presentation of a new work, titled 1001 Buddhas, inspired by the 12th-century Sanjusangendo temple in Kyoto, Japan, famous for its 1001 life-sized statues of Kannon, the Buddhist Goddess of Mercy.

*San Francisco Ballet Association*  
San Francisco, California  
\$70,000

To support the creation and presentation of new works by several choreographers including:

- Yuri Possokhov;
- Wayne McGregor;
- Mark Morris; and
- Christopher Wheeldon.

The project includes audience engagement activities such as matinees for students and seniors, reduced-price tickets, pre-performance discussions, podcasts, and lectures.

*Trey McIntyre Project*  
Boise, Idaho  
\$15,000

To support the creation and presentation of a new work, by choreographer Trey McIntyre. The dance will be the third piece in an autobiographical trilogy and is inspired by the 1970's show *Free to Be You and Me*.

#### THE NONPROFIT PROFESSIONAL DANCE COMMUNITY

America's dance companies perform a wide range of styles and genres. These include both classical and contemporary ballet, classical and contemporary modern, as well as jazz, tap, cross-disciplinary fusions and traditional to modern work rooted in other cultures. More than two-thirds of America's professional dance companies are less than 45 years old; as an established art form with national identity and presence, dance has burst onto the scene almost entirely within living memory. And yet, American can boast some of the greatest dance companies of the world and can take credit for birthing two indigenous dance styles—tap and modern dance.

One key to this spectacular achievement has been the creation of a national marketplace for dance. When the National Endowment for the Arts instituted its Dance Touring Program in the 1970s, great dance became accessible to every community in America. What used to be a handful of professional companies and a scattering of "regional" dance has become a national treasure spread across cities and through communities, schools and theaters in all 50 States. Based on data from almost 300 nonprofit dance companies from across the United States, Dance/USA estimates that dance companies:

- Employed more than 12,800 people in a mix of full-time and part-time positions;
- Paid approximately \$316 million in wages and benefits;

- Earned \$178.9 million, or 30 percent of their income, from performances;
- Received \$235.7 million, or 47 percent of their income in contributions (including public support, corporate contributions, foundation support, and individual donations);
- Generated more than \$585 million in economic activity across the United States.

## CONCLUSION

Despite overwhelming support by the American public for spending Federal tax dollars in support of the arts, the NEA has never recovered from a 40-percent budget cut in the mid-nineties and found its budget further decreased by \$22 million in the past 2 years, leaving its programs seriously underfunded. We urge you to continue toward restoration and increase the NEA funding allocation to \$155 million for fiscal year 2013.

On behalf of Dance/USA, thank you for considering this request.

## PREPARED STATEMENT OF DEFENDERS OF WILDLIFE

Mr. Chairman, Ranking Member and members of the subcommittee, thank you for the opportunity to submit testimony for the record. Founded in 1947, Defenders has more than 1 million members and supporters and is dedicated to the conservation of wild animals and plants in their natural communities.

Wildlife and its habitat are valuable national assets. Even in the face of dire fiscal realities, investments in the protection of wildlife and habitat are a wise choice for our Nation. Wildlife related recreation is a \$122 billion a year industry.<sup>1</sup> Moreover, protecting wildlife and its habitat also supports healthy natural systems that provide clean air and water, food, medicines and other products. The value of benefits provided by natural habitats in the United States is estimated at more than \$2 trillion per year.<sup>2</sup> Defenders appreciated the successful efforts of the Senate Appropriations Committee to protect wildlife programs from deep cuts both in the Senate bill and in H.R. 2055, the Consolidated Appropriations bill. Defenders opposes cuts to crucial programs that conserve wildlife and habitat, and we support the modest but crucial increases in the President's request.

## FISH AND WILDLIFE SERVICE

We urge the subcommittee to do as much as possible to protect the accounts of the Fish and Wildlife Service (FWS), our Nation's premier wildlife conservation agency. We strongly support the following modest increases in the President's request and oppose one disappointing decrease:

*Renewable Energy.*—A crucial \$4 million increase associated with renewable energy development that includes \$1.5 million for Endangered Species Program Consultation, \$750,000 for Conservation Planning Assistance, \$750,000 for Migratory Bird Management and \$1 million for the Office of Law Enforcement. This increase will help to ensure siting of renewable energy projects in a way that prevents harm to species such as golden eagles, seabirds, bats and desert tortoise.

*Cooperative Recovery.*—A praiseworthy new initiative to implement recovery actions for species listed under the Endangered Species Act on National Wildlife Refuges and surrounding lands. The \$5.4 million increase includes \$2.5 million for Refuges, \$883,000 for Partners for Fish and Wildlife, \$800,000 for Fisheries Population Assessment, \$770,000 for Adaptive Science and \$400,000 in the Endangered Species program. This initiative will support more efficient efforts across landscapes to recover threatened and endangered species.

*Endangered Species.*—

—A \$1 million increase to support consultations on pesticides that may impact listed species including the development of protocols to determine safe levels of exposure. This increase is vital to facilitate likely needed consultations on several hundred pesticides out of at least 739 pesticide cases identified by the Environmental Protection Agency that are scheduled for review by 2022.

—A \$1.6 million increase for listing species. This funding will support progress in listing more than 250 candidate species, many of which have awaited protection for years.

<sup>1</sup>The Economics Associated with Outdoor Recreation, Natural Resources Conservation and Historic Preservation in the United States [www.nfwf.org/Content/ContentFolders/NationalFishandWildlifeFoundation/HomePage/ConservationSpotlights/TheEconomicValueofOutdoorRecreation.pdf](http://www.nfwf.org/Content/ContentFolders/NationalFishandWildlifeFoundation/HomePage/ConservationSpotlights/TheEconomicValueofOutdoorRecreation.pdf).

<sup>2</sup>Ibid.

- A \$12.3 million increase for the Cooperative Endangered Species Fund to provide assistance to States to protect threatened and endangered species.
- A \$998,000 reduction for the Wolf Livestock Loss Demonstration Program that assists livestock owners co-existing with wolves. In light of the recent delisting of wolves in the Northern Rockies and Western Great Lakes and potential expansion of wolves into California, it is important to continue this valuable program which is intended to both compensate ranchers for livestock losses due to wolves and to implement proactive, nonlethal methods to prevent these losses. We urge restoration of this funding.

*National Wildlife Refuge System.*—A net increase of \$9.1 million for National Wildlife Refuge System (NWRS) Operations and Maintenance in the request includes not only the \$2.5 million for Cooperative Recovery but also \$3 million for baseline inventory and monitoring of refuge resources, \$3.6 million for Challenge Cost Share projects with partners and volunteer groups, \$1 million for law enforcement, and \$1.4 million for priority operations. Even with the increase, the request is still \$8 million less than the fiscal year 2010 level, even though refuges need an annual increase of a least \$8 million just to keep fuel in trucks and pay for rising utilities and other costs. Moreover, in 2011, devastating disasters including tornadoes, wildfires, hurricanes, an earthquake, and a tsunami caused more than \$190 million in damages to the Refuge System, an amount that totals nearly 40 percent of its budget that will put the System at further risk without supplemental disaster funding.

*Cooperative Landscape Conservation and Adaptive Science.*—Threats to the conservation of our natural resources are increasingly large-scale and complex. Combined with decreasing financial resources, there is a need to work more effectively and efficiently across jurisdictional boundaries. This comprehensive initiative is helping the natural resource management agencies improve landscape-level coordination of conservation efforts and provide science and technical capacity to tackle today's complex environmental problems. We oppose any cuts to this activity.

*Environmental Contaminants.*—A \$1.3 million increase in this program that has been flat since 2001 to help expedite and complete more restoration activities for Natural Resource Damage Assessment and Restoration cases.

*International Affairs.*—An \$83,000 increase which is the fiscal year 2012 level with fixed costs to sustain vital efforts to provide crucial capacity building, education, and training for priority species and habitats of global concern and for the growing permitting, research and monitoring workload for species subject to trade, including native U.S. species.

*Office of Law Enforcement and Migratory Bird Management.*—In addition to the increases requested for these two programs related to renewable energy development, Defenders wishes to underscore their vital importance for wildlife conservation in our Nation. In fiscal year 2011, the Office of Law Enforcement's 143 inspectors processed approximately 167,000 declared shipments of wildlife and wildlife products worth more than \$2.7 billion and the 219 special agents investigated nearly 13,000 cases, from breaking up smuggling rings to working with states to protect U.S. game species from poaching. The Migratory Bird Management program is working to reverse precipitous declines in U.S. bird populations including native Hawaiian birds, ocean birds, coastal shorebirds, arid lands birds, and grassland birds.

*Other Key Grant Programs.*—In addition to the increase for the Cooperative Endangered Species Fund referenced above, we support the President's request for the Multinational Species Conservation Fund, \$9.98 million, for the Neotropical Migratory Bird Fund, \$3.8 million, and for the State and Tribal Wildlife grants, \$61.3 million.

#### UNITED STATES FOREST SERVICE AND BUREAU OF LAND MANAGEMENT

The Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) are crucial to the conservation of wildlife and habitat in the United States, yet their resources are not adequate to meet significant challenges. A top priority for Defenders is ensuring that renewable energy development on these lands proceeds in a balanced way that maintains the ecological integrity of our public lands and waters, conserves wildlife habitat and populations, and contributes to agency efforts to successfully recover our most imperiled wildlife. We urge strong oversight to ensure that any energy development is done in an environmentally sensitive fashion. Given their large land ownerships it is imperative that both participate fully in landscape level conservation and management efforts.

*United States Forest Service Integrated Resource Restoration/Wildlife and Fisheries Habitat Management.*—The budget has again proposed merging a number of accounts, including Wildlife and Fisheries Habitat Management, into an integrated

budget. However, Defenders supports continuing Integrated Resource Restoration (IRR) as a 3-year pilot as directed by the Congress in the final fiscal year 2012 Omnibus appropriations bill so that the agency can demonstrate its ability to adequately protect habitat for fish and wildlife under the consolidated program. We urge no less than the fiscal year 2012 level of \$140 million for Wildlife and Fisheries Habitat Management. Even at that level, the program would be nearly \$25 million less than the fiscal year 2001 inflation adjusted level.

*United States Forest Service Land Management Planning/Inventory and Monitoring.*—The budget has again proposed merging these two programs into a single line item. As with IRR, we are concerned about such a consolidation unless the agency can demonstrate its ability to carry out its responsibilities under these two programs, especially given that in the coming year, USFS will finalize and begin to implement a new forest planning rule that requires sufficient funding for critical inventory and monitoring activities, including the assessments that will be fundamental to the implementation of the new planning rule. We urge no less than the fiscal year 2012 level for each of these two programs:

—\$39.9 million for land management planning; and

—\$161.7 million for inventory and monitoring.

*United States Forest Service Collaborative Forest Landscape Restoration Program.*—We support the administration's request of \$40 million for the Collaborative Forest Landscape Restoration Program (CFLRP), a unique program that was established specifically to create job stability, achieve reliable wood supply, restore forest health, and reduce the costs of fire suppression in overgrown forests.

*United States Forest and Rangeland Research.*—Defenders supports the administration's request of \$292.8 million for United States Forest and Rangeland Research (FS R&D). Within FS R&D our highest priority is the Wildlife and Fish Research and Development program that supports science-based fish and wildlife management on National Forest System lands and beyond such as grappling with the question of how changes in snow pack will impact wolverines and other climate vulnerability assessments.

*Bureau of Land Management Sage Grouse.*—A critically needed increase of \$15 million in the BLM Wildlife Management program for sage grouse conservation in 10 western States includes \$10 million for amendments to Resource Management Plans, \$2.5 million for on-the-ground habitat restoration, and \$2.5 million for inventory, monitoring and mapping. Almost half of all sagebrush habitat has been destroyed and this loss has been compounded by fragmentation of the remaining sage-grouse habitat. During the 42 years between 1965 and 2007, population decline was estimated at 3.1 percent each year. This modest funding increase is desperately needed to support a broad effort to stop this iconic bird's decline and avert the need for listing under the Endangered Species Act.

*Bureau of Land Management Renewable Energy.*—An increase of \$7.1 million for renewable energy includes support for regional land use planning studies and environmental reviews of potential wind energy zones. These studies will help to identify future renewable energy zones that will avoid areas with potential natural resource conflicts, including wildlife conflicts (especially sage grouse, golden eagles, desert tortoise, or other sensitive species).

*Bureau of Land Management Resource Management Planning.*—Another crucial increase is \$4.7 million for Resource Management Planning in this program that has been cut by nearly 25 percent since fiscal year 2010 and needed to help address 47 plans under revision and another 45 that need revision.

*Bureau of Land Management Challenge Cost Share.*—Defenders supports a total of \$7.5 million, same as the fiscal year 2012 level for proactive wildlife and habitat conservation projects on the ground with partners.

#### U.S. GEOLOGICAL SURVEY

The U.S. Geological Survey (USGS) provides the basic science necessary for conservation of fish, wildlife and habitat. We urge support for the following increases in the request:

*Ecosystems.*—A \$16.6 million increase that includes \$1 million for research on White Nose Syndrome that is devastating bat populations. The base program also supports crucial scientific efforts needed to avoid harm to birds, bats, desert wildlife, and other species that could be impacted by the development of wind and solar energy.

*Climate and Land Use Change.*—A \$500,000 increase for the National Climate Change and Wildlife Science Center/DOI Climate Science Centers and a \$6.5 million increase in Science Support for DOI Bureaus to address scientific needs in planning for adaptation to climate change.

## LAND AND WATER CONSERVATION FUND

Finally, each day, 6,000 acres of open space in the United States, including wildlife habitat, is lost to fragmentation and destruction. Once these lands are lost, they can never be recovered. Defenders supports the requested increase of \$104.7 million for Land and Water Conservation Fund (LWCF). A portion of the LWCF total, about \$108 million, is for an Interior-Forest Service collaborative interagency land acquisition program to protect strategic landscape-scale projects that at the same time meet core agency acquisition priorities. This innovative initiative will help to bring larger conservation benefits and build resilience across landscapes with scarce dollars. Thank you for the opportunity to testify.

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 PREPARED STATEMENT OF THE DZILTH-NA-O-DITH-HLE COMMUNITY GRANT SCHOOL,  
 NAVAJO NATION

## REQUEST SUMMARY

Mr. Chairman and members of the subcommittee: My name is Ervin Chavez, School Board President of the Dzilth-Na-O-Dith-Hle Community School (DCGS) on the Navajo Reservation in Bloomfield, New Mexico. With me is Faye BlueEyes, Finance Director, who will be presenting our testimony on behalf of the DCGS School Board. We will focus on three areas of particular concern to our school in the fiscal year 2013 funding requests for the Bureau of Indian Education (BIE). The DCGS requests the following, all under the BIE budget category:

- Provide \$109.8 million in facilities operations and \$76 million in facilities maintenance as recommended by the National Congress of American Indians in its budget requests;
- Support requested \$2 million increase, at a minimum, for Tribal Grant Support Costs; provide \$72.3 million to fully fund;
- Restore \$4.4 million in reductions to the Indian School Equalization Program Formula Funds account.

## BACKGROUND

DCGS is a tribally controlled grant school is located in Bloomfield, New Mexico, approximately 170 miles northwest of Albuquerque, within the boundaries of the Navajo Indian Reservation. DCGS is primarily funded through appropriations received from the BIE, and pass-through funding from the Department of Education. Our school, which has been in continuous service since 1968, operates a K–8 educational program and a dormitory program for students in grades 1–12. Residential students in grades 9–12 attend the local public school. There are 109 students currently enrolled in our academic program, and 67 students are housed in campus dormitories. Our all-Navajo Board operates the DCGS through a Grant issued by the BIE under the Tribally Controlled Schools Act. The DCGS mission is to make a difference in the educational progress of our students and we believe that all of our students are capable of achieving academic success. DCGS, however, has struggled with chronic underfunding of virtually each and every one of its educational and related programs. We describe below the impacts of the underfunding in several key areas.

*Funding for Facilities Maintenance in the Amount of \$76 Million and Facilities Operations in the Amount of \$109.8 Million.*—Facilities Maintenance funds are intended to provide for the preventative, routine, and unscheduled maintenance for all school buildings, equipment, utility systems, and ground structures. There are numerous studies that attest to the fact there is close correlation between poor or inadequate facility conditions and poor student and staff performance. And it is documented fact that 63 of the 181 schools for which BIE is responsible are rated in “poor” condition on the Bureau’s “Education Facility Condition Index (FCI) for fiscal year 2013”, the same number as in fiscal year 2012. Without a significant increase in facilities maintenance funding, there is little doubt there can be no measurable progress in addressing the ever-growing deferred maintenance backlog of at least \$967 million (according to the 2011 draft No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee Report). The report also acknowledged that persistent underfunding of Facilities Maintenance contributes to more rapid deterioration of the aging buildings.

The DCGS is, unfortunately, one of the “poor” rated schools and with an FCI of 0.4001, it is among the poorest-rated facilities. From a practical standpoint, this means that we are not able to provide a safe, healthy learning environment for our students and staff. Realistically, some of the health and safety problems at DCGS

include the closure of the restrooms servicing our junior high classrooms due to leaking sewer lines. Whereas the required industry standard for plumbing today is PVC piping, our 40-plus-year-old buildings have galvanized pipes that have become so rusted, corroded and contain sediment experts estimate only about one-quarter inch diameter of the pipes remain open. Repairs are also difficult because extensive corrosion makes any disturbance of the pipes makes it susceptible to crumbling. Adding to the sewer problems is that the sewage lagoon servicing the DCGS is not the adequate size for our complex, thus requiring weekly cleanouts, meaning our already over-burdened facilities have to send out one staff member to manually hose out each of the sewage cells in the lagoon.

The age of the facilities also impacts the water lines, which are also very corroded and contain so much sediment that we must provide bottled drinking water for the students (an additional cost that most public schools do not face). We also have issues with an outdated electrical transformer for which parts are no longer available and insufficient internal electrical wiring that must be replaced to avoid further electrical fires.

Most public schools have readily available, reliable Internet access. The DCGS, on the other hand, has for years relied on a satellite link to support the educational technology needs of the students. The Internet access was very unreliable—depending on weather conditions and other reasons that were not able to be fully determined by the provider—which more often than not resulted in frustrating students trying to do research and/or cancelling academic lessons. We pleaded with the BIE to assess and address the problem or at least facilitate rewiring the facilities to accommodate better IT access but sadly that tech support has been so lacking for more than 6 years that we have turned to the Navajo Nation Technology Department (NNTD) for assistance. Sadly we are placing blind faith that through the Federal E-rate program we will be able to recoup the installation payment we had to pay upfront for the NNTD to begin work and to also fund the additional work to complete the technology upgrades. Even with the limited work that has been completed, the students are already seeing noticeable improvements in Internet availability.

Despite our best efforts to maximize the limited facilities maintenance funds for upkeep of our buildings, there is only so much that our five-member facilities staff can do. The BIE has estimated \$7.7 million would be needed to fix all that is on the DCGS deferred maintenance backlog, and the replacement cost would be \$19.1 million. The BIE's fiscal year 2013 request for facilities maintenance is nearly level funding again (\$50.9 million), which means that once again there will not be enough to make a significant dent in the maintenance backlog of DCGS or any of the other schools.

Facilities Operations funding is for the ongoing operational expenses like electricity, heating fuels, communications, ground maintenance, refuse collection, water and sewer service, etc. However, the facilities operation expenses are currently funded at approximately 46 percent of need. In light of the escalating costs of these essential services—especially the cost of electricity and heating costs—it is evident the BIE's fiscal year 2013 request of \$58.6 million (level funding) is still grossly inadequate.

When the facilities operations and maintenance costs are not funded at a realistic level, our schools are not able to address the small, preventable problems to keep them from becoming bigger and more expensive to fix, or we cannot even perform some needed maintenance. Further, in emergency situations, school funding must be diverted from other programs to meet these needs. For the health and safety of our students and staff, we support the NCAI-recommended \$76 million for facilities maintenance and \$109.8 million in facilities operation funding.

*Funding for Tribal Grant Support Costs in the Amount of \$72.3 Million.*—Tribal Grant Support Costs (TGSC), formerly known as Administrative Costs Grants, are funds provided to tribally operated schools to cover the administrative or indirect costs associated with the operation of a school. Currently, 125 of the 183 BIE-funded schools are operated by tribes or tribal school boards, with another three BIE-operated schools possibly being converted to grant status in fiscal year 2013. TGSC funding is applied to the costs of payroll, accounting, insurance, background checks, and other legal, reporting and record-keeping requirements, including the preparation of required annual audits. TGSC are appropriated in a lump sum and then awarded to individual schools after application of a complex statutory formula that divides the available funding—not the statutorily required amount—among eligible recipients. In fiscal year 2012, the funding available for TGSC met only 63.7 percent of the need of the schools, which is less than the BIE estimated rate for fiscal year 2012. This means that at 100 percent of TGSC need, DCGS should have received nearly \$700,000; instead, we received only \$445,000. What happens when there is



a \$250,000 shortfall? At DCGS we have consolidated internal controls, streamlined checks and balances, and scaled back significantly our management staff. For example, our business office now has only two full-time staff to handle all the DCGS business-related functions, such as process payroll for 90 on a bi-weekly basis; complete all the accounting; complete all tax reporting requirements; process account payables-requisitions-purchase orders, and ensure conformance with all audit requirements.

For fiscal year 2013, the BIE requests a \$2 million increase, which they estimate will provide a TGSC rate of 65 percent of need. The DCGS is very concerned this projected percentage is being over reported. Consider that the BIE does not request separate start-up funds for newly converting schools but they report there may be as many as three in fiscal year 2013. With no start-up funds, the additional school conversions will consume an inordinate amount of the already limited TGSC, thus further limiting the funds available to the ongoing grants/contracts.

The increase sought by the administration not only falls well short of the schools' actual support cost needs, it fails to make even minimal progress in promoting fairness or equity with respect to the Government's support costs paid for other Indian programs. As a result of contract support cost (CSC) litigation brought by tribes for BIA and IHS failures to fully fund CSC, in all other BIA program areas except education, growth has been tremendous. In fact, for the period covering fiscal year 2009 to fiscal year 2012, the nonschool BIA CSC account has grown by an astounding \$73.9 million, which raised the percentage of CSC need paid from 75 to nearly 100 percent. In contrast, the TGSC funding during the same period increased by a mere \$2.8 million, and that was in the last 2 fiscal years; with the TGSC rate rising from 61 to 63.7 percent during that period. The schools should not have to spend years before the courts litigating their being short-changed by the BIE. The Congress should fix the problem and fully fund TGSC at \$72.3 million for the indirect cost requirements of current tribally controlled schools, and provide \$2 million in start-up funds for newly converting schools.

*Restore \$4.4 Million to Indian School Equalization (ISEP) Formula Funds Account.*—The fiscal year 2013 budget request proposes a \$4.4 million (or 1 percent) reduction in ISEP formula funds due to a 1-percent decline in student population. The Bureau, however, fails to recognize that schools still have costs that are not directly tied to the number of students enrolled; in essence a minimum operating costs to keep our doors open. For instance, our electrical bill is not based on the number of students served, and the buses must cover their routes whether there is 1 student or 50 students on that route. Further, as we have testified, many of the accounts that support School Operations are seriously underfunded so that we must constantly utilize our education-program (ISEP) funds to offset nonacademic costs such as student transportation, maintenance, administrative functions to name a just a few. Despite our best efforts to stretch each and every dollar, in school year 2012–2013 DCGS will be forced to reduce the number of student school days and instead operate on providing the requisite number of contact hours for each grade level.

#### CONCLUSION

It is widely acknowledged that investments in education have a direct economic impact as well as benefits to the individual. Studies have also shown that reductions in education expenditures have negatively impacted employment rates. With our native students coming from some of the hardest hit areas in these times of economic downturn, we ask the Congress to provide the levels of education funding that will enable us to provide a quality education in safe and secure environment for our students. We are grateful for any assistance you can provide.

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#### PREPARED STATEMENT OF THE FEDERAL FOREST RESOURCE COALITION

The following testimony is submitted on behalf of the Federal Forest Resource Coalition (FFRC), a 501(c)(6) trade association, representing purchasers of United States Forest Service (USFS) and Bureau of Land Management (BLM) timber across the country with members in more than 24 States, more than 650 member companies representing 350,000 workers and about \$19 billion in payroll.

The FFRC supports sustainable management of the National Forests and BLM lands to produce clean water, enhance wildlife habitat, produce forest products including timber and biomass, support rural economic development, and to reduce the threats of catastrophic wildfires and insect outbreaks. Our members come from every link on the forest products value chain, from loggers to landowners and from large pulp and paper facilities to forest bioenergy plants. Our member companies

are frequently located in rural areas, which have higher than average unemployment, poverty, and population loss compared to their States' averages.

Many of our member companies rely on the National Forests and BLM lands to provide a consistent and sustainable timber supply. Forest products companies also represent the lowest cost, and most effective, tool for Federal land managers to improve the health of our public lands. Increased management and forest products outputs would provide a much-needed economic boost to rural America, creating thousands of jobs, as well as increasing the pace of forest restoration on our public lands, particularly the National Forests. The health of the National Forests, the economic health of our member companies, and the health of the communities where we live and work, are inextricably linked.

*Increasing the Pace of Forest Restoration.*—Last month, the Secretary of Agriculture announced an initiative to accelerate the pace of forest restoration on the National Forests. While we applaud the administration for recognizing the urgency of the forest health threat on the National Forests, we are concerned that the initiative does not go either far, or fast, enough. Some of my member companies have faced situations where the USFS is proposing management projects which either fail to address pressing forest health concerns, like the pine beetle epidemic in the Rockies, or which don't go as far as local collaborative groups would like to go, such as in the Northeast Washington Forest Vision project around the Colville National Forest.

Even in these extremely challenging wood markets, some FFRC member companies have been frustrated by the Forest Service's lack of commitment to sell adequate log supplies. The result is idled investments, reduced shifts at sawmills, jobs lost to foreign competition, and a failure to position the USFS to help sustain or enhance a value-added, manufacturing industry that can capture greater domestic and international market share. Our member companies are extremely competitive in the global market, and only need a fairly priced raw material to capture more of those markets. The time available to capture these opportunities is limited, and we urge you to reward the USFS's recent initiative by investing in more aggressive management of the National Forests.

We have worked—and will continue to work—closely with the leadership in the USFS and USDA to find ways of reducing overhead and making the forest products and fuels reductions program more efficient. We believe some of the steps taken by the USFS in their February 2, 2012 report will help achieve these efficiencies. However, other authorities, like allowing the USFS to use designation by description on regular timber sales, much as they do on current Stewardship contracts, will help reduce unit costs even further.

*Investing in Land Management.*—We are very thankful to the subcommittee for including national direction to the USFS to increase timber outputs from 2.4 to 3 billion board feet in 2012. We urge the subcommittee to continue raising the bar for the agency and set a goal of 3.5 billion board feet for fiscal year 2013. The current annual harvest from the National Forests represents less than 10 percent of annual forest growth, and less than half the allowable sale quantity under existing forest plans. In many regions, the USFS is falling short of its own management goals; including in reacting to the pine beetle outbreak in the Rockies and in managing aspen habitat in the Lake States. Stepping up management, through formal collaboratives where they exist and normal timber programs elsewhere, will help address pressing forest health concerns while helping bolster employment in rural communities where unemployment is frequently near 20 percent and poverty is well more than State averages. Investing in the USFS timber program is a very effective job creator, generating 16.5 new direct and indirect jobs per 1 million board feet harvested.

While we appreciate the support for forest management, we urge the subcommittee to make new investments in the National Forest Timber Management line item this year. This program has not received an increase since 2008, and due to inflation it has lost about 5 percent of its purchasing power. Further, extraordinarily high overhead rates have further eroded the program's effectiveness. To help keep the program pointed in the right direction, we urge the subcommittee to invest \$371 million, an increase of \$36 million more than the current fiscal year to achieve a fiscal year 2013 target of 3.5 billion board feet.

*Forest Roads, Hazardous Fuels Reduction.*—It is also urgent that the subcommittee restore funding which has been cut since 2010 from the Capital Improvement and Maintenance Account, as well as the Wildland Hazardous Fuels Reduction program. These two programs are vital to maintaining access to the National Forests and in helping to reduce the massive, 90-million-acre backlog of lands which urgently need hazardous fuels reduction. The work cannot be done economically without the ability to use the USFS road system. We continue to oppose a blanket

moratorium on new roads, because this arbitrarily restricts the agency from implementing needed management, and also prohibits the USFS from replacing poorly located or damaged roads with new roads which are engineered and located properly.

We appreciate the efforts of the subcommittee to remove the arbitrary requirements for hazardous fuels reduction work in the Wildland Urban Interface (WUI), but we were troubled that the President's budget continues to focus the USFS's efforts there. A greater percentage of lands in need of fuels reduction are outside of the WUI, and mechanical thinning allows the USFS to take advantage of the wood products infrastructure to reduce treatment costs. Extensive USFS research shows that mechanical thinning (which included removing useable wood fiber) followed by prescribed fire is the best approach to significantly reduce threats from wildfire and forest pests.

*Reducing National Environmental Policy Act Costs.*—The President's Council on Environmental Quality issued a memo on increasing the efficiency and effectiveness of environmental reviews required by the National Environmental Policy Act (NEPA) in December. The USFS has told the Congress that complying with NEPA and other environmental laws costs them \$356 million annually, which is more than the agency spends on timber management, or Research, or State and Private Forestry. Saving even a portion of these expenses would free up resources to actually manage forests and reduce the threat of wildfire and insect outbreaks. We urge the subcommittee to direct the USFS and CEQ to take more aggressive steps to reduce NEPA costs than the comparison study of two landscape restoration projects approved on February 9.

Timber purchasers across the country report that USFS personnel frequently conduct exhaustive NEPA analysis, only to propose and implement small-scale land management projects which do not meet the objectives the agency set out to meet. Examples include leaving higher than called for stand densities, or dropping entire units from proposed sales even though doing so leaves forest stands susceptible to insects and mortality. The USFS's February 2 report on increasing the pace of forest restoration touches on this subject, but we believe direction from this subcommittee would help reinforce the urgency of directing the resources to management rather than paperwork.

When National Forests in the Lake States are up to 75 percent behind on their management goals for early successional habitat, and the National Forests in the Rocky Mountains are falling woefully behind in dealing with a massive, 41-million-acre-and-growing pine beetle outbreak, finding some way of reducing NEPA costs is urgently needed.

*Land Acquisition.*—Considering the fiscal situation facing the Nation and the backlog of both forest management and roads and facilities maintenance needs on the National Forests, we recommend no funding for the National Forest System Land Acquisition line item. It makes little sense to increase the size of the National Forest System at a time when the agency has a demonstrated backlog in maintenance and land management. We recommend that the \$59 million recommended by the administration be redirected to the land management priorities recommended above.

*Bureau of Land Management Forest Management.*—The President's fiscal year 2013 budget includes a sharp reduction in funding for the BLM Public Domain Forest Management Program. The President's budget proposes to reduce BLM PD Forest Management funding by nearly 40 percent, which will result in reduction of 40 percent of associated FTEs, 50-percent reduction in biomass volume, and 80 percent reduction in Stewardship Contracts. This would mean the BLM would drop from offering 123 million board feet in 2012 to offering 19 million board feet, a decline of more than 85 percent of the public domain timberlands. FFRC supports funding for BLM PD Forest Management Program at no less than the fiscal year 2012 level of \$9.7 million. Aggressive action is also needed to offer regeneration harvests from the O&C lands in Oregon that meet the needs of local mills. This will necessitate funding at or near fiscal year 2011 levels, coupled with strong direction to the agency to fulfill its statutory duty under the O&C Act to produce a sustainable flow of timber for local economies.

*Alaska.*—The timber industry in Alaska faces several challenges stemming from years of controversy over the management of the Tongass National Forest. FFRC members depend upon supplies of timber from this forest, and have been hard pressed as the Forest Service has placed complete restrictions on harvest in roadless areas. Current efforts billed as "restoration" forestry have instead focused on a particular approach to fisheries management and on a transition to harvesting second growth timber that will not meet the local industries needs for decades. Steps must be taken to offer a timber sale program that complies with the National Forest Management Act and can sustain the local value added industry in order to save the

capacity to manage the very small percent of the Tongass that is open to any harvest. Current policies of avoiding all litigation risk will surely cause the death of the local industry in southeast Alaska, leaving the region dependent on a less diversified, tourism-based economy.

*Forest Health and Forest Restoration.*—2011 demonstrated that the poor health of our National Forests and other Federal Forests impacts everyone, from the industries that depend on useable wood fiber to casual weekend visitors to the Forests. The large fires in Arizona and New Mexico last year forced the closures of popular campgrounds, destroyed dozens of recreational cabins, and forced cancellations of Fourth of July events at popular mountain resorts. Many miles of forest roads and several campgrounds in Arizona remain closed. The large-scale beetle infestation in the Black Hills has forced local campground owners to spend more than \$100,000 annually to remove beetle killed trees and spray others in an effort to stop beetles from spreading off of the National Forests. The Pagami Creek fire in Minnesota disrupted popular hiking and canoeing areas in an around the Boundary Waters Canoe Area. Campers, hikers, hunters, and skiers all want to visit healthy, green, and growing forests.

In each of these cases, wood using industries, from start-up biomass plants to family run sawmills to internationally competitive pulp and paper facilities, stand ready to help the USFS and BLM to actively manage the public lands they oversee. Opportunities to expand this management, and the benefits that come from it, abound nationwide. We thank you for your support for our efforts to manage these lands and help our rural communities in the process.

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PREPARED STATEMENT OF THE FEDERATION OF STATE HUMANITIES COUNCILS

The Federation of State Humanities Councils respectfully requests that the Senate Appropriations Subcommittee on the Interior, Environment, and Related Agencies allocate \$154.255 million for the National Endowment for the Humanities and \$44 million for the State humanities councils for fiscal year 2013.

As full partners of the NEH, councils receive their core funding through the Federal/State Partnership line of the NEH budget and use that funding to leverage additional funds from foundations, corporations, private individuals, and State governments. In 2011, every Federal dollar the councils awarded through grants to local institutions leveraged, on average, \$5 in local contributions. Councils further extend their resources by forming programming partnerships with organizations and institutions throughout their States.

We are requesting a funding increase for fiscal year 2013 for the work of the council because cuts over the past 2 years have had serious consequences for the communities and institutions the councils serve. A recent survey by the Federation of State Humanities Councils revealed that councils have had to shrink their grants programs significantly, even though requests for council funding have increased due to the troubled economy. These reductions in turn have led to fewer dollars leveraged and therefore even less funding for local organizations and communities.

Our communities and our Nation as a whole will benefit from increased funding to the State councils, in part because State humanities council programs serve critical needs. Dozens of councils, for example, support family literacy programs, which make a significant difference in the lives of participants—low-income families, immigrant families, or simply families that need help to engage with words and ideas. Thousands of families have benefited from the Prime Time program, developed by the Louisiana Endowment for the Humanities and now active in a dozen other States throughout the Nation. In 2011, the Nebraska Humanities Council's Prime Time program reached 325 families in six communities. More than 1,800 free books were distributed through the program, and 100 new library cards were issued. Of the participating families, 89 percent said that as a result of the program they now spend more time reading as a family. Connecticut's Family Read program, operating primarily in the State's urban areas, fosters a culture of literacy in many public schools and community-based agencies where it is most needed, helping to address an achievement gap that is among the largest in the Nation.

Council programs also serve other critical needs. The Literature and Medicine program, created by the Maine Humanities Council and now offered by 26 other councils, improves patient care and enables overtaxed medical personnel to find the renewed energy and inspiration to continue in the profession. By expanding into VA hospitals, the program provides invaluable resources for caregivers of returning veterans. The Missouri council has gone directly to the veterans themselves with a program that offers creative writing workshops and mentoring for veterans.

Thirty-one organizations in the State of New York can attest that councils serve critical needs. After Hurricanes Irene and Lee hit last year, the New York Council for the Humanities swiftly distributed funds from an NEH Chairman's Discretionary Grant to provide relief to small cultural organizations in the affected area, prompting one museum director to observe, "The council's response reflects an understanding of how best to serve the urgent needs of cultural institutions."

Council funding ensures that humanities programming is widely available to the general public. Councils reached 5,700 communities across the Nation in 2011, including rural towns, suburban communities, and urban neighborhoods. Councils supported programs in every congressional district and served hundreds of thousands of students, teachers, healthcare professionals, seniors, veterans, and many more.

Council programs help communities and institutions not adequately served through other means. In rural communities, council programs are often the only cultural resources available. For more than 25 years the Idaho Humanities Council has offered the "Let's Talk About It" reading and discussion program, which now totals 75 scholar-led programs annually and is especially popular with small libraries lacking the resources to plan and seek funds for their own programs. The program's outreach to small communities is so powerful that it attracted the attention of a corporate sponsor that has provided about one-third of the program's cost for the past decade. "Montana Conversations" provides up to 200 programs annually for communities with populations of 2,000 or less. The South Dakota council reports that in their sparsely populated State, "libraries, cultural centers, and museums often serve entire communities that stretch for miles, and these are the very institutions in need of the programming support that the South Dakota council can provide."

But it is not just rural States that face these issues. In California, where libraries have had to cut many services, the council joined forces with the California Center for the Book to create California Reads, a reading and discussion program. The council awarded more than \$400,000 to 52 library jurisdictions serving 65 percent of the State. The project not only encouraged civic conversation throughout the State, but also offered a much-needed boost to libraries. In State after State, where cuts in State budgets are slowly starving both Government and private institutions, councils have been compelled to step in and try to help fill the gap.

Council programs also serve communities whose stories and issues have too long been overlooked. The Oklahoma Humanities Council supported "Carry the Fire", a Native Humanities forum hosted by the Chickasaw Nation Division of Arts and Humanities to create a dialogue among tribal members, students, and the general public. The Forum explored issues important to the tribal community but unknown to many members of the public, such as comparisons of indigenous humanities to the humanities in general, the importance of the study of the humanities to Native people and others, and indigenous thinking and learning styles.

In Wyoming, the council has made a special effort to engage those who have been left out of the mainstream conversations. Last summer the council launched the dialogue series "Government, God, Google, and Guns" as part of the broader program, "Civility Matters," which involved sending a traveling tent to summer festivals and interviewing Wyomingites on civility issues. They learned that civility also includes listening to all voices in a democracy, so this year the council launched "Giving Voice," a program that will reach out to youth, individuals and families below the poverty line, and those struggling with mental health.

Council programs improve the quality of K-12 education. One of the many casualties of the poor economy has been State support for the educational structure. Councils have significantly lessened the impact of cuts on teachers and students. The Teacher Enrichment Program in Texas addresses the dual, interconnected problems of teacher training and teacher retention. Heeding studies that suggest that many teachers abandoned the profession in part because they felt ill prepared to teach their subjects, and recognizing the high cost of teacher turnover, the council created teacher institutes designed to provide intensive, deep-content enrichment using top-quality faculty. The council pays particular attention to early-career teachers working in low-performing schools—another example of councils stepping in where the need is greatest and no one else is providing help.

Many councils offer teacher institutes, providing what is typically the only professional development in the humanities offered in their States. But councils also improve K-12 education in other ways. Several councils sponsor National History Day, which was recently awarded a National Humanities Medal by the President. The Maryland Humanities Council, for example, has been the State affiliate of National History Day since 1999, involving more than 18,400 students in 18 jurisdictions in 2011. The skills that students develop through Maryland History Day have been shown not only to strengthen students' performance in other subject areas, including

reading, math, and science, but also to prepare students for college and their future careers.

Council programs contribute to the civic health of their communities. Using texts and discussion techniques steeped in the humanities, councils allow community members to engage in dialogue with each other about both local and global problems. From Maryland to Indiana to Nebraska to Washington, councils bring a humanities perspective to discussions of community problems that allow for respectful airing of diverse viewpoints and movement toward possible solutions. Councils also engage citizens in the civic life of their communities by supporting thousands of reading and discussion groups. The Vermont Humanities Council's "Vermont Reads" program, now in its 10th year, has enabled thousands of Vermonters to explore themes and ideas generated through the shared experience of reading. This intergenerational program, which draws on the expertise of teachers, librarians, and community leaders, not only is a catalyst for meaningful discussion of important themes but also it has a lasting impact on how children and adults understand "community" and how they experience reading as a lifelong activity.

Councils extend resources through partnerships. Councils worked with an estimated 9,800 organizations in 2011. These included museums, libraries, schools, universities, senior centers, veterans' hospitals, churches, social service agencies, corporations and local businesses, chambers of commerce, State tourism offices, radio and television stations, and many more.

Councils also fostered lasting partnerships among the groups with whom they worked. The Minnesota Humanities Center's traveling exhibit, "Why Treaties Matter," which explores relationships between Dakota and Ojibwe Indian Nations and the U.S. Government, demonstrates collaboration in many directions. The council developed the exhibit in consultation with the Minnesota Indian Affairs Council and the National Museum of the American Indian, and they have worked with dozens of agencies in Minnesota to create programming around this important topic. One host institution said that "Partnering with the Minnesota Humanities Center on 'Why Treaties Matter' isn't just about putting an exhibit up for a month. It's about working with local organizations to increase our capacity to engage audiences and provide multiple interpretive experiences and opportunities. Getting the exhibit is great, but it's this interaction and education that continues to shape our institutions well after the month is over."

And finally, funding allocated to councils makes good economic sense. Councils protect local economies through their support for struggling organizations that have seen other funding sources decline or disappear. In addition, every Federal dollar awarded by councils leverages, on average, more than \$5 for programs carried out by local organizations. Even when grants are modest, council support has helped small organizations save programs, staff positions, and even organizations themselves.

Council funding and programming yield other economic benefits. The many council-sponsored book festivals that take place throughout the country are an undeniable economic boon for their host cities. The annual Virginia Festival of the Book, created nearly two decades ago by the Virginia Foundation for the Humanities, has seen increases in audience, partners, participating authors, and programs each year. The Director of Economic Development of the City of Charlottesville estimates the economic impact of the Festival at more than \$1 million.

The Museum on Main Street tours, conducted through a partnership with the Smithsonian Institution Traveling Exhibition Service, enliven small-town economies by attracting audiences to the exhibits and accompanying programs that are sometimes larger than the populations of the towns themselves. Councils also provide support for cultural heritage tourism efforts to draw additional visitors—and their dollars—to local economies. Last year the Rhode Island Council for the Humanities provided a grant to the Rhode Island Marine Archaeology Project (RIMAP) for "Rhode Island in the Revolution: A Heritage Tourism Project," which expanded existing knowledge of the State's Revolutionary War history by creating four heritage trails. The council has continued its work with RIMAP to expand its reach and impact, with plans to add digital applications to allow them to market their tours to the public and to Rhode Island schools.

The State humanities councils invigorate their State's cultural institutions, K-12 education, civic health, and local economies. By partnering with more than 9,800 local organizations, the councils achieve a five-fold return on their Federal funding. The councils ensure that this Federal investment benefits the public as a whole—citizens in every congressional district and 5,700 communities in 2011. In ways both intangible and concrete, the humanities programs made possible by the Federal funding to the councils simply make our States better places to live.

## PREPARED STATEMENT OF THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

I am Karen R. Diver, Chairwoman of the Fond du Lac Band of Lake Superior Chippewa. We appreciate having the opportunity to provide you with testimony on fiscal year 2013 appropriations for the Indian programs funded through the U.S. Department of the Interior and Indian Health Service (IHS). The Fond du Lac Band provides health, education, social, and other governmental services to approximately 6,700 Indian people living on or near our Reservation in northeastern Minnesota. These programs are essential to our ability to educate our children, care for our elderly and infirm, prevent crime, and protect and manage natural resources.

*Bureau of Indian Education: Education*

We urge the Congress to increase funding for Bureau of Indian Education (BIE) Elementary/Secondary School Programs. The Fond du Lac Band relies on BIE funding for the operation of the Band's pre-K through grade 12 Ojibwe School. The Ojibwe School serves approximately 340 students most of whom are tribal members or descendants of tribal members. Most of our students come from very low income households, as illustrated by the fact that more than 90 percent of our students qualify for free or reduced rate lunches. But although American Indian students are the most at-risk group of students in our Nation, the BIE Elementary/Secondary School Programs have been historically underfunded. We ask that BIE Elementary/Secondary School Program funding be increased as follows:

*Indian School Equalization Program Funding.*—We urge the Congress to provide \$431 million for Indian School Equalization Program (ISEP) Formula funds. These are the primary source of funding for our school, covering salaries for teachers, teacher aides, reading and math specialists, language and culture teachers, administrative personnel and school governance (School Board costs). While the President's proposed budget would reduce ISEP funds to offset other funding increases, ISEP should not be reduced as it is critical to the ability of tribal schools to recruit and retain qualified teachers and to cover shortfalls in other budget areas, such as transportation, facilities and maintenance.

*Tribal Grant Support Costs.*—We urge the Congress to provide \$72.3 million to fully fund Tribal Grant Support Costs (TGSC). The funds are critical to maximizing tribal self-determination and ensuring effective program administration. We rely on TGSC to help pay for accounting, payroll, insurance, background checks, legal and record-keeping requirements. Inadequate funding of TGSC forces our school to use ISEP and other funds to meet these important needs.

*School Facility Operations and School Facility Maintenance.*—We urge the Congress to provide \$109.8 million in facilities operations and \$76 million in facilities maintenance. Facility funding is used to keep our building in safe condition, pay for preventative and unscheduled maintenance for our school building, and cover insurance and increasing utility costs, e.g., electricity, heating and cooling, water and sewer. Increased funding for school facility operations and school facility maintenance is needed as past funding has not kept pace with the cost of school operations or the growing backlog of Indian schools and facilities needing repair.

*School Construction and Repair.*—We urge the Congress to provide \$263.4 million for BIE school construction and repair. Research studies continue to document a link between inadequate facility conditions and poor performance by students. Inadequate support for school repairs will cause the unmet needs for construction and repair to continually increase. Not addressing these critical infrastructure needs will only jeopardize student and staff safety.

*Student Transportation.*—We urge the Congress to provide \$73 million for student transportation. Flat funding levels mean that there is no mechanism for replacing buses that need replacing, nor any way to keep pace with rising fuel costs. Without an increase in funding for student transportation, the costs to maintain, repair, and replace buses and cover rising fuel costs must be paid out of education program funds.

*Bureau of Indian Affairs: Public Safety and Justice*

We support the President's proposal to increase Bureau of Indian Affairs (BIA) funding for law enforcement. We also ask the Congress to increase the Band's base funding by \$2 million for court operations and law enforcement, and provide a one-time appropriation of \$8 million to allow us to expand the facility that houses our law enforcement department—a facility that is completely inadequate for that purpose.

We continue to face massive unmet needs for law enforcement. The Fond du Lac Band had to assume responsibility for law enforcement after the Minnesota Supreme Court ruled that the State lacked jurisdiction to enforce traffic laws on roads

within Indian reservations, *State v. Stone*, 572 N.W.2d 725 (Minn. 1997). Over the years, we have done this using a combination of tribal and available Federal funds and by cooperative agreements with local law enforcement agencies. But those sources do not meet our needs. We face huge demands on our Law Enforcement Department due to the insurgence of methamphetamine, alcohol, illegal prescription drug use, and gang-related activities on our Reservation. Prescription drug abuse is an epidemic. Increasing numbers of our elders and others are the victims of more frequent assaults and robberies that are drug related. Our law enforcement officers are responding to a growing number of drug overdoses and deaths, as well as juvenile offenses involving drugs, alcohol, thefts, assaults and burglaries. They also respond to a wide range of other matters, including, for example, reports involving domestic disputes, disturbances, disorderly conduct, property damage, theft, medical emergencies, fire, neglected children, runaways, suicide threats, as well as numerous traffic-related matters. In 2011 alone, our Law Enforcement Department responded to close to 4,900 incidents and requests for assistance.

To address these problems, we need to increase our law enforcement staff so we can ensure effective law enforcement coverage 24/7. This is especially important because the Band needs to implement a community policing model under which the Band operates neighborhood stations at the different community centers within the Reservation. But we do not have sufficient funds to hire the number of officers we need. We currently employ 13 patrolmen, 1 investigator, 1 school resource officer (assigned to the Ojibwe School), a Chief of Police, and 3 administrative staff. To the extent possible we schedule three officers per shift, but we do not have sufficient funds to do this around the clock. In fact, to effectively patrol the Reservation we should have 4 officers working each shift and a second investigator, for a total of 20 officers. Fewer officers on duty means serious safety issues for both officers and the people we need to protect. The large number of calls for police assistance also means that we need more than one investigator and, with our limited staff we cannot implement proactive measures, such as education and outreach programs.

Federal funding is also vital for law enforcement equipment. We have only six vehicles—three patrol cars, and one vehicle each for the use of the K-9 officer, investigator and school resource officer. Much of the Fond du Lac Reservation is rural, and there are many dirt roads as well as minimum maintenance roads. As a result, the vehicles take some punishment and, with a patrol area of approximately 136 square miles, the mileage covered by each patrol vehicle adds up very quickly. Budget limitations make it difficult to repair and replace patrol cars in a timely manner.

In addition to this, the Band has a substantial need for a new facility for our law enforcement department. The Department is still housed in a six-room building, which we share with the Band's housing program. It has neither room for investigative interviews, nor office space for specialty positions such as investigators. The evidence room and reception area are all completely inadequate for law enforcement purposes and, with the increased number of calls we are receiving, are becoming more inadequate each day. A new building with a garage, along with a larger evidence room, storage room for record-keeping, and a training room for officers, is essential.

#### *Bureau of Indian Affairs: Natural Resources*

We very much appreciate the funding for BIA Natural Resource programs that the Congress has provided in past years as well as the proposed increases for these programs contained in the President's fiscal year 2013 budget. Natural resources are vitally important to our tribal members, as they provide the foundation for our culture, meet subsistence needs, and provide employment. The Fond du Lac Band's right to access natural resources within and outside our Reservation was reserved by Treaties with the United States in 1837, 1842, and 1854 and reaffirmed by the courts. In connection with these Treaty rights, the Band is responsible for managing natural resources and for enforcing Band conservation laws that protect those natural resources by regulating tribal members who hunt, fish and gather those resources both within and outside the Reservation. Funding is essential for that work. Fond du Lac routinely partners with State, Federal, and tribal organizations to conduct research and management activities. We request that \$2 million be added to our base budget for Resource Management programs, as funds for this program have not been increased since 1991.

We urge the Congress to at least maintain current funding levels for all Federal programs that support the conservation and restoration of natural resources. Specifically, we request that the Congress fund the U.S. Fish and Wildlife Service's State and Tribal Wildlife Grant Program, Tribal Historic Preservation Offices, and all BIA programs related to natural resources and land management at the levels indicated in the President's budget request.



Additionally, as a member of the Great Lakes Indian Fish & Wildlife Commission, the Fond du Lac Band supports the Commission's request for BIA funding of \$6.367 million and EPA funding of \$1.2 million to continue its longstanding treaty rights protection and implementation program on behalf of its member tribes.

*Bureau of Indian Affairs: Human Services*

We urge the Congress not to cut funding for Human Services programs. Although some of the cuts are due to administrative streamlining, increased funding is needed to address the impact that the methamphetamine epidemic has on not only public health and safety, but also on child protection, child welfare and foster care services. Increased funding for social services and Indian Child Welfare Act programs is essential if tribes are to have any realistic hope of protecting Indian children, preventing domestic violence, and fostering Indian families.

*Indian Health Service*

We fully support the President's proposed increase in funding for the Indian Health Service (IHS) and appreciate the commitment that the administration and the Congress have made to address the funding needs for healthcare in Indian country. The President's proposed increase is essential to address the high rates of medical inflation and the substantial unmet need for healthcare among Indian people. Indians at Fond du Lac, like Indians throughout the Nation, continue to face disproportionately higher rates of diabetes and its associated complications, than the rest of the population. Heart disease, cancer, obesity, chemical dependency and mental health problems are also prevalent among our people. While other Federal programs, like Medicare and Medicaid, have seen annual increases in funding to address inflation, the budget for the IHS has never had comparable increases, and, as a result, IHS programs have consistently fallen short of meeting the actual needs. All Indian tribes should receive 100 percent of the Level of Need Formula (LNF), which is absolutely critical for tribes to address the serious and persistent health issues that confront our communities. The Band serves approximately 7,129 Indian people at our clinics, but the current funding level meets only 42 percent of our healthcare funding needs.

As the epidemic of prescription drug abuse grows across the country, the IHS needs resources to expand its treatment and community education capacity. Additional funding for the Methamphetamine, Suicide Prevention Initiative should be made available to tribes and the IHS so that this "new sickness" can be addressed. Best practices in pharmacy inventory and prescription monitoring need to be modeled and replicated throughout Indian Country. Related to this is the fact that more and more Government agencies are expecting local units of governments, including tribes, to address these problems and the increasing number of individuals who become homeless as a result of them, through the operation of supportive housing. But Fond du Lac, like most tribes, lacks the financial resources to establish new program initiatives, like supportive housing, without assistance from the Federal Government. We urge the Congress to support programs through the IHS or the BIA that would fund supportive housing for tribes in every area of the country.

In sum, the needs at Fond du Lac and throughout Indian Country remain massive. Congress's support on these funding issues is essential to our ability to maintain vitally important programs and improve the delivery of services to Band members.

Miigwech. Thank you.

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PREPARED STATEMENT OF FRIENDS OF BALCONES CANYONLANDS NATIONAL WILDLIFE REFUGE

Mr. Chairman and members of the subcommittee, on behalf of the Friends of Balcones Canyonlands National Wildlife Refuge (Friends of Balcones) and its membership, thank you for your strong support for the National Wildlife Refuge System (NWRS). The Friends of Balcones appreciates the opportunity to offer comments on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. We are specifically requesting an allocation of \$700 million for the Land and Water Conservation Fund (LWCF), including \$150 million for the NWRS.

The meaningful funding increases in fiscal years 2008–2010 allowed NWRS to emerge from years of chronic funding shortfalls. But unfortunately, those substantial gains are undermined by more than \$17 million in cuts to NWRS's funding in fiscal years 2011 and 2012 that equate to a larger loss of more than \$41 million when annual increases in refuge fixed costs are factored in. Consequently, we support the President's fiscal year 2013 budget request of \$495 million because it will maintain existing management capabilities. Should across-the-board sequestration

cuts of 9–10 percent take effect in fiscal year 2013, the impacts to NWRS would be devastating and could force FWS to close or end major programs at more than 130 refuges.

We respectfully request the subcommittee support all of the funding allocations requested by the National Wildlife Refuge Association as detailed and explained in their testimony letter. All of the allocations are critical to the health of the NWRS but the one that will impact the Balcones Canyonlands NWR the most is the allocation of \$700 million for LWCF, including \$150 million for the NWRS. Balcones Canyonlands Refuge, although 20 years old, is only slightly more than 50-percent complete. The Friends of Balcones urges you to fund the LWCF at \$700 million so we can continue to buy land toward our goal of 46,000 acres. Out of that amount, we are requesting \$5 million from LWCF for 2013. Completing the Refuge is anticipated to cost more than \$87 million in today's dollars, so acting now is especially important for monetary reasons and because of the intense pressure from urban expansion that is occurring within the Refuge acquisition boundary.

We feel a sense of urgency to complete the land acquisition for the Refuge. Twenty years after the creation of the Refuge and just more than 23,000 acres are protected! Austin Texas is a short drive from the Refuge and is among the top 10 fastest-growing cities in the United States. That rate of development will impact the ability of the FWS to complete the Refuge if something isn't done quickly.

Balcones Canyonlands Refuge is located in the Texas Hill Country northwest of Austin, Texas and resides in Burnet, Travis, and Williamson counties. The Refuge was formed in 1992 to conserve habitat of the endangered Golden-cheeked Warbler as a step toward recovery and eventual delisting of the species. In addition to the Golden-cheeked Warbler, the Refuge serves to protect the habitat of the endangered Black-capped Vireo and numerous other wildlife species.

State-sponsored biological studies show that to stabilize and sustain these endangered songbirds, Balcones Canyonlands needs a total of 46,000 acres of habitat. It presently has some 23,000 acres. The Refuge augments a similarly named Preserve in Austin, comprised of nearly 30,000 acres and operated by the city and Travis County. The two parts were established for the same purpose and together are intended to provide habitat needed to enable recovery of these species.

In addition to the recovery of these endangered species, Balcones Canyonlands Refuge is a source of eco-tourism for the surrounding area. Over the longer term, the Balcones Refuge is expected to become a major draw for birders interested in viewing the endangered Warbler and Vireo, for which this area provides unique habitat. As you likely know, the Texas Hill Country is very special, and the Balcones Canyonlands National Wildlife Refuge is one of the best places to experience the beauty and uniqueness of this Texas landscape. The Refuge has been described as one of the Last Great Places by the Nature Conservancy and as an "Important Bird Area" by two national conservation groups based on its "global importance" to the endangered Warbler and Vireo. When completed, Balcones Canyonlands will be a step toward providing additional accessible public outdoor areas, identified as a critical need in a study by Texas Parks and Wildlife.

There are many willing sellers within the acquisition boundary of the Refuge. All we need is money to move forward immediately! An appropriation of \$5 million will fund purchase of the 350-acre 3 Creeks Ranch (second phase of this acquisition) and 1,000 acres of the Sunset Ranch, one of the last remaining large tracts of land with high quality Golden-cheeked Warbler habitat left within the Refuge acquisition boundary. The rolling hills and steep canyons on this ranch provide nesting habitat for the Golden-cheeked Warbler and potential for Black-capped Vireo habitat management. The purchase of this large tract will also protect habitat for additional endemic species in the Hill Country as well as the unusual Karst topography of the Edwards Plateau. The ranch is situated near other Refuge property which makes it even more valuable as we attempt to protect large contiguous tracts of land. The properties have been appraised, and the sellers are willing. These acquisitions would be a significant step toward the long range goal of completing the Refuge. As mentioned earlier, acting now is particularly important, as the window of time is closing rapidly as a result of urban expansion, and the opportunity for protecting these species is at risk.

The Friends of Balcones Canyonlands National Wildlife Refuge is a nonprofit, volunteer organization. Our mission is to support, complete, and enhance Balcones Canyonlands Refuge and to promote the Refuge's use for recreational, educational, and scientific purposes. Our membership is drawn primarily from Central Texas communities situated near the Refuge. Our members care passionately about preserving our natural heritage and fulfilling our organization's mission of completing the Refuge. Because of all the reasons listed above, we strongly recommend that you

allocate \$700 million for LWCF and set aside \$5 million from the LWCF for Balcones Canyonlands Refuge for fiscal year 2013.

In closing, thank you for considering our request of \$700 million for LWCF. Your actions in support of our request will significantly improve our chances and the chances of other Refuges in similar situations to create fully functioning Refuges that are a testament to America's amazing natural heritage. We are entrusted with the protection of our wild spaces for the benefit and enjoyment of current and future generations. Anne Frank wrote the following:

"The best remedy for those who are afraid, lonely or unhappy is to go outside, somewhere where they can be quiet, alone with the heavens, nature and God.

Because only then does one feel that all is as it should be and that God wishes to see people happy, amidst the simple beauty of nature. I firmly believe that nature brings solace in all troubles."

Please help us provide places of solace for all Americans. We very much appreciate your attention to this matter and thank you for the opportunity to present this statement to the subcommittee.

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PREPARED STATEMENT OF FRIENDS OF RACHEL CARSON NWR

Mr. Chairman and honorable members of the subcommittee, I am Bill Durkin, President of the Friends of Rachel Carson National Wildlife Reserve in Maine. I have been a member of the Friends of Rachel Carson NWR for the past 20 years. The group was founded in 1987; we are a small group of about 200 members. This time of the year all of the letters go out to the Congress asking for support of the refuge. I have given numerous written statements over the years and we really appreciate your support in the past. This year, our refuge is not requesting any appropriations directly for Rachel Carson National Wildlife Refuge; this is a request for general funding of the National Wildlife Refuge System (NWRS). I thank you all for your consideration.

—We are requesting an overall funding level of \$495 million in fiscal year 2013 for the operations and maintenance budget of the NWRS, managed by the U.S. Fish and Wildlife Service (FWS). This would be level funding from fiscal year 2012. All of the refuges are in dire need of staffing and upkeep. Refuges provide unparalleled opportunities to hunt, fish, watch wildlife, and educate children about the environment. Without increased funding for refuges, wildlife conservation and public recreation opportunities will be jeopardized.

—Refuges are vital places for the American people to connect with nature and get involved. Currently, refuge Friends and volunteers do approximately 20 percent of all work on refuges. In 2011, these 1.5 million hours equated to roughly 8 volunteers for every 1 Refuge System employee. Without staff to oversee volunteers, their commitment and passion is lost, as is their desperately needed contribution to the System. We request \$80 million for Visitors Services for the NWRS.

—The Land and Water Conservation Fund (LWCF) is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial social and economic benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting the adaptation of wildlife and fisheries to climate change. For all these reasons, LWCF needs to be funded at the \$700 Million level. Created in 1965 and authorized at \$900 million per year (more than \$3 billion in today's dollars), the LWCF is our most important land and easement acquisition tool. The President has included meaningful increases to the program in his fiscal year 2013 budget, and I support the administration's commitment to fully funding the program in the near future. This wise investment in the LWCF is one that will permanently pay dividends to the American people and to our great natural and historical heritage.

The LWCF should be fully funded at \$900 million annually—the congressionally authorized level. LWCF is good for the economy, it is good for America's communities and their recreational access and it is critical for our public lands.

The Rachel Carson National Wildlife Refuge is named in honor of one of the Nation's foremost and forward-thinking biologists. After arriving in Maine in 1946 as an aquatic biologist for the FWS, Rachel Carson became entranced with Maine's coastal habitat, leading her to write the international best seller *The Sea Around Us*. This landmark study, led Rachel Carson to become an advocate on behalf of this

Nation's vast coastal habitat and the wildlife that depends on it, the refuge that bears her name is dedicated to the permanent protection of the salt marshes and estuaries of the southern Maine coast. This year, we will be celebrating the 50th anniversary of Rachel Carson's publication of her historic book, *Silent Spring*.

I again extend our appreciation to the subcommittee for its ongoing commitment to our NWRS and respectfully request the Interior, Environment, and Related Agencies Appropriations Subcommittee allocate \$495 million for the Refuge System's fiscal year 2013 Operations & Maintenance (O&M) budget, \$80 million for Visitors Services of the NWRS, and fund the LWCF at the \$700 million level.

Thank you again, Mr. Chairman, for the opportunity to present this testimony in support of protecting wildlife and its habitat. Enjoy your next walk out on a National Wildlife Refuge.

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PREPARED STATEMENT OF THE FRIENDS OF THE FLORIDA PANTHER REFUGE, INC.

Chairman Reed, Ranking Member Murkowski and members of the subcommittee, thank you for the opportunity to offer comments on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The Friends of the Florida Panther Refuge is a nonprofit volunteer organization that works to support the 26,400-acre refuge established in southwest Florida to protect the critically endangered Florida panther and its habitat.

Refuge managers at the Florida Panther National Wildlife Refuge are challenged by a variety of funding shortfalls to fully carry out habitat restoration, invasive species control, prescribed burning, baseline and updated inventories, education/interpretation, acquisition of outparcels and expansion, law enforcement, as well as technical assistance and collaborative efforts across boundaries with private land owners. For example, as a result of cuts to the refuge's fire budget, several fire technician vacancies have not been filled, which significantly limits burning the desired acreage to maintain and restore habitat for the Florida panther, its prey and the many other species found within its natural community.

Understanding the difficult economic realities, we respectfully request a funding level of \$495 million for the Operations and Maintenance accounts of the National Wildlife Refuge System for fiscal year 2013 that would essentially maintain the Refuge System at a flat funding level, given increasing fixed operating costs.

On behalf of our members and supporters, the Friends of the Florida Panther Refuge thanks the subcommittee for the opportunity to offer comments on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill and we appreciate your full consideration of the aforementioned funding level.

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PREPARED STATEMENT OF THE FRIENDS OF THE NATIONAL WILDLIFE REFUGES OF RHODE ISLAND

On behalf of the 150 members of the Friends of the National Wildlife Refuge of Rhode Island as well as our hundreds of volunteers I, as Chairman of the Friends, write urging you to provide \$495 million of funding for the refuge system in the fiscal year 2013 budget.

*Background on Rhode Island Friends Group*

In Rhode Island there are five national wildlife refuges encompassing more than 2,000 acres which present visitors with very different experiences ranging from the woodlands of the Ninigret NWP located in Charlestown to a more coastal experience at Sachuest Point NWR in Middletown, just north of Newport. Trustom Pond NWR in South Kingstown is unique in that it encompasses a coastal pond, the only one in our State totally free of shoreline development. The Friends group serves all three of these refuges as well as the Block Island NWR and John Chafee at Pettaquamscutt Cove NWR. Each refuge has its own unique characteristics. Staffing due to the budget constraints has been an issue and the Kettle Pond (Ninigret) Visitors Center and Sachuest Point Visitors Center as well as the Trustom Pond Contact Station are only open on a daily basis due to our dedicated volunteers. Last year more than 17,000 volunteer hours were recorded helping out at these locations as well as doing other maintenance and other tasks on the refuges.

*Budget Request for Operations and Maintenance*

We request that the Committee provide \$495 million in fiscal year 2013 for Refuge System Operations and Maintenance which is about the same level as provided in fiscal year 2012. Refuges need more than that but given the current economic and fiscal situation, it is unrealistic to expect the significant additions needed to

properly maintain the refuges and staffing and management capabilities. The Cooperative Alliance for Refuge Enhancement estimates that the Refuge System needs at least \$900 million in annual funding to properly administer its 150 million acres and remains committed to aiming for this goal.

The Refuges are vital places for wildlife—ours are all along the Atlantic Flyway and provide resting and nesting places for more than 80 bird species as well as other wildlife. The Refuges are also places for the American people to connect with nature and get involved. Currently, refuge Friends and volunteers do approximately 20 percent of all work on refuges. In 2011, these 1.5 million hours equated to roughly eight volunteers for every one Refuge System employee. Without staff to oversee volunteers, their commitment and passion is lost, as is their desperately needed contribution to the System. We request \$80 million for Visitors Services for the NWRS.

*Land and Water Conservation Fund*

We also request that the Congress fund the Land and Water Conservation Fund (LWCF) at \$700 million. This Fund, which was created in 1965 and authorized at \$900 million per year (more than \$3 billion in today's dollars), is our most important land and easement acquisition tool. With more than 8 million acres still unprotected within existing refuge boundaries, and the need to establish key wildlife corridors and connections between protected areas, the LWCF is more important than ever. Here in Rhode Island there are opportunities to acquire land adjoining existing refuges to further protect the land and wildlife. Land prices are now at levels not seen in years and the opportunities to acquire may never happen again so it is urged that the LWCF be funded. We also request that the Congress support the new Collaborative Conservation requests of the Departments of the Interior and Agriculture, bringing together several Federal agencies around a common goal.

Thank you.

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PREPARED STATEMENT OF THE FRIENDS OF THE POTOMAC RIVER REFUGES

Mr. Chairman and members of the subcommittee: On behalf of the Friends of the Potomac River Refuges and its 136 members, we would like to thank the subcommittee for their strong support of the National Wildlife Refuge System (NWRS) and for giving us the opportunity to submit testimony. We are a nonprofit volunteer organization whose purpose is to promote conservation, awareness, and appreciation of the wildlife and habitats of the Potomac River National Wildlife Refuge Complex and to provide assistance to Refuge programs. We urge you to show your continued support of the National Wildlife Refuge System by approving the President's fiscal year 2013 budget request of \$495 million for the operations and maintenance of the world's premier system of public lands and water set aside to conserve America's fish, wildlife, and plants. This level of funding will maintain existing management capabilities.

*Potomac River National Wildlife Refuge Complex*

The refuges that comprise the Potomac River National Wildlife Refuge (NWR) Complex are approximately 25 miles from Capitol Hill in northern Virginia. They border the Occoquan River as it meets the Potomac River. The complex is made up of three refuges:

- Elizabeth Hartwell Mason Neck NWR;
- Occoquan Bay NWR; and
- Featherstone NWR.

Elizabeth Hartwell Mason Neck NWR is in Fairfax County, Virginia and is the oldest and largest refuge within the Complex containing 2,277 acres. Residents of the Mason Neck Peninsula saw the need to preserve bald eagle habitat and worked with Fish and Wildlife Service to create the first national wildlife refuge specifically created for the protection of bald eagles. The newest refuge in the complex is Occoquan Bay NWR, which was 640 acres of military surplus lands, that now provides essential habitat for more than 200 species of birds and has been designated by Audubon as an Important Bird Area. The smallest refuge in the complex is Featherstone NWR containing 325 acres of marsh and riverine habitat important to both waterfowl and eagles.

In addition to providing critical habitat for wildlife in an urban environment the refuges are places where residents and visitors can enjoy nature and experience the diversity of plants and animals. Visitors enjoy birding, photography, hiking, hunting, and even biking and kayaking. Students, whether from surrounding school districts or those schooled at home, come to the refuges to observe environmental concepts and gain an appreciation for environmental stewardship. Many a scouting merit badge has been earned learning about wildlife and volunteering on a refuge.

### *Current Challenges and Needs*

Even though there were meaningful funding increases to the NWRS in fiscal years 2008–2010 the Potomac River Refuges still struggle with the impacts of budget cuts in fiscal year 2006. At that time the staff was reduced from eight to six full-time employees.

*Effects of Fiscal Year 2006 Cuts.*—As a result of those budget cuts two positions were eliminated and have not been replaced. Biological programs have been generally suspended and maintenance has been curtailed. Research and investigation on the refuge by graduate and local universities have mostly been eliminated since there is no staff available to oversee the programs. Some habitat management is continuing, however monitoring of the treatments and management actions are not being conducted.

Maintenance of the 6 miles of trails, 9 miles of roads, and other facilities has been reduced and delayed. When storm events wash debris or drop trees across trails or roads they may remain obstructed for weeks reducing the public's access to the refuge. Maintenance that is deferred continues to be added to the NWRS's \$2.5 billion deferred maintenance backlog.

*Law Enforcement.*—The presence of a law enforcement officer has improved safety. Prior to his arrival the refuges were plagued with prostitution, homeless camps, poaching, drugs, gangs, and illegal trespass. These refuges are in an urban area and so they will never be crime free, but the presence of law enforcement has greatly reduced illegal activities and improved safety for visitors and wildlife. The International Association of Chiefs of Police did an analysis of the NWRS's law enforcement needs in 2005. The Association recommended a force of 845 full-time officers yet the NWRS only has 246 officers to protect resources and visitors on the 150-million-acre System. We ask that you budget \$39 million for Refuge Law Enforcement.

*Visitor Services.*—While more than 1.8 million people live within 20 miles of these refuges in the Washington Metropolitan Area, services for potential visitors are very limited. The refuges lack the facilities to greet and orient visitors. For years the Potomac River Refuges have been on the Service's short list for a visitor/administration building, yet nothing has happened. NWRS has almost \$1 billion worth of construction needs. Staff is currently housed in an office park miles away from the refuges. Without facilities and staffing the Service is only able to reach approximately 1 percent of the surrounding population. Visitor enhancements will provide greater efficiencies and economic impacts. Refuges that offer a board range of programs generate more visits, create more jobs, and provide more income to the local communities.

*Volunteer Programs.*—Refuges need the staffing and facilities to draw visitors in, entice them to volunteer, and become stewards of the refuge and their communities. Friends groups and other volunteers contribute nearly 20 percent of all the work hours on refuges. At Potomac, volunteers are picking up trash, mowing, presenting interpretive programs, organizing festivals, and assisting staff. Could we do more? Yes, but there are obstacles that prevent volunteer programs from reaching their full potential. Without staff to oversee and interact with volunteers, projects are not done and volunteer retention is difficult. NWRS needs to invest \$80 million in visitor services in order to capitalize on the opportunities to involve the public in fulfilling its mission.

*Challenge Cost Share Program.*—The Challenge Cost Share program has allowed our Friends organization to leverage our time and funds to help our local refuges complete small-scale projects. We, along with other partners, have constructed overlooks and sun shelters, created interpretive signs, hosted festivals, equipped environmental education programs, and removed invasive species. In 2011 the cost share program was shelved while reforms could be made. We ask that you re-establish the Challenge Cost Share program and provide \$3.6 million in funding.

### *The Tale of Two Refuges*

#### *Sequestration*

The Friends of the Potomac River are very concerned about the devastating impact across-the-board sequestration cuts of 9–10 percent in fiscal year 2013 will have on our refuges and the entire NWRS. If sequestration occurs refuge management estimates there will just enough funds to pay salaries and utilities. The impacts will affect wildlife and visitors.

*Impacts on Wildlife.*—Managing the habitat will be staff's first goal, however management will not be as effective. The deer population, which is managed through hunts, will explode. The increased browsing of the forest floor reduces biodiversity and decreases forest regeneration. This will affect creatures from chip-

munks to the bald eagles. Invasive animal and plant species will consume native species and acres of habitat. The Northern Snakehead and other non-native species will have more opportunity to consume and displace native species. Mason Neck NWR has the largest blue heron colony in the Mid-Atlantic. Mile-A-Minute, a very aggressive herbaceous plant, has been found there and left unchecked it could smother trees that the rookery depends upon. The grasslands at Occoquan Bay NWR must be burn or mowed for nesting grassland birds. The burn program was eliminated with the loss of the biologist, and now the mowing program is in jeopardy.

*Impact on Visitors.*—If sequestration goes into effect all refuge led visitor service programs will be eliminated. The part-time visitor service intern will be released. There will be no ranger led programs, youth fishing events, festivals at Mason Neck NWR, or scouting programs. The Fall Festival that the Friends organize will be suspended because the entire staff is involved the event and there will be no overtime funds to pay them.

Access to the refuges will be reduced. Trails and roads that are obstructed by storm events will be closed. There will be no extended hours during the summer or weekends. Regular trail and road maintenance will be deferred. Vaulted toilets will be cleaned every few weeks instead of weekly and portable toilets will be closed.

Friends and other volunteers will not be able to compensate for all of these loses. To assist with managing the habitat, volunteers need oversight and training, but there will be no funds to pay for the training. The Friends organization is willing to expand our interpretive programs; the challenge will be access, safety, and the quality of wildlife viewing.

#### *Opportunities To Embrace*

The Potomac River Refuges are the epitome of an urban wildlife refuges. Residential and industrial developments border the refuges. The surrounding land uses create additional stresses for the refuges such as stormwater runoff, illegal trespass, and invasive species. But the surrounding communities provide these refuges and the entire Refuge System with the exceptional opportunity to engage the public and increase their awareness of the NWRs and its role in conservation.

In 2011, NWRs created a vision to guide the management of the System during the next decade and beyond. The new vision seeks to make wildlife conservation more relevant to the public and engage them in the NWRs. With 80 percent of Americans now living in urban or suburban areas, the System is placing special emphasis on helping urban America connect with and understand the benefits of its wildlife heritage.

What better place to engage the American people than at the Potomac River Refuges? Increasingly the population has become more racially and ethnically diverse; in Prince William County less than one-half of the population is reported as non-Hispanic and of one race. These refuges have the potential of embracing all Americans and sharing with them our wildlife heritage.

#### *In Summary*

Wildlife Refuges matter to your constituents. Last fall, on a cold rainy day, we hosted a festival on Occoquan Bay NWR. A young mother and her four children came and all of them looked unprepared for the weather. The oldest boy gave me a dollar saying, "My mother wants you to have this." The family was living in homeless shelter, but that did not stop this wonderful woman from showing her appreciation for the natural heritage we all share and demonstrating to her child how important it is to support it. I hope all of us will follow her example.

Our members realize that our country is facing difficult economic times and we must all share in the challenges of the recovery. We thank you for the meaningful funding increases allowed the NWRs in fiscal year 2008–2010 that provided stability to our refuges. We respectfully ask you to support the following funding allocations for the National Wildlife Refuge System that will allow the NWRs to maintain existing management capabilities:

- \$495 million for the operations and maintenance accounts of the NWRs including:
  - \$39 million for refuge law enforcement;
  - \$80 million for visitor's services;
  - \$3.8 million for Challenge Cost Share; and
- \$37 million for the Fish and Wildlife Service construction account.

## PREPARED STATEMENT OF FRIENDS OF THE REFUGE HEADWATERS

Chair and members of the subcommittee: On behalf of the Friends of the Refuge Headwaters (FORH), I am writing regarding the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill and the impact this bill will have on the Refuge we support: the Upper Mississippi River National Wildlife and Fish Refuge (Upper Miss Refuge). We are very proud to be part of the National Wildlife Refuge System and ask that you support the President's funding proposals for programs in the NWRS and the U.S. Fish and Wildlife Service (FWS).

Below I will begin by briefly describing FORH, the Upper Miss Refuge, and use of the Refuge by 3.7 million visitors per year. With respect to the Upper Miss Refuge in particular, I will explain the importance of the following allocations:

- \$495 million for Operations and Maintenance (O&M) of the NWRS. This includes \$80 million for Visitor's Services, and \$39 million for Refuge Law Enforcement.

- \$700 million for the Land and Water Conservation Fund (LWCF). This includes \$150 million for the NWRS.

- \$3.8 million in fiscal year 2013 for Challenge Cost Share (CCS).

The Refuge System has endured significant cuts during the last 2 fiscal years, the cuts reduced an already austere budget, and they have negatively impacted the people who use the Upper Miss Refuge and who deeply care about it, as well as the wildlife that is the reason for the Refuge's existence. I will illustrate this to you below, and show how additional cuts will have harmful consequences out of proportion to any money saved by carrying them out. Finally, I will describe how deeply people care about the Upper Miss Refuge and their commitment to paying for its proper management.

*The Friends of the Refuge Headwaters*

The Friends of the Refuge Headwaters is an all-volunteer group that began in 1997. Our mission is to support the Refuge's goals of sustaining diverse and abundant wildlife as well as providing compatible recreation, education, and interpretation to the public. Our current activities include sponsoring public outings for fishing, birding, canoeing, planting trees, removing invasive species, surveying Refuge users, holding public events with expert speakers, monthly meetings, and advertising and communicating through print, electronic, and social media. We also seek and write grants to aid the Refuge and these grants often require challenge cost shares at rates of 10–20 percent. That is why it is so important to provide sufficient funding for challenge cost shares in the fiscal year 2012 budget: these dollars will then be multiplied 5–10 times.

*The Upper Mississippi River National Wildlife and Fish Refuge*

The Refuge winds through 261 miles of the Upper Mississippi River across four States:

- Minnesota;
- Wisconsin;
- Iowa; and
- Illinois.

It comprises 240,000 acres of bottomland forests, wooded islands, marshes, backwaters, and upland prairies. It has more than 300 species of birds, more than 100 species of fish, and more than 50 species of mammals, as well as 250 bald eagle nests and 5,000 heron and egret nests. The Refuge is part of one of the four major waterfowl migration flyways in the United States, where birds must find reliable food, water, and resting places: during fall migration you can find hundreds of thousands of waterfowl using the Refuge on a single day.

But the Upper Miss Refuge is not just for wildlife. It's also a paradise for people. Minnesota is known as the land of 10,000 lakes and there are just as many lakes in Wisconsin, but not the part of Minnesota and Wisconsin where I live. We live in the land of the land of the Mississippi River, and thankfully, the land of the Upper Mississippi National Wildlife and Fish Refuge.

*Public Use of the Upper Miss Refuge*

So I will now describe for you how much people use this Refuge and how deeply they care about it. That's not hard for me to do, because I'm one of them. I'm out on the Refuge a lot and for many reasons. I fish year-round, from my boat, shore, or ice, and in the fall I hunt on the Refuge. You'll find my wife and I on backwaters or pools in our canoe or kayaks, sometimes with friends, exploring and observing wildlife. We take walks through the bottomland forest or upland prairie, on trails, on ice-covered channels in the winter, or on levees. We walk or drive to observation platforms to watch birds. We often join with friends to take one or more boats to



an island shore for a picnic. On a warm summer day we may swim at the riverside bathing beach directly across the river from Winona.

People like us make 3.7 million visits per year to the Refuge to hunt, fish, watch wildlife, boat, canoe, camp, or just walk. That's because the Refuge is not put away behind a fence or distant from the cities that dot the river. It's our backyard. That's why it's so heavily used by families, schools, colleges, youth groups such as Boy Scouts and Girl Scouts, and many others. If you drive through my town—Winona, Minnesota—or through other towns and cities along the river, you'll see boats on trailers parked in side-yards, driveways, and often on the street. They're fishing boats with rod holders and trolling motors, pleasure boats with picnic and swimming gear, or hunting boats painted camo and surrounded by a cattail fence, or air-boats used by trappers. Inside our garages, in the backyard, or on the side of the house you'll find canoes and kayaks.

Any week of the year that you go out into the Refuge, you'll find people:

- a couple of dozen anglers in boats and on shore at a pool below a dam (the Refuge receives more than 1 million visits annually for fishing);
- a group of boats pulled up on the sandy beach of an island to swim and picnic on a summer day (more than 1.3 million visits for such activities);
- bunches of duck hunters heading out from landings on a fall morning (300,000 waterfowl hunters); or
- birdwatchers lining the sides of an observation platform (300,000 visit to observe wildlife or for education).

And they're not just in the easy-to-reach places. You've canoed far back into a remote maze of islands, pulled your ice-fishing sled as far down a channel as you can stand, or stalked through the forest with your gun until you may be lost. And you think you're alone. Around the corner comes another person, maybe doing the same thing you are, but just as likely there for another reason. But they wouldn't be there if the Refuge was not.

#### *The Austerity in Which the Upper Miss Refuge Operates*

The Refuge is understaffed for many positions and has been for years. For example, four law enforcement officers patrol 261 miles of river and 240,000 acres throughout four States with more than 3.7 million visitors. That is an impossible task. Not only is that level of enforcement inadequate for the safety and protection of visitors and wildlife, but it is a threat to the officers themselves. The officers patrol alone and are often far from other enforcement agencies. Imagine how it feels to cruise toward an isolated island beach at night to confront 100 intoxicated people—and you're alone. For another example, two Rangers and four Visitor Services Coordinators plan and carry out activities with thousands of visitors and must often simply say no to requests for programs from schools, youth groups, and many others.

Other key positions are simply vacant. The Refuge has 51,000 acres of floodplain forest but no Forester, getting guidance instead from the Corps of Engineers Forester. Yet those same forests are declining due to invasive insects, plants, and trees such as the Emerald Ash Tree Borer beetle, Buckthorn shrub, Oriental Bittersweet vine, and Black Locust tree. There is likewise no Fisheries Biologist, a position that provides a crucial link to States. Thus the Refuge has little or no say in fish management, fishing tournaments, commercial fishing, fishing seasons, fishing methods, or even catch limits, though fishing is an extremely popular activity on the Refuge and has large impacts on it. Even in the face of an advancing threat like Asian Carp, which have caused severe harm to fish populations and injuries to boaters, the Refuge can do little. In addition, there is no Private Lands Biologist to reach out to adjacent private landowners and help them restore fish and wildlife habitat on their lands through both FWS and USDA programs.

In other cases lack of funding means the Refuge cannot carry out its obligations. Currently the Refuge has authorized \$2.25 million for land acquisition through the LWCF and has land acquisitions waiting for either appraisals, signed purchase agreements, or final closing to fulfill its obligations for these funds. In sum, the Refuge cannot carry out its own goals and this underscores the need to increase the operations and maintenance budget.

#### *Consequences of the Fiscal Year 2011–2012 Budget Cuts for the Upper Miss Refuge*

The fiscal year 2011 and 2012 cuts have had many negative consequences, but I will mention just two. First, the Refuge has reduced the number of people it hired seasonally, most of whom are young people taking part in the Student Temporary Experience Program (STEP). As a result, high school and college students lost an important path for gaining direct on-the-job experience. Second, the Refuge has reduced its outreach programs for the general public at weekend and evening events,

most often within the communities adjacent to the Refuge. Not only does this mean less education, interpretation, and recreation for children and adults, but it also means fewer volunteer opportunities on the Refuge, fewer contacts between Refuge staff and volunteers and local citizens and leaders, and a decrease in tourists who support local economies.

*Consequences of a 10-Percent Budget Reduction for the Upper Miss Refuge*

The Refuge is understaffed and absorbed cuts in fiscal year 2011 and 2012. To carry out a further cut of 10 percent, the Refuge would eliminate special hunts for the disabled, youth, and others requiring special accommodations. All weekend environmental education and interpretation programs would be eliminated. Visitor centers would not provide weekend or evening hours for the public. In addition, there would be reductions in environmental education programs for schools, weekend outreach/interpretation programs regarding fish and wildlife and other refuge programs, restoration projects with State and other Federal agencies, oversight of trust species (bald eagle, endangered species), and law enforcement including search and rescue operations, drug enforcement and accident investigations, hunting and fishing contacts, refuge trespassing, and habitat destruction. Clearly, these actions will have harmful consequences for wildlife and for the people who use the Refuge, and they can be avoided.

*Economic Benefits of the Upper Miss Refuge*

The authors of an economic study that is now 8 years old<sup>1</sup> found that the Refuge generated more than \$19 million annually in expenditures and economic value, \$98 million in economic output, 1,266 jobs with an income of \$21.4 million, and Federal, State and local taxes of \$10.4 million. Given the importance of Refuge to the economies in four States and in the lives of the several million people who use it, the budgets for the two refuges is remarkably small. So funding of the Refuge has huge leverage. That's one of the reasons why reducing the budget will have such large negative consequences and increasing the budget would have similarly large positive consequences.

*Public Commitment to the Upper Miss Refuge*

The people who use it have strong feelings about the Upper Miss Refuge. We truly care, because it's a big part of our lives. That Refuge is part of our regional heritage, just as the National Wildlife Refuge System is part of our national heritage. We also have strong expectations for it. We want it taken care of so that it's there not just for us, but also for our children and grandchildren and beyond. When people in this region learned last month that all three species of Asian carp had been caught in the river in one day by commercial fishermen, we were scared, depressed, and to be honest, angry. Because those fish threaten the Refuge that we care about so much, we saw that threat coming years ago, and there was a failure to address it.

We're also willing to pay for management of the Refuge. In 2008, by statewide referendum, Minnesotans voted by a large margin to increase our sales tax by three-eighths of 1 percent for three decades. 80 percent of the new revenues are dedicated to protecting, restoring, and improving wildlife habitat, surface waters and ground water, and parks and trails. Iowans passed a similar amendment in 2010, but are waiting on their Legislature to put their wishes into action. I'm confident the voters of Wisconsin would do the same if they had the opportunity, as would the voters of many other States. We Americans care deeply about our lands, waters, and wildlife. Doing so is a proud part of our history, as evidenced by more than a century of commitment to our National Wildlife Refuge System. We ask that you carry on this tradition.

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PREPARED STATEMENT OF FRIENDS OF THE TAMPA BAY NATIONAL WILDLIFE REFUGES, INC.

Mr. Chairman and members of the subcommittee, on behalf of the 152 members of the Friends of the Tampa Bay National Wildlife Refuges, including Egmont Key National Wildlife Refuge (NWR), Passage Key NWR, and Pinellas NWR, I would like to thank you for your commitment to the National Wildlife Refuge System (NWRS) through increased funding over the past few years. We realize that in this time of budget cuts, it may be difficult to justify increasing the NWRS funding, but once the Refuges start to decline it will cost many times more than these small in-

<sup>1</sup> Caudill, J. 2004a. The Economic Effects of the Upper Mississippi River National Wildlife and Fish Refuge: Baseline and Effects of Alternatives. U.S. Fish and Wildlife Service, Arlington, Virginia. 32 pp.

creases to return them to a condition that will fulfill their mandates. We respectfully request that you consider the following in your appropriations:

- Fund the National Wildlife Refuge System \$495 million in fiscal year 2013, essentially keeping level funding from fiscal year 2012;
- Fund the Land and Water Conservation Fund (LWCF) at \$700 million for fiscal year 2013;
- Fund Visitor Services for the NWRS at \$80 million for fiscal year 2013; and
- Support \$3.8 million in fiscal year 2013 for Challenge Cost Share (CCS).

The Tampa Bay Refuges are located at the mouth of Tampa Bay on the west central gulf coast of Florida. The budget increases in the past few years have meant increased management, protection, and restoration of the Refuges and the ability to better meet the Comprehensive Conservation Plan (CCP) goals. In 2008 the Tampa Bay Refuges (TBRs) had one staff person who was split duty manager/law enforcement. Because of the incremental increases to the Refuge budgets over the last few years, the TBRs have a full-time manager and a law enforcement officer every weekend during the summer nesting season. Due to those past increases in budget and personnel the TBRs are able to do long range planning for big picture issues such as erosion and increased public use. With decreases in budget, these will fall by the wayside and the wildlife will have a degraded or useless habitat. Egmont Key NWR has the Fort Dade Guardhouse that has been restored and will become the visitor center. The Refuge has grant money to fund the first phase of the displays. If the budgets are cut, staff may not have time to oversee construction of the center displays or to keep the center open to the public. This will compromise outreach and education goals for the TBRs. The TBR's have made small steps to begin to control the invasive plants and animals that threaten the native species. If there are budget cuts there will be less money for facilities maintenance which will then cost more to restore in the future. If the TBRs were to again lose ground on their budgets they may not be able to meet many of their CCP goals. Please consider keeping the operations and management budget at \$495 million for fiscal year 2013.

The Friends of the Tampa Bay National Wildlife Refuges (FTBNWR) was incorporated and became a 501(c)(3) in 2008 to better assist the Tampa Bay National Wildlife Refuges with volunteers and fundraising. In 2011 FTBNWR was able to provide 3,800 hours of volunteer hours to assist the refuge staff with exotic invasive control, refuge cleanups, and education. FTBNWR has been able to raise funds to remove invasive raccoons on the Pinellas Refuges that prevent birds from nesting and eat eggs laid by the Terrapin turtles that reside there. The Friends also started an Education Program to provide outdoor environmental educational programs at our local schools for grades K–5 and also environmental field trips to nearby preserves to teach our fourth and fifth graders about the NWRS and the environment. We also provide bird stewards on Egmont Key NWR during the summer nesting season to enhance the visitors experience on the refuge through education and an up close look at the birds through spotting scopes. Our refuges do not have enough staff to provide these education programs so we have stepped up as volunteers. Our volunteers are passionate about the Refuge System and donate their time, money, and expertise to protect them.

- The Cooperative Alliance for Refuge Enhancement (CARE) estimates that the NWRS needs a budget of at least \$900 million annually in operation and maintenance funding in order to properly administer its 150 million acres as mandated in the Refuge Improvement Act. The current budget is far short of the amount actually required to effectively operate and maintain the Refuges. In this time of tightening budgets, we respectfully request that you keep the NWRS budget at the same level as fiscal year 2012 (\$495 million) so that the Refuges do not backslide even further in protecting these valuable lands and ecosystems.

- LWCF was created in 1965 and authorized at \$900 million. We ask that you fund the LWCF at \$700 million for fiscal year 2013. These funds are used for land acquisition to protect wildlife and their habitats. With the effects of a changing climate, it is more important now than ever to establish key wildlife corridors between protected areas so wildlife can migrate to more suitable habitat as their historic ones changes. These landscape level conservation efforts through conservation easements and land purchases are the best way to protect the diversity of flora and fauna. The price of real estate is low at this time and the \$700 million can go much further in protecting habitats than it can in a higher market. When we start to lose species due to lack of food, water, shelter, or space, we are changing the balance of nature. We urge you to fund the LWCF at \$700 million for fiscal year 2013. The LWCF is not funded by taxpayer money.

- The refuges give the American people places to connect with nature and get involved. In 2011 refuge Friends and volunteers contributed 1.5 million hours of work for the refuge system. This is about eight volunteers for every one refuge system employee. These Friends and volunteers do approximately 20 percent of all work on refuges for free. Without a refuge system employee to guide them, the volunteers can't perform these valuable free services. We request \$80 million for Visitors Services for the NWRS.
- Please support the Challenge Cost Share (CCS) with \$3.8 million in fiscal year 2013. Partners are the key to successful conservation. The Federal Government doesn't need to foot the bill alone. Through programs that leverage Federal dollars (such as the CCS program), partner organizations such as our Refuge Friends groups can get matching dollars from other entities to give the American taxpayers more for their dollars. Projects such as trails, education, boardwalks, and habitat restoration give the American public places to connect with nature and relax.

The Friends of the Tampa Bay National Wildlife Refuges is one of 230 Friends groups who support the National Wildlife Refuges. The interest in our NWRS is significant and we are proving it with our donated time and funds.

In conclusion, the Friends of the Tampa Bay National Wildlife Refuges believes NWRS can meet its important conservation objectives only with strong and consistent funding leveraged by the valuable work of refuge staff and volunteers. We again extend our appreciation to the subcommittee for its ongoing commitment to our NWRS. We encourage you to approve a \$495 million for the fiscal year 2013 NWRS operations and maintenance budget managed by FWS and to approve \$700 million for fiscal year 2013 for the LWCF land acquisition budget as well as funding Visitor Services at \$80 million and the CCS at \$3.8 million.

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#### PREPARED STATEMENT OF FRIENDS OF VIRGIN ISLANDS NATIONAL PARK

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF.

The LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the LWCF request in fiscal year 2013, the National Park Service (NPS) included \$2.738 million for the acquisition of land at Virgin Islands National Park. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for LWCF for this important project.

Virgin Islands National Park, located on the island of St. John, is a tropical paradise preserved for the enjoyment and edification of the public. Beautiful white sand beaches, protected bays of crystal blue-green waters, coral reefs rich in colorful aquatic life, and an on-shore environment filled with a breathtaking variety of plants and birds make St. John a magical place for visitors. More than 800 species of trees, shrubs, and flowers are found in the park, and more than 30 species of tropical birds breed on the island, which was designated a Biosphere Reserve by the United Nations in 1976. St. John is also home to two species of endangered sea turtles, the hawksbill and the green. In addition, the park contains archeological sites indicating settlement by Indians as early as 770 B.C. The later colonial history of St. John is also represented by remnants of the plantations and sugar mills established by the Danes in the 18th and 19th centuries.

One of St. John's most popular eco-campgrounds sits on a cliff overlooking Maho Bay and its pristine white sand beaches. The bay's campgrounds create memorable vacations in the beautiful setting of St. John without sacrificing the delicate ecosystem of the island. Few places on Earth match the breathtaking beauty of Maho

Bay. Its crystal waters and soft white beaches are rimmed by a lush forested slope rising 11,086 feet. Hundreds of tropical plant species and more than 50 species of tropical birds fill these lands on the island of St. John, at the heart of the American paradise of Virgin Islands National Park. Just offshore are seagrass beds, green and hawksbill turtles, and magnificent coral reefs. This fragile area contains large nesting colonies of brown pelicans, as well as the migratory warblers and terns that winter on St. John. In addition to its natural treasures, the largest concentration of historic plantations and ruins on the island is found within this area.

Maho Bay is an important destination for visitors to St. John. The popular Maho Bay Camps are adjacent to the lands being acquired by NPS, and protection of Estate Maho Bay is key to maintaining the character and appeal of this area. Visitors to Maho Bay often come back again and again because of the unspoiled natural beauty of these lands. The Department of the Interior recently reported that in 2010 visitors to Virgin Islands NP spent more than \$61 million in the surrounding community. This spending supported 1,084 local jobs. Major U.S. air carriers bring an average of 11,000 visitors to St. Thomas/St. John each week. Overall, tourism accounts for 80 percent of the U.S. Virgin Islands' GDP and employment.

Available for acquisition in fiscal year 2013 is the final phase of a 205-acre acquisition of land overlooking Maho Bay within the Virgin Islands National Park boundaries. The property offers spectacular views of the bay and extends the amount of publicly owned beachfront at Maho Bay. This property, known as Estate Maho Bay, is extremely important because it connects the southern and northern sections of the national park and will preserve significant natural and cultural resources. The land was historically used during the plantation era for agricultural activities such as sugar cane, coconut, and cotton cultivation. With increasing growth and investment throughout the Caribbean—including places not far from the unspoiled beauty of St. John—these vulnerable lands have become the focus of intense development threats. In recent years, more than one investor has envisioned private development along these shores, which would jeopardize the unique character of Maho Bay and the visitors' experience of the park.

Estate Maho Bay was originally 419 acres owned by 11 interests, only 3 of which had been acquired by NPS. Following years of litigation and negotiation, The Trust for Public Land (TPL), using philanthropic support in the form of a loan, obtained seven of the remaining interests. A partition of the property was approved. NPS received 114 acres as its share, and approximately 100 acres will remain in private hands, although most of these will have strict covenants to prevent incompatible building and uses. TPL is in the process of conveying the remaining 205 acres to the Virgin Islands National Park. In fiscal year 2013, 74 acres will remain for NPS to acquire.

Recognizing the need to protect this unique property, over the past 3 years the Congress and two different presidential administrations have allocated a total of \$6.75 million to the Park Service for Estate Maho Bay. This year, \$2.25 million is needed from the LWCF to complete the purchase of the property. TPL will convey these lands to NPS at a significant discount made possible by private donations. The estimated value of the 205 acres is \$18.6 million.

The 205-acre Estate Maho Bay project has been made available to NPS for \$9 million. The appraised value of these lands is \$20.5 million, more than twice the purchase price. An additional 18 acres of land on Mamey Peak, overlooking the ongoing Estate Maho Bay project, have been donated by The Trust for Public Land to the Virgin Islands National Park. Because of the generosity of TPL's donors, NPS is receiving 223 acres valued at more than \$29.5 million for only \$9 million, truly a remarkable example of the public-private partnerships that NPS seeks to promote.

This acquisition will ensure continued public access to the beach, protect ecologically and historically significant land from development, and connect two separate sections of the national park. In fiscal year 2013, a total of \$2.25 million is needed from the Land and Water Conservation for NPS to complete the acquisition of this outstanding property in Virgin Islands National Park.

In closing, I urge you to provide funding for the LWCF of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for Virgin Islands National Park. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in the U.S. Virgin Islands, and I appreciate your consideration of this funding request.

## PREPARED STATEMENT OF FRIENDS OF WERTHEIM NATIONAL WILDLIFE REFUGE

Mr. Chairman and members of the subcommittee, I am submitting testimony on behalf of Friends of Wertheim National Wildlife Refuge. (Wertheim National Wildlife Refuge is the Headquarters for the 9 refuges in the Long Island National Wildlife Complex in New York.) We ask that you fund the National Wildlife Refuge System operations and maintenance (O&M) accounts at \$495 million in the fiscal year 2013; which is essentially level funding from fiscal year 2012. We estimate that refuges would need at least \$527 million in fiscal year 2013 to maintain management capabilities from fiscal year 2010; this request would only maintain status quo at current funding levels. The current Federal salary freeze still leaves Refuges needing at least \$8 million to absorb other fixed costs. The Cooperative Alliance for Refuge Enhancement (CARE) estimates that the Refuge System needs at least \$900 million in annual funding to properly administer its 150 million acres and remains committed to accomplishing this goal. It is of the utmost importance that our Nation protects and enhances our National Wildlife Refuge System for future generations.

Economically, according to the Banking on Nature report produced by the U.S. Fish and Wildlife Service in 2006, Federal spending on refuges offers a 4 to 1 return to local economies. Every \$1 you appropriate generates \$4 in local economic activity and in many cases it's much more. This makes an fiscal year 2013 appropriation of \$495 a "win-win" for the habitat and wildlife, for educational opportunities, for visitors and for the local economies of the communities surrounding our refuges.

Friends of Wertheim NWR feels that the National Wildlife Refuge System deserves \$495 million in Federal funding for fiscal year 2013 because U.S. Fish and Wildlife is the Federal agency charged with conserving, protecting and enhancing the Nation's fish, wildlife and plants for the continuing benefit of the American people. Another top priority of the Service is connecting people with nature: ensuring the future of conservation. While there is no doubt that our public lands need to be managed through community partnerships/community resources, the Federal Government should be the catalyst in making this happen.

When the funding for the National Wildlife Refuge System is compared to the entire national spending it is not even a "blip on the radar screen". The National Wildlife Refuge System is one of our "National Treasures" and the dedicated Refuge staff, Friends and volunteers do much with very little. Only by being "faithful stewards" of all of the National Wildlife Refuges in the United States will we ensure that they will be here for our children and our children's children. This is why we ask that you support our National Wildlife Refuge System with adequate funding, \$495 million for fiscal year 2013.

Friends of Wertheim NWR also ask that you:

- Provide \$80 million in funding for Refuge System Visitor Services programs. Visitor Services funding pays for many Friends and volunteer programs. Currently, refuge Friends and volunteers do approximately 20 percent of all the work on refuges. Staff is needed to oversee the volunteers. The \$80 million in funding will allow all of the Friends groups to remain effective stewards of our refuge and offer programs to get more people outdoors in nature.
- Please support \$3.8 million for Challenge for Cost Share (CCS). Partners are the key to successful conservation; no Federal or State agency can do it alone. Therefore, we support programs that leverage Federal dollars such as the CCS Program. Partner organizations such as the Friends groups leverage these funds and it gives taxpayers more "bang for their buck" for projects like trails, boardwalks and habitat restoration.
- We ask that you fund the Land and Water Conservation Fund (LWCF) at \$700 million. LWCF was created in 1965 and authorized at \$900 million per year; which would be more than \$3 billion in today's dollars. LWCF is our most important land and easement acquisition tool. There are more than 8 million acres still unprotected within existing refuge boundaries and there is a need to establish key wildlife corridors and connections between protected areas making LWCF more important than ever.

Last but not least, please support the new Collaborative Conservation requests of the Department of the Interior and Agriculture, bringing together several Federal agencies around a common goal.

On behalf of Friends of Wertheim NWR thank you for your consideration of our request.

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 PREPARED STATEMENT OF THE GEOLOGICAL SOCIETY OF AMERICA

The Geological Society of America (GSA) urges the Congress to fully fund the fiscal year 2013 request for the U.S. Geological Survey (USGS) and restore cuts in the

request to key programs, including the Mineral Resources Program, the Water Resources Research Act, and the National Water Quality Assessment Methods Development and Monitoring program. As one of our Nation's key science agencies, the USGS plays a vital role in understanding and documenting mineral and energy resources, researching and monitoring potential natural hazards, monitoring effects of climate change, and determining and assessing water availability and quality. These issues are truly some of society's greatest challenges. Despite the critical role played by the USGS, funding for the Survey has stagnated in real dollars for more than a decade. Given the importance of the many activities of the Survey that protect lives and property for natural hazards, stimulate innovations that fuel the economy, provide national security, and enhance the quality of life, sustained, steady growth in Federal funding for the Survey is necessary for the well being of our Nation.

The Geological Society of America, founded in 1888, is a scientific society with more than 25,000 members from academia, government, and industry in all 50 States and more than 90 countries. Through its meetings, publications, and programs, GSA advances the geosciences, enhances the professional growth of its members, and promotes the geosciences in the service of humankind. GSA encourages cooperative research among Earth, life, planetary, and social scientists, fosters public dialogue on geoscience issues, and supports all levels of earth science education.

*Broader Impacts of the U.S. Geological Survey*

The USGS is one of the Nation's premier science agencies. Approximately 70 percent of the USGS budget is allocated for research and development. In addition to underpinning the science activities of the Department of the Interior, this research is used by communities across the Nation to assist in land use planning, emergency response, natural resource management, engineering, and education. USGS research addresses many of society's greatest challenges, including natural hazards, mineral and energy resources, climate change, and water availability and quality.

- Natural hazards—including earthquakes, tsunamis, volcanic eruptions, floods, droughts, wildfires, and hurricanes—are a major cause of fatalities and economic losses worldwide. Recent natural disasters provide unmistakable evidence that the United States remains vulnerable to staggering losses. 2011 was a record year for natural disasters in the United States, with 12 separate \$1 billion weather/climate disasters, breaking the previous mark of \$9 billion weather/climate disasters in 1 year, which occurred in 2008. The combined historic and recent geologic records demonstrate that several areas in the United States will continue to experience major earthquake and/or volcanic activity in the future. An improved scientific understanding of geologic hazards will reduce future losses through better forecasts of their occurrence and magnitude, and allow for better planning and mitigation in these areas. GSA urges the Congress to increase funding for the USGS to modernize and upgrade its natural hazards monitoring and warning systems and support the proposed increases for early warning systems in the budget request.
- Energy and mineral resources are critical to national security and economic growth. Improved scientific understanding of these resources will allow for their more economic and environmental management and utilization. USGS is the sole Federal information source on mineral potential, production, and consumption. USGS assessments of mineral and energy resources—including those that have recently become of greater and greater importance (such as unconventional natural gas and geothermal resources)—are essential for making informed decisions about the Nation's future. Therefore, we are greatly concerned about the proposed \$5 million cut in mineral resources and its effect on the ability of our Nation to safely develop new resources.
- Many emerging energy technologies—such as wind turbines and solar cells—depend on rare Earth elements and critical minerals that currently lack diversified sources of supply. China accounts for 95 percent of world production of rare Earth elements (USGS, 2010). The increases proposed for rare Earth research at USGS will help ease our dependence on these foreign sources.
- Improved understanding of geologic processes across Earth's history can increase our confidence in the ability to predict future climate States and long-term ecological changes and thus enhance the prospects for mitigating or adapting to adverse impacts. USGS research on climate impacts is used by the Department of the Interior and local partners to make informed land-use decisions.
- The devastating droughts in 2011 reminded us of our dependence on water. The availability and quality of surface water and groundwater are vital to the well being of both society and ecosystems. Greater scientific understanding of these resources—and communication of new insights by geoscientists in formats use-

ful to decision makers—is necessary to ensure adequate and safe water resources for the future. The establishment of a National Groundwater Monitoring Network will expand our understanding of this critical resource.

—The budget request proposes a \$13 million increase at USGS for hydraulic fracturing research as part of a joint effort with the Department of Energy and the Environmental Protection Agency. The USGS would play a critical role in this endeavor to better understand and minimize the environmental, health, and safety impacts of hydraulic fracturing. The USGS research will focus on better understanding induced seismicity, water quality, and creating an atlas of shale resources.

Research in Earth science is also fundamental to training and educating the next generation of Earth science professionals. A recent study, *Status of the Geoscience Workforce 2011*, by the American Geosciences Institute found:

“The supply of newly trained geoscientists falls short of geoscience workforce demand and replacement needs. According to the U.S. Bureau of Labor Statistics there were a total of 262,627 U.S. geoscientist jobs in 2008, and in 2018, the projected number of U.S. geoscientist jobs will be 322,683, a 23 percent increase. These projections do not include replacements due to attrition . . . With this adjustment, aggregate job projections are expected to increase by 35 percent between 2008 and 2018 . . . The majority of geoscientists in the workforce are within 15 years of retirement age. Even in oil and gas companies, which typically offer the highest salaries of all geoscience employing industries, the supply of new geoscientists is short of replacement needs. By 2030, the unmet demand for geoscientists in the petroleum industry will be approximately 13,000 workers for the conservative demand industry estimate.”

Science and technology are engines of economic prosperity, environmental quality, and national security. Federal investments in research pay substantial dividends. According to the National Academies’ report “*Rising Above the Gathering Storm*” (2007), “Economic studies conducted even before the information-technology revolution have shown that as much as 85 percent of measured growth in U.S. income per capita was due to technological change.” Likewise, the National Commission on Fiscal Responsibility and Reform, headed by Erskine Bowles and Alan Simpson, said: “We must invest in education, infrastructure, and high-value research and development to help our economy grow, keep us globally competitive, and make it easier for businesses to create jobs.” Earth science is a critical component of the overall science and technology enterprise. Growing support for Earth science in general and the U.S. Geological Survey in particular are required to stimulate innovations that fuel the economy, provide security, and enhance the quality of life.

GSA supports the efforts of USGS, NASA, NOAA, and OSTP to examine a future path forward for the Landsat satellites that maintains funding for other key programs within USGS. The Landsat satellites have amassed the largest archive of remotely sensed land data in the world, a tremendously important resource for natural resource exploration, land use planning, and assessing water resources, the impacts of natural disasters, and global agriculture production.

#### *Budget Shortfalls*

GSA supports the fiscal year 2013 budget request for the U.S. Geological Survey and the increases provided for key areas such as hydraulic fracturing research, early earthquake warning, and establishing a National Groundwater Monitoring Network. However, we are concerned about cuts in some programs and ask that these areas be restored. Some proposed cuts of concern in the budget request include:

- \$6.5 million for Water Resources Research Act Program;
- \$6 million for National Water Quality Assessment methods, development, and monitoring;
- \$5 million for the Cooperative Water Program interpretive studies;
- \$5 million for the Mineral Resources Program;
- \$3.3 million for hydrologic networks and analysis information management and delivery; and
- \$2 million for toxic substances hydrology methods development and assessments.

We urge the Congress to support the fiscal year 2013 budget request and restore these and other detrimental cuts. We recognize the financial challenges facing the Nation, but losing irreplaceable data can increase costs to society in the long term.

Thank you for the opportunity to provide testimony about USGS. GSA is grateful to Senate Appropriations Subcommittee on the Interior, Environment, and Related Agencies for its leadership in strengthening the USGS over many years. For addi-



tional information or to learn more about the Geological Society of America—including GSA Position Statements on water resources, mineral and energy resources, climate change, natural hazards, and public investment in Earth science research—please visit [www.geosociety.org](http://www.geosociety.org) or contact Kasey White at [kwhite@geosociety.org](mailto:kwhite@geosociety.org).

PREPARED STATEMENT OF THE GREAT LAKES INDIAN FISH AND WILDLIFE  
COMMISSION

*Bureau of Indian Affairs Great Lakes Area Resource Management: \$6,367,000*

Fiscal year 2013 requested allocation within the administration's fiscal year 2013 Rights Protection Implementation request in the amount of \$32,645,000.

*Agency/Program Line Item.*—Department of the Interior, Bureau of Indian Affairs, Operation of Indian Programs, Trust-Natural Resources Management, Rights Protection Implementation, Great Lakes Area Resource Management.

*Funding Authorizations.*—Snyder Act, 25 U.S.C. 13; Indian Self-Determination and Education Assistance Act, (Public Law 93–638), 25 U.S.C. 450f and 450h; and the treaties between the United States and GLIFWC's member Ojibwe Tribes, specifically Treaty of 1836, 7 Stat. 491, Treaty of 1837, 7 Stat. 536, Treaty of 1842, 7 Stat. 591, and Treaty of 1854, 10 Stat. 1109.<sup>1</sup>

*Bureau of Indian Affairs Contract Support: \$228 Million*

*Agency/Program Line Item.*—Department of the Interior, Bureau of Indian Affairs, Operation of Indian Programs, Tribal Government.

*Funding Authorization.*—Indian Self-Determination and Education Assistance Act, (Public Law 93–638), 25 U.S.C. 450f and 450h.

*Environmental Protection Agency Great Lakes Restoration: \$300 million. Tribal Need: \$25 million. Great Lakes Indian Fish and Wildlife Commission Need: \$1.2 Million (Estimated Annual Need).*

*Agency/Program Line Item.*—Environmental Protection Agency, Environmental Programs and Management, Geographic Programs, Great Lakes Restoration.

*Funding Authorizations.*—Clean Water Act, 33 U.S.C. 1268(c); and treaties cited above.

GREAT LAKES INDIAN FISH AND WILDLIFE COMMISSION'S GOAL—A SECURE FUNDING  
BASE TO FULFILL TREATY PURPOSES

For more than 25 years, the Congress has funded GLIFWC to meet nondiscretionary treaty obligations and associated Federal court orders. This funding has allowed GLIFWC to implement comprehensive conservation, natural resource protection, and law enforcement programs that ensure member tribes are able to exercise their treaty reserved rights to hunt, fish, and gather throughout the ceded territories, and that ensure a healthy and sustainable natural resource base to support those rights. These programs also provide a wide range of public benefits and assure full participation in management partnerships in Wisconsin, Michigan, and Minnesota.

GLIFWC and its member tribes would like to take this opportunity to thank Congress, and specifically this subcommittee, for its strong support of these treaty obligations. In fiscal year 2012, the Congress increased its support for treaty rights protection and the administration followed suit by more fully supporting these treaty obligations in its fiscal year 2013 request. GLIFWC recently estimated the full cost of its program at approximately \$9,870,000, including:

- \$5,434,000 provided in fiscal year 2012 through the RPI line item;
- approximately \$1,800,000 provided by grants and other “soft” funding in fiscal year 2012; and
- \$2,636,000 in unmet needs.

Funding at the proposed fiscal year 2013 level would begin to address these unmet needs. For more detail, the three elements of this fiscal year 2013 funding request are:

*Bureau of Indian Affairs Great Lakes Area Management: \$6,367,000.*—This program falls within the Rights Protection Implementation (RPI) line item, which is proposed at \$32,645,000 in fiscal year 2013. Funds provided to GLIFWC under the RPI program ensure that GLIFWC's member tribes con-

<sup>1</sup>The rights guaranteed by these treaties, and the associated tribal regulatory and management responsibilities have been affirmed by various court decisions, including a 1999 U.S. Supreme Court case.

tinue to comply with Federal court orders by ensuring effective implementation of tribal self-regulatory and co-management systems.

In previous fiscal years, GLIFWC has testified about chronic underfunding of the Rights Protection Implementation line item and the impacts of that underfunding on GLIFWC's programs. In fiscal year 2010, the Congress recognized this threat and provided a much-needed increase in support. Following congressional lead, the administration has incorporated and supplemented that increase in its fiscal year 2013 proposal. The funding provided through the Great Lakes Area Resource Management line item in fiscal year 2010 allowed GLIFWC to restore some program cuts. Funding at the proposed fiscal year 2013 level would enable GLIFWC to meet even more of its program needs, including funding for research and assessments of threats to the ceded territories and for conservation enforcement officers.

*Bureau of Indian Affairs Contract Support: \$228 Million.*—GLIFWC supports the \$228 million proposed for Contract Support. This amount would meet the needs identified in the most recent Contract Support Shortfall Report to fully fund this account, which provides funds to meet costs incurred in fulfilling administrative requirements that are mandated when operating programs, including costs for accounting, personnel administration, and property management. Rectifying this chronic underfunding will allow GLIFWC to direct scarce resources toward restoring program cuts and service capacity.

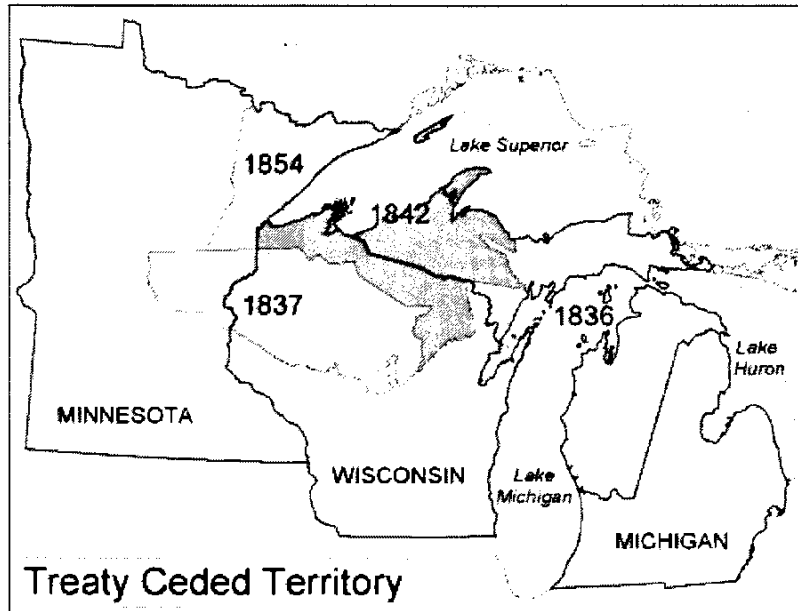
*Environmental Protection Agency Environmental Programs and Management: \$300 Million.*—GLIFWC supports continued funding for the Great Lakes Restoration Initiative (GLRI) at no less than the administration's proposed fiscal year 2013 level of \$300 million. It also recommends that at least \$25 million be provided to the BIA for tribes, to ensure they are able to undertake local projects that contribute to the protection and restoration of the Great Lakes.

Sustained funding for GLIFWC at approximately \$1.2 million will enable GLIFWC to retain jobs created through this program, to fully implement projects it undertook to meet the goals of the GLRI, and to meaningfully participate in the decisionmaking processes that will affect the treaty rights of its member tribes.

Funding provided through the BIA should be made available under the Indian Self-Determination and Education Assistance Act (ISDEAA). In 2010, GLRI funding awarded through the ISDEAA was virtually the only GLRI funding that was available before the 2010 field season. This enabled tribes to begin project implementation much earlier and realize substantial, early "on-the-ground" ecosystem benefits.

CEDED TERRITORY TREATY RIGHTS—GREAT LAKES INDIAN FISH AND WILDLIFE  
COMMISSION'S GOAL'S ROLE AND PROGRAMS

Established in 1984, GLIFWC is a natural resources management agency of 11 member Ojibwe Tribes with resource management responsibilities over their ceded territory (off-reservation) hunting, fishing and gathering treaty rights. These ceded territories extend over a 60,000 square mile area that extends to Minnesota, Wisconsin, and Michigan.



Through its staff of 65 full-time biologists, scientists, technicians, conservation enforcement officers, policy specialists, and public information specialists, GLIFWC's mission is to:

- ensure that its member tribes are able to exercise their Treaty-protected rights to meet subsistence, economic, cultural, medicinal, and spiritual needs; and
- ensure a healthy, sustainable natural resource base to support those rights. GLIFWC is a “tribal organization” as defined by the Indian Self-Determination and Education Assistance Act, governed by a Constitution that is ratified by its member tribes and by a Board composed of the Chairs of those tribes.

#### JUSTIFICATION AND USE OF THE REQUESTED FUNDS

With the requested stable funding base, GLIFWC will:

*Maintain the Requisite Capabilities To Meet Legal Obligations, To Conserve Natural Resources, and To Regulate Treaty Harvests.*—Although it does not meet all GLIFWC's needs, sustained funding at the fiscal year 2013 level would go a long way in facilitating continued tribal compliance with various court decrees and intergovernmental agreements governing the tribes' treaty-reserved hunting, fishing, and gathering rights. It also enhances GLIFWC's capability to undertake work and participate in relevant partnerships to tackle ecosystem threats that harm treaty natural resources, including invasive species, habitat degradation and climate change.

*Remain a Trusted Environmental Management Partner and Scientific Contributor in the Great Lakes Region.*—With the requested EPA funding base, GLIFWC would maintain its role as a trusted environmental management partner and scientific contributor in the Great Lakes Region. It would bring a tribal perspective to the interjurisdictional mix of Great Lakes managers<sup>2</sup> and would use its scientific expertise to study issues and geographic areas that are important to its member tribes but that others may not be examining.<sup>3</sup>

<sup>2</sup>GLIFWC currently participates on a regular basis in the Binational Program to Restore and Protect Lake Superior, International Joint Commission and SOLEC forums, the Great Lakes Restoration Initiative, and the implementation of agreements to regulate water diversions and withdrawals under the Great Lakes Charter, Annex 2001.

<sup>3</sup>With the requested fiscal year 2013 funds, GLIFWC would:  
—continue a ceded territory wild rice enhancement project;

Continued

*Maintain the Overall Public Benefits That Derive From Its Programs.*—Over the years, GLIFWC has become a recognized and valued partner in natural resource management. Because of its institutional experience and staff expertise, GLIFWC has built and maintained numerous partnerships that:

- provide accurate information and data to counter social misconceptions about tribal treaty harvests and the status of ceded territory natural resources;
- maximize each partner’s financial resources and avoid duplication of effort and costs;
- engender cooperation rather than competition; and
- undertake projects and achieve public benefits that no one partner could accomplish alone.<sup>4</sup>

#### OTHER RELATED APPROPRIATIONS CONCERNS

*Support for the Bureau of Indian Affairs Conservation Law Enforcement Officers.*—GLIFWC supports BIA’s proposal to provide \$500,000 in fiscal year 2013 to support conservation officers like those employed by GLIFWC. This program will assist tribal conservation enforcement programs in protecting and monitoring natural resources both on and off-reservation.

*Bureau of Indian Affairs Circle of Flight Tribal Wetland & Waterfowl Initiative.*—GLIFWC supports BIA funding of the Circle of Flight Tribal Wetland & Waterfowl Enhancement Initiative for Michigan, Minnesota, and Wisconsin. The Circle of Flight program is a longstanding tribal contribution to the North American Waterfowl Management Plan that has leveraged matching partnership funding on a 3 to 1 ratio. In 2010, this program was awarded a Department of the Interior “Partners in Conservation” Award.

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#### PREPARED STATEMENT OF THE GREEN MOUNTAIN CLUB

As Director of Conservation for the Green Mountain Club, the nonprofit organization which maintains the Long Trail, the Nation’s oldest long-distance hiking trail, I appreciate the opportunity to present this testimony in support of the Forest Legacy Program (FLP) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President’s budget for this year recommended \$60 million for FLP. The FLP works with landowners, the States, and other partners to protect critical forestlands with important economic, recreation, water quality, and habitat resources through conservation easement and fee acquisitions. The program has protected more than 2 million acres in 43 States and territories, consistently with a 50-percent non-Federal cost share, double the required 25-percent cost share. For several years this important conservation program has been funded under the umbrella of the Land and Water Conservation Fund (LWCF), which as a whole received \$450 million in the budget request.

The Land and Water Conservation Fund is our Nation’s premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

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- facilitate tribal input and participation in the implementation of the revised Great Lakes Water Quality Agreement;
  - continue to participate in the development and implementation of the Lake Superior Lakewide Management Plan;
  - build upon its longstanding fish contaminant analysis and consumption advisory program by testing additional species, testing in a wider geographic range, and testing for chemicals of emerging concern;
  - enhance its invasive species and animal disease prevention, monitoring and mitigation programs, particularly given the potential impacts of climate change, the recent discovery of viral hemorrhagic septicemia (VHS) in Lake Superior and the potential migration of the Asian Carp into the Great Lakes; and
  - enhance its capacity to protect ceded territory natural resources by responding to development proposals such as those related to mining.

<sup>4</sup>For example, on March 14, 2012, U.S. District Judge Barbara B. Crabb sentenced Norberto Burciago to 10 years in Federal prison for his involvement in a conspiracy to manufacture marijuana in the Chequamegon-Nicolet National Forest. The “grow” was discovered by hunters, monitored by law enforcement, and raided by more than 200 law enforcement officers from a dozen local, State, and Federal agencies, including 9 officers from the Great Lakes Indian Fish and Wildlife Commission.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in the Forest Legacy Program will permanently pay dividends to the American people and to our great natural, historic and recreational heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the FLP request in fiscal year 2013, the U.S. Forest Service included an allocation of \$2.72 million for the Northern Green Mountains Linkage project in Vermont. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for FLP for this important project.

The Forest Legacy Program in Vermont seeks to achieve significant conservation goals for the State by protecting the following types of land:

- large contiguous and productive forest blocks;
- wildlife habitats dependent on large contiguous forest blocks;
- threatened and endangered species habitat;
- State fragile areas and undeveloped shoreline, significant wetlands; and
- important recreational corridors.

Sustainable timber harvesting is also critical; the annual contribution of forest products, forest-based manufacturing, and forest-related recreation to Vermont's economy is more than \$2.6 billion. All tracts are well suited for development of large estate lots or subdivisions due to the extensive road frontage, gentle terrain, scenic value, and proximity to ski resorts and urban areas.

The 5,768-acre Northern Green Mountains Linkage project is situated on the spine of the Northern Green Mountains in Lamoille and Orleans Counties, and will protect managed and productive timberland as well as 16 miles of streams, several rare species, and high-quality wildlife habitat. Using fee and easement acquisitions, the project will link 68,300 acres of conserved lands, including lands the Green Mountain Club has protected for the Long Trail, providing connectivity from the Green Mountains north to Quebec and east to the Worcester Range. This project will address the problem of forest fragmentation and associated impacts on the timber economy, improve public access to recreation, and secure wildlife habitat connectivity in Vermont's northern region by permanently protecting critically located properties.

Vermont's Northern Green Mountains are one of the wildest and largest forested landscapes remaining in all of New England. The region, which follows the spine of the Green Mountains north from Mount Mansfield to the Canadian border, encompasses sweeping tracts of forest where moose, bobcat, black bear, and a myriad of rare and endangered songbirds make their home. These mountains and their slopes are remarkably diverse, containing all the major ecosystem types of the region, from boreal forests, temperate mixed hardwoods, and alpine meadows to floodplain forests and marshes. It is also a magnet for hikers, skiers, backpackers, and other outdoor enthusiasts, particularly those drawn by more than 65 miles of the Long Trail—the Nation's oldest long-distance hiking path and the inspiration for the Appalachian Trail, built by the Green Mountain Club between 1910 and 1930. Also snaking through the region is the increasingly popular Catamount Trail, a skiing trail traversing the length of Vermont.

The Northern Green Mountains have long been recognized as a top conservation priority by many of the region's small towns, such as Jay, Westfield, and Hyde Park, which are now mobilizing to conserve the places that define and sustain their communities. Two Countries One Forest (2C1Forest), a Canadian-American coalition of 50 conservation organizations, public agencies, and researchers, sponsored scientific research to identify important wildlife corridors in the Northern Appalachian Acadian ecoregion. In 2007, 2C1Forest chose the Northern Green Mountains-to-Sutton Mountains linkage as one of their top five conservation priorities. The area has also been identified as significant in Vermont Fish & Wildlife's statewide assessment and ranking of large forested blocks and associated linkage habitats. The Northern Green Mountains are a crucial place for regional landscape connectivity because they help tie the Adirondacks of New York, and the central Appalachians of Massachusetts and points south to the Northern Appalachians of Maine and Canada. In so doing they serve as an important north-south corridor for wildlife, and because of their large range in elevation, provide species with flexibility in their movement.

Projects like the Northern Green Mountains Linkage that maintain connectivity on local, State, and regional scales are also critical to support adaptation of wildlife species to climate change. These corridors will facilitate species movement in response to shifts in forest habitat, food availability, and snowpack. These forested tracts also offer important climate adaptation value as habitat refugia for cold-loving species whose habitats will be lost in other areas. The Northeast Climate Im-

pacts Synthesis Assessment Team projects that this region will retain consistently cold winters and reliable snowpack through the end of the 21st century, even under high carbon emission scenarios. This is significant for a wide range of snow-dependent species like snowshoe hare and marten, as these same projections suggest that snowpack will largely disappear from New England to the south of the project area. Protection of this area is also important for adaptation of the eastern brook trout. Some of the parcels for protection include important headwater streams to the Missisquoi River, one of Vermont's important habitat areas for eastern brook trout. Conserving these high elevation headwater streams will help maintain flows and cooler water temperatures in the lower lying Missisquoi as the climate warms in this area.

The 3,984 acres that will be conserved with fiscal year 2013 Forest Legacy funding is made up of four separate parcels. Almost the entire expanse—95 percent of the 1,748-acre Jay Brook tract in Westfield is higher than 1,500 feet, providing critical wildlife habitat protection and an important refugia to species adapting to climate change. Protection of this land would conserve 3.6 miles of the Catamount Trail and add an extra conserved buffer to 5.8 miles of The Long Trail, where portions of the Long Trail State Forest are only 650 feet wide—an inadequate buffer for the State's most well-known and well-loved trail. The 1,478-acre Bullard Tract in Eden and Hyde Park provides a wide linkage that connects lowland forest to previous Forest Legacy Program investments around Green River Reservoir State Park (protected with fiscal year 1999 funds) up to the ridgeline of the Green Mountains on the Eden Forest property (protected with fiscal year 2009 and fiscal year 2010 funds). The 553-acre Moffat property, half of which was funded in fiscal year 2011, is part of a significant east-west corridor of conserved forestland and contains significant wetlands and sugar maple stands. Last, the 513-acre Westfield Mountain Tract is managed for the production of maple syrup and high value timber and would be a significant addition to a previously conserved block of forestland in the Northern Green Mountains.

The vast majority of the land in the Northern Greens remains in private hands, with thousands of acres available on the open market. Threats from an expanding second-home industry (even in today's uncertain economy), road construction, and changing forestry, and farming practices put key blocks of forestland at risk and create barriers to wildlife movement. Such changes also threaten the vibrant rural culture and economy of the Northern Greens, with its mix of small-scale community farms, forestry and recreation. A recent explosion of development pressure in the Northern Green Mountains, resulting from expanding ski resorts and the area's proximity to greater Burlington and other population centers, has made this a "now or never" moment to conserve key landscapes in this important habitat and recreation area. According to census data, growth rates in Lamoille and Orleans Counties are more than double the growth rate in Vermont as a whole. In Vermont, only 21 percent of the Northern Green Mountains is protected from development, compared to 45 percent of the central and southern Green Mountains.

Forest Legacy Program funding in fiscal year 2011 secured the first 1,784 acres of the Northern Green Mountains Linkage project. A Forest Legacy grant of \$2.72 million in fiscal year 2013 for the remaining 3,984 acres would complete this important project. These Federal funds are needed to ensure the protection of critical forest resources in northern Vermont and will be matched by \$950,000 of non-Federal contributions for the acquisition of full fee and partial interests through conservation easement.

In closing, I urge you to provide funding for the Land and Water Conservation Fund of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for the Forest Legacy Program and the Northern Green Mountains Linkage project. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in Vermont, and I appreciate your consideration of this funding request.

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PREPARED STATEMENT OF THE ILLINOIS LAKE MANAGEMENT ASSOCIATION

Dear Chairman Reed, Ranking Member Murkowski, and Members of the Committee: The Illinois Lake Management Association (ILMA) encourages the subcommittee to provide the most robust funding possible for the State and Tribal Wildlife Grants program in fiscal year 2013. This program is the only one within the Federal Government with the singular purpose of preventing Federal endangered species listings, and it is achieving success as highlighted in the recent State Wildlife Grants Success Stories Report (<http://teaming.com/tool/state-wildlife-grants->

success-stories-report-2011). We also ask that the non-Federal match requirement for States remain at 35 percent to help States who are still struggling to recover from significant reductions in conservation budgets to meet match requirements.

The State and Tribal Wildlife Grants program provides critical capacity for State fish and wildlife agencies and their partners to implement congressionally required State Wildlife Action Plans. The program is used by States to conserve more than 12,000 fish and wildlife species that have been identified as at-risk, including those that are candidates for Federal endangered species listing. Despite the success of the program, the State and Tribal Wildlife Grants program has been cut by one-third since 2010. The reduction in funding is impacting States' ability to restore habitat, protect land, provide incentives to private landowners, monitor, conduct research and implement other measures needed to conserve declining fish and wildlife.

The State and Tribal Wildlife Grants program supports implementation of State Wildlife Action Plans that were developed collaboratively by leading scientists, sportsmen, conservationists and private landowners and identified the most effective and practical means to prevent wildlife from becoming endangered. The Congress can demonstrate its commitment to these plans by providing the Federal share of support, leveraging millions in State and private matching funds. This investment in conservation helps support jobs and the \$730 billion outdoor recreation industry. The State and Tribal Wildlife Grants program is modest compared to the scope of work it funds: The recovery of some of our Nation's most imperiled fish and wildlife. We hope the Senate Subcommittee on the Interior, Environment, and Related Agencies can provide the most robust funding possible for the program in fiscal year 2013.

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#### PREPARED STATEMENT OF THE INDEPENDENT TRIBAL COURTS REVIEW TEAM

Thank you for the opportunity to testify today and to address the serious funding needs that have limited and continue to hinder the operations of tribal judicial systems in Indian Country. I am the Lead Judge representing the Independent Tribal Court Review Team. We thank this subcommittee for the additional \$10 million funding in fiscal year 2010. These funds were a blessing to tribes. Even minimal increases were put to good use. It is the strong recommendation of the Independent Tribal Courts Review Team that the Federal tribal courts budget be substantially increased in fiscal year 2013 to support the needs of tribal judicial systems.

#### *Budget Priorities, Requests, and Recommendations*

+ \$10 million increase for tribal courts more than the fiscal year 2010 enacted level

Fully fund all provisions of the Tribal Law and Order Act of 2010

+ \$58.4 million authorized under the Indian Tribal Justice Act of 1993, Public Law 103-176, 25 U.S.C. 3601 and re-authorized in year 2000 Public Law 106-559 (no funds have been appropriated to date)

The budget requests will support:

- Hiring and training of court personnel;
- Compliance with the Tribal Law and Order Act of 2010;
- Salary increases for existing judges and court personnel;
- State-of-the-art technology for tribal courts;
- Security and security systems to protect court records and privacy of case information;
- Tribal court code development; and
- Financial code development;

#### *Background*

The Bureau of Indian Affairs (BIA) within the Department of the Interior provides funding to tribal governments to supplement their justice systems including courts. Tribal courts play a "vital role" in Tribal Self-Determination and Self-Governance as cited in longstanding Federal policy and acts of the Congress. Funding levels from BIA to support tribal justice systems have not met the Federal obligations.

For the past 6 years, the Independent Court Review Team has been traveling throughout Indian Country assessing how tribal courts are operating. During this time, we have completed approximately 84 court reviews. There is no one with more hands-on experience and knowledge regarding the current status of tribal courts than our Review Team.

We have come into contact with every imaginable composition of tribe:

- large and small;

—urban and rural;  
 —wealthy and poor.

What we have not come into contact with is any tribe whose Court system is operating with financial resources comparable to other local and State jurisdictions.

#### *Justification for Request*

*Hiring and Training of Court Personnel.*—Tribal Courts make do with underpaid staff, underexperienced staff, and minimal training. (We have determined that hiring tribal members limits the inclination of staff to move away; a poor excuse to underpay staff.)

*Compliance with the Tribal Law and Order Act of 2010.*—To provide Judges, Prosecutors, Public Defenders, who are attorneys and who are bared to do “enhanced sentencing” in tribal courts.

*Salary Increases for Existing Judges and Court Personnel.*—Salaries should be comparable to local and State Court personnel to keep pace with the non-Tribal judicial systems and be competitive to maintain existing personnel.

*Tribal Courts Need State-of-the-Art Technology (software, computers, phone systems, tape recording machines).*—Many tribes cannot afford to purchase or upgrade existing court equipment unless they get a grant. This is accompanied by training expenses and licensing fees which do not last after the grant ends.

*Security and Security Systems to Protect Court Records and Privacy of Case Information.*—Most tribal courts do not even have a full-time bailiff, much less a state-of-the-art security system that uses locked doors and camera surveillance. This is a tragedy waiting to happen.

*Tribal Court Code Development.*—Tribes cannot afford legal consultation. A small number of tribes hire on-site staff attorneys. These staff attorneys generally become enmeshed in economic development and code development does not take priority. Tribes make do with under-developed Codes. The Adam Walsh Act created a hardship for tribes who were forced to develop codes, without funding, or have the State assume jurisdiction. (States have never properly overseen law enforcement in a tribal jurisdiction.)

*Financial Code Development.*—We have rarely seen tribes with developed financial policies. The process of paying a bond, for example, varies greatly from tribe to tribe. The usual process of who collects it, where it is collected and how much it is, is never consistent among tribes.

#### *Tribal Courts Review*

There are many positive aspects about tribal courts. It is clear that tribal courts and justice systems are vital and important to the communities where they are located. Tribes value and want to be proud of their Court systems. Tribes with even modest resources tend to allocate funding to Courts before other costs. After decades of existence, many tribal courts, despite minimal funding, have achieved a level of experience and sophistication approaching, and in some cases surpassing, local non-Indian Courts.

Tribal Courts, through the Indian Child Welfare Act, have mostly stopped the wholesale removal of Indian children from their families. Indian and non-Indian courts have developed formal and informal agreements regarding jurisdiction. Tribal governments have recognized the benefit of having law-trained judges, without doing away with judges who have cultural/traditional experience. Tribal court systems have appellate courts, jury trials, well-cared-for courthouses (even the poorer tribes), and tribal bar listings and fees. Perhaps most importantly, tribes recognize the benefit of an independent judiciary and have taken steps to insulate Courts and Judges from political pressure. No longer in Indian country are Judges automatically fired for decisions against the legislature.

Our research indicates tribal courts are at a critical stage in terms of need. Nationwide, there are 184 tribes with courts that received \$24.7 million in Federal funding in 2011. Assessments have indicated that the Bureau of Indian Affairs only funds tribal courts at 26 percent of the funding needed. This is further documented in the BIA budget book under the Tribal Priorities Allocation Account/Tribal Courts reflecting only a \$1 million increase “to enhance the ongoing daily operations of the Indian Affairs funded tribal courts and Courts of Federal Regulations throughout Indian Country”. That’s real bang for the buck and certainly validates the adage “you get what you pay for”! The lack of investment in tribal courts is an atrocity given the challenges and impediments they must endure to remain effective. Tribes who have economic development generally subsidize their tribal courts. On the flip side, tribes who cannot afford to assist in the financial operations of the court are tasked with doing the best they can with what they have even at the expense of decreasing or eliminating services elsewhere. This while operating at a disadvan-



tage with already overstrained resources and underserved needs of the tribal citizens. The assessment suggests that the smaller Courts are both the busiest and most underfunded.

The grant funding in the DOJ is intended to be temporary, but instead it is used for permanent needs; such as funding a Drug Court Clerk who then is used as a Court Clerk with Drug Court duties. When the funding runs out, so does the permanent position. We have witnessed many failed Drug Courts, failed Court management software projects (due to training costs) and incomplete Code development projects. When the Justice funding runs out, so does the Project.

As a directive from the Office of Management and Budget, our Reviews specifically examined how tribes were using Federal funding. In the last 6 fiscal years through fiscal year 2011 there were only two isolated incidents of a questionable expenditure of Federal funds. It is speculated that because of our limited resources, we compromise one's due process and invoke "speedy trials" violations to save Tribal Courts money. Everyone who is processed through the tribal judicial system is afforded their constitutional civil liberties and civil rights.

We do not wish to leave an entirely negative impression about Tribal Courts. Tribal Courts need an immediate, sustained and increased level of funding. True. However, there are strong indications that the Courts will put such funding to good use.

There are tribes like the Fort Belknap Tribe of Montana whose Chief Judge manages both offices and holds Court in an old dormitory that can't be used when it rains because water leaks into the building and the mold has consumed one wall. Their need exceeds 100 percent.

There are several courts where the roofs leak when it rains and those court houses cannot be fixed due to lack of sufficient funds. The Team took pictures of those damaged ceilings for the BIA hoping to have additional funds for the tribes to fix the damaged ceilings.

Tribal Courts have other serious needs. Tribal Appellate Court Judges are mostly Attorneys who dedicate their services for modest fees that barely cover costs for copying and transcription fees. Tribal courts offer jury trials. In many courts, one sustained jury trial will deplete the available budget. The only place to minimize expenses is to fire staff. Many tribal courts have defense advocates. These advocates are generally not law trained and do a good job protecting an individual's rights (including assuring speedy trial limitations are not violated.) However, this is a large item in Court budgets and if the defense advocate, or Prosecutor, should leave, the replacement process is slow.

We feel it is our duty to come here on behalf of tribes to advocate for better funding. Tribes ask us to tell their stories. They open their files and records to us and say, "We have nothing to hide". Tell the Congress we need better facilities, more law enforcement, more detention facilities, more legal advice, better codes . . . the list goes on and on. But, as we have indicated, it all involves more funding. This Congress and this administration can do something great. Put your money where your promises have been.

#### *National Requests*

We support the requests and recommendations of the National Congress of American Indians. We support the increases for:

- contract support costs of \$8.8 million;
- law enforcement of \$30 million;
- 10-percent increase more than 2012 for TPA; and
- an additional \$10 million for tribal courts.

On behalf of the Independent Tribal Court Review Team, Thank you.

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#### PREPARED STATEMENT OF THE INTERSTATE MINING COMPACT COMMISSION

My name is Gregory E. Conrad and I serve as Executive Director of the Interstate Mining Compact Commission, on whose behalf I am appearing today. I appreciate the opportunity to present this statement to the subcommittee regarding the views of the Compact's 24 member States on the fiscal year 2013 budget request for the Office of Surface Mining Reclamation and Enforcement (OSM) within the Department of the Interior. In its proposed budget, OSM is requesting \$57.3 million to fund title V grants to States and Indian tribes for the implementation of their regulatory programs, a reduction of \$11 million or 15 percent less than the fiscal year 2012 enacted level. OSM also proposes to reduce mandatory spending for abandoned mine lands (AML) program by \$180 million pursuant to a legislative proposal to eliminate all AML funding for certified States and tribes.

The Compact is comprised of 24 States that together produce some 95 percent of the Nation's coal, as well as important noncoal minerals. The Compact's purposes are to advance the protection and restoration of land, water and other resources affected by mining through the encouragement of programs in each of the party States that will achieve comparable results in protecting, conserving and improving the usefulness of natural resources and to assist in achieving and maintaining an efficient, productive and economically viable mining industry.

OSM has projected an amount of \$57.3 million for title V grants to States and tribes in fiscal year 2012, an amount which is matched by the States each year. These grants support the implementation of State and tribal regulatory programs under the Surface Mining Control and Reclamation Act (SMCRA) and as such are essential to the full and effective operation of those programs. Pursuant to these primacy programs, the States have the most direct and critical responsibilities for conducting regulatory operations to minimize the impact of coal extraction operations on people and the environment. The States accomplish this through a combination of permitting, inspection and enforcement duties, designating lands as unsuitable for mining operations, and ensuring that timely reclamation occurs after mining.

In fiscal year 2012, the Congress approved \$68.6 million for State title V grants. This continued a much-needed trend whereby the amount appropriated for these regulatory grants aligned with the demonstrated needs of the States and tribes. The States are greatly encouraged by the significant increases in title V funding approved by Congress over the past 3 fiscal years. Even with mandated rescissions and the allocations for tribal primacy programs, the States saw a \$12 million increase for our regulatory programs more than fiscal year 2007 levels. State title V grants had been stagnant for more than 12 years and the gap between the States' requests and what they received was widening. This debilitating trend was compounding the problems caused by inflation and uncontrollable costs, thus undermining our efforts to realize needed program improvements and enhancements and jeopardizing our efforts to minimize the potential adverse impacts of coal extraction operations on people and the environment.

In its fiscal year 2013 budget, OSM has once again attempted to reverse course and essentially unravel and undermine the progress made by the Congress in supporting State programs with adequate funding. As States prepare their future budgets, we trust that the recent increases approved by the Congress will remain the new base on which we build our programs. Otherwise, we find ourselves backpedaling and creating a situation where those who were just hired face layoffs and purchases of much needed equipment are canceled or delayed. Furthermore, a clear message from Congress that reliable, consistent funding will continue into the future will do much to stimulate support for these programs by State legislatures and budget officers who each year, in the face of difficult fiscal climates and constraints, are also dealing with the challenge of matching Federal grant dollars with State funds. In this regard, it should be kept in mind that a 15-percent cut in Federal funding generally translates to an additional 15-percent cut for overall program funding for many States, especially those without Federal lands, since these States can generally only match what they receive in Federal money.

It is important to note that OSM does not disagree with the States' demonstrated need for the requested amount of funding for title V regulatory grants. Instead, OSM's solution for the drastic cuts comes in the way of an unrealistic assumption that the States can simply increase user fees in an effort to "eliminate a de facto subsidy of the coal industry." No specifics on how the States are to accomplish this far-reaching proposal are set forth, other than an expectation that they will do so in the course of a single fiscal year. OSM's proposal is completely out of touch with the realities associated with establishing or enhancing user fees, especially given the need for approvals by State legislatures. IMCC's polling of its member States confirmed that, given the current fiscal and political implications of such an initiative, it will be difficult, if not impossible, for most States to accomplish this feat at all, let alone in less than 1 year. OSM is well aware of this, and yet has every intention of aggressively moving forward with a proposal that was poorly conceived from its inception. We strongly urge the subcommittee to reject this approach and mandate that OSM work through the complexities associated with any future user fees proposal in close cooperation with the States and tribes before proposing cuts to Federal funding for State title V grants.

At the same time that OSM is proposing significant cuts for State programs, the agency is proposing sizeable increases for its own program operations (\$4 million) for Federal oversight of State programs, including an increase of 25 FTEs. In making the case for its funding increase, OSM's budget justification document contains vague references to the need "to improve the implementation of existing laws" and to "strengthen OSM's skills base." More specifically, OSM states in its budget jus-

tification document (on page 60) that “with greater technical skills, OSM anticipates improved evaluation of permit-related actions and resolution of issues to prevent unanticipated situations that otherwise may occur as operations progress, thereby improving implementation of existing laws”. In our view, this is code language for enhanced and expanded Federal oversight of State programs. However, without more to justify the need for more oversight and the concomitant increase in funding for Federal operations related thereto, the Congress should reject this request. The overall performance of the States as detailed in OSM’s annual State program evaluation reports demonstrates that the States are implementing their programs effectively and in accordance with the purposes and objectives of SMCRA.<sup>1</sup>

In our view, this suggests that OSM is adequately accomplishing its statutory oversight obligations with current Federal program funding and that any increased workloads are likely to fall upon the States, which have primary responsibility for implementing appropriate adjustments to their programs identified during Federal oversight. In this regard, we note that the Federal courts have made it abundantly clear that SMCRA’s allocation of exclusive jurisdiction was “careful and deliberate” and that the Congress provided for “mutually exclusive regulation by either the Secretary or State, but not both.” *Bragg v. West Virginia Coal Ass’n*, 248 F. 3d 275, 293–4 (4th Cir. 2001), cert. denied, 534 U.S. 1113 (2002). While the courts have ruled consistently on this matter, the question remains for the Congress and the administration to determine, in light of deficit reduction and spending cuts, how the limited amount of Federal funding for the regulation of surface coal mining and reclamation operations under SMCRA will be directed—to OSM or the States. For all the above reasons, we urge Congress to approve not less than \$70 million for State and tribal title V regulatory grants, as fully documented in the States’ and tribes’ estimates for actual program operating costs.<sup>2</sup>

With regard to funding for State Title IV Abandoned Mine Land (AML) program grants, congressional action in 2006 to reauthorize title IV of SMCRA has significantly changed the method by which State reclamation grants are funded. Beginning with fiscal year 2008, State title IV grants are funded primarily by mandatory appropriations. As a result, the States should have received a total of \$488 million in fiscal year 2013. Instead, OSM has budgeted an amount of \$307 million based on an ill-conceived proposal to eliminate mandatory AML funding to States and tribes that have been certified as completing their abandoned coal reclamation programs. This \$180 million reduction flies in the face of the comprehensive restructuring of the AML program that was passed by the Congress in 2006, following more than 10 years of congressional debate and hard fought compromise among the affected parties. In addition to the elimination of funding for certified States and tribes, OSM is also proposing to reform the distribution process for the remaining reclamation funding to allocate available resources to the highest-priority coal AML sites through a competitive grant program, whereby an Advisory Council will review and rank AML sites each year. The proposal, which will require adjustments to SMCRA, will clearly undermine the delicate balance of interests and objectives achieved by the 2006 Amendments. It is also inconsistent with many of the goals and objectives articulated by the administration concerning both jobs and environmental protection. We urge the Congress to reject this unjustified proposal, delete it from the budget and restore the full mandatory funding amount of \$488 million. A resolution adopted by IMCC last year concerning these matters is attached. We also endorse the statement of the National Association of Abandoned Mine Land Programs (NAAML) which goes into greater detail regarding the implications of OSM’s legislative proposal for the States and tribes, a copy of which I would like to submit for the record.

<sup>1</sup> While not alluded to or fully addressed in OSM’s budget justification document, there are myriad statutory, policy and legal issues associated with several aspects of the agency’s enhanced oversight initiative, especially three recently adopted directives on annual oversight procedures (REG–8), corrective actions (REG–23) and Ten-Day Notices (INE–35). IMCC submitted extensive comments regarding the issues associated with these directives and related oversight actions (including Federal inspections) on January 19, 2010, July 8, 2010 and January 7, 2011.

<sup>2</sup> We are particularly concerned about recent OSM initiatives, primarily by policy directive, to duplicate and/or second-guess State permitting decisions through the reflexive use of “Ten-Day Notices” as part of increased Federal oversight or through Federal responses to citizen complaints. OSM specifically addresses this matter in its budget justification document (on page 69) where it states that “OSM has an obligation under section 521 of SMCRA to take steps to ensure that all types of violations, including violations of performance standards or permit conditions and violations of permitting requirements, are corrected if the State does not take action to do so. Aside from the impact on limited State and Federal resources, these actions undermine the principles of primacy that underscore SMCRA and are likely to have debilitating impacts on the State-Federal partnership envisioned by the act.

We also urge the Congress to approve continued funding for the AML emergency program. In a continuing effort to ignore congressional direction, OSM's budget would completely eliminate funding for State-run emergency programs and also for Federal emergency projects (in those States that do not administer their own emergency programs). Funding the OSM emergency program should be a top priority for OSM's discretionary spending. This funding has allowed the States and OSM to address the unanticipated AML emergencies that inevitably occur each year. In States that have federally operated emergency programs, the State AML programs are not structured or staffed to move quickly to address these dangers and safeguard the coalfield citizens whose lives and property are threatened by these unforeseen and often debilitating events. And for minimum program States, emergency funding is critical to preserve the limited resources available to them under the current funding formula. We therefore request that the Congress restore funding for the AML emergency program in OSM's fiscal year 2013 budget.

One of the more effective mechanisms for accomplishing AML restoration work is through leveraging or matching other grant programs, such as EPA's 319 program. Until fiscal year 2009, language was always included in OSM's appropriation that encouraged the use of these types of matching funds, particularly for the purpose of environmental restoration related to treatment or abatement of AMD from abandoned mines. This is a perennial, and often expensive, problem, especially in Appalachia. IMCC therefore requests the Committee to once again include language in the fiscal year 2013 appropriations bill that would allow the use of AML funds for any required non-Federal share of the cost of projects by the Federal Government for AMD treatment or abatement.

We also urge the subcommittee to support funding for OSM's training program, including moneys for State travel. These programs are central to the effective implementation of State regulatory programs as they provide necessary training and continuing education for State agency personnel. In this regard, it should be noted that the States provide nearly half of the instructors for OSM's training course and, through IMCC, sponsor and staff benchmarking workshops on key regulatory program topics. IMCC also urges the subcommittee to support funding for TIPS, a program that directly benefits the States by providing critical technical assistance. Finally, we support funding for the Watershed Cooperative Agreements in the amount of \$1.2 million.

Attached to our testimony today is a list of questions concerning OSM's budget that we request be included in the record for the hearing. The questions go into further detail concerning several aspects of the budget that we believe should be answered before the Congress approves funding for the agency or considers advancing the legislative proposals contained in the budget.

Thank you for the opportunity to present this statement.

#### ATTACHMENTS

##### QUESTIONS RE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT'S PROPOSED FISCAL YEAR 2013 BUDGET

What does OSM plan to do with the additional \$4 million that has been budgeted for "enhanced Federal oversight of State regulatory programs"? How does OSM justify an increase in money for Federal oversight while decreasing money for State title V grants? What is the demonstrated need for an additional 25 FTEs to perform Federal oversight of State programs? Will this not simply lead to duplication of effort, second-guessing of State decisionmaking, undermining of State primacy and wasted resources?

If pressed by the Congress, how expeditiously does OSM intend to push the States to recover more of their regulatory costs from the coal industry through user fees? Has OSM undertaken a full analysis of the administrative and rulemaking complexities inherent in such an undertaking?

OSM's newest AML legislative proposal (to eliminate payments to certified States and tribes and to utilize a competitive bidding process for the allocation of remaining AML reclamation funds for noncertified States) is the fourth time that the agency has put forth potential legislative adjustments to the 2006 amendments to SMCRA in its proposed budgets. Based on the legislative proposal we have seen to date, there are many more questions than answers about how this process will work. (See attached list) Does OSM intend to seek input from the States and tribes, especially given the role that the States and tribes will play in the bidding/selection process and the significant impact this will have on current program administration? What is the basis for OSM's proposal to essentially upend the carefully crafted legislative resolution related to future AML program funding and AML reclamation work approved by the Congress in 2006? Has OSM thought and worked through the

implications for AML program management and administration that would result from its legislative proposal?

Why has OSM chosen to advocate for a hardrock AML reclamation fee to be collected by OSM but not distributed by OSM? Why bring another Federal agency (BLM) into the mix when OSM has the greater expertise in this area?

*Specific Questions re Cost Recovery/User Fees*

OSM has requested an amount for State title V regulatory program grants in fiscal year 2013 that reflects an \$11 million decrease from fiscal year 2012. And while OSM does not dispute that the States are in need of an amount far greater than this, the agency has suggested once again that the States should be able to make up the difference between what OSM has budgeted and what States actually need by increasing cost recovery fees for services to the coal industry. What exactly will it take to accomplish this task?

Assuming the States take on this task, will amendments to their regulatory programs be required?

How long, in general, does it take OSM to approve a State program amendment?

The State of Alabama submitted a program amendment to OSM in May 2010 to raise current permit fees and authorize new, additional fees. It took OSM a full year to approve this amendment, resulting in lost fees of more than \$50,000 to the State. If OSM is unable to approve requested State program amendments for permit fee increases in less than a year, how does the agency expect to handle mandated permit increases for all of the primacy States within a single fiscal year?

If OSM is not expecting to pursue this initiative in fiscal year 2013, why include such a proposal in the budget until OSM has worked out all of the details with the States in the first instance?

Speaking of which, what types of complexities is OSM anticipating with its proposal at the State level? Many of the States have already indicated to OSM that it will be next to impossible to advance a fee increase proposal given the political and fiscal climate they are facing.

OSM's solution seems to be that the agency will propose a rule to require States to increase permit fees nationwide. Won't this still require State program amendments to effectuate the Federal rule, as with all of OSM's rules? How does OSM envision accomplishing this if the States are unable to do it on their own?

Even if a Federal rulemaking requiring permit fee increase nationwide were to succeed, how does OSM envision assuring that these fees are returned to the States? Will OSM retain a portion of these fees for administrative purposes?

*Specific Questions re Federal Program Increases*

In OSM's budget justification document, the agency also notes that the States permit and regulate 97 percent of the Nation's coal production and that OSM provides technical assistance, funding, training and technical tools to the States to support their programs. And yet OSM proposes in its budget to cut funding to the States by \$11 million while increasing OSM's own Federal operations budget by nearly \$4 million and 25 FTEs. How does OSM reconcile these seemingly contradictory positions?

OSM's budget justification document points out in more detail why it believes additional Federal resources will be needed based on its recent Federal oversight actions during fiscal year 2011, which included increased Federal inspections. Was OSM not in fact able to accomplish this enhanced oversight with its current resources? If not, where were resources found wanting? How much of the strain on the agency's resources was actually due to the stream protection rulemaking and EIS process?

In light of recent annual oversight reports over the past 5 years which demonstrate high levels of State performance, what is the justification for OSM's enhanced oversight initiatives and hence its Federal program increase?

Something has to give here—no doubt. There is only so much money that we can make available for the surface mining program under SMCRA. Both the Congress and the courts have made it clear that the States are to exercise exclusive jurisdiction for the regulation of surface coal mining operations pursuant to the primacy regime under the law. It begs the questions of whether OSM has made the case for moving away from supporting the States and instead beefing up the Federal program. Unless the agency can come up with a better, more detailed justification for this realignment of resources, how can the Congress support its budget proposal?

*Specific Questions re Office of Surface Mining Reclamation and Enforcement Oversight Initiative*

OSM has recently finalized a Ten-Day Notice directive (INE-35) that had previously been withdrawn in 2006 based on a decision by then Assistant Secretary of

the Interior Rebecca Watson. The basis for terminating the previous directive was several court decisions that clarified the respective roles of State and Federal governments pursuant to the primacy regime contained in SMCRA. The Secretary's decision also focused on the inappropriate and unauthorized use of Ten-Day Notices under SMCRA to second-guess State permitting decisions. OSM's new TDN directive flies in the face of both this Secretarial decision and Federal court decisions. Does OSM have a new Secretarial decision on this matter? If not, how can its recent action overrule this prior decision? Has the Solicitor's office weighed in on this matter? If so, does OSM have an opinion supporting the agency's new TDN directive? Will OSM provide that to the subcommittee?

In light of limited funding for the implementation of SMCRA, how does OSM justify the State and Federal expenses that will necessarily follow from reviewing and second-guessing State permitting decisions? States have complained that responding to a single OSM TDN, especially with respect to State permitting decisions, can require the investment of 2-3 FTE's for upwards of a week. How do you justify this?

QUESTIONS AND CONCERNS RE THE ABANDONED MINE LANDS LEGISLATIVE PROPOSAL  
IN OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT'S FISCAL YEAR 2013  
BUDGET

*The Proposed Competitive Allocation Process*

What is the potential for this new review and ranking process to reduce expenditures and increase efficiency without being counter-productive? Will it introduce an additional level of bureaucracy and result in more time being spent formulating proposals and less on actual AML reclamation? The present funding formula, while not perfect, at least provides some direction on which to base long-term strategic planning and efficient use of available funds. The closest analogy to what OSM is proposing by way of its competitive allocation process is the way BLM and the Forest Service currently allocate their AML funds through competitive proposals to various State offices and regions. Because of the uncertainties of funding, neither agency has been able to develop significant in-house expertise, but instead often rely on SMCRA-funded States like Montana, New Mexico, Utah, and Colorado to do a good portion of their AML work. Why would OSM want to duplicate a system that has proven problematic for other agencies?

Who would be the "other parties" potentially bidding on AML grant funds? Would this include Federal agencies such as BLM, USFS, NPS, etc? If so, in many cases, those agencies already rely on the States to conduct their reclamation work and also determine priorities based on State input or guidance.

What do the State project managers and inspectors do if a State does not win a competitive bid for AML funds? How does a State gear up if it receives funding for more projects than it can handle with present staffing? Each State and tribe has different grant cycles. Unless all are brought into one uniform cycle, how will everyone compete for the same dollars? In this regard, how can the competitive allocation process and the use of the Advisory Council be more efficient and simple than what we already have in place?

How long will OSM fund a State's/tribe's administrative costs if it does not successfully compete for a construction grant, even though the State/tribe has eligible high-priority projects on AMLIS? How will OSM calculate administrative grant funding levels, especially since salaries and benefits for AML project managers and inspectors predominantly derive from construction funds? Would funding cover current staffing levels? If not, how will OSM determine the funding criteria for administrative program grants?

How do the States and tribes handle emergency projects under the legislative proposal? Must these projects undergo review by the Advisory Council? Will there be special, expedited procedures? If a State/tribe has to cut back on staff, how does it manage emergencies when they arise? If emergency programs do compete for AML funds, considerable time and effort could be spent preparing these projects for review by the Advisory Council rather than abating the immediate hazard. Again, how can we be assured that emergencies will be addressed expeditiously?

What ranking criteria will be used to determine the priority of submitted AML project grant requests? The number of people potentially affected? The current priority ranking on AMLIS? How would the Council determine whether a burning gob pile near a city presents a greater hazard than a surface mine near a highway or an underground mine beneath a residential area? Would the winning bid be the "most convincing" proposal? The one with the most signatures on a petition? The one with the most influential legislative delegation? Will AMLIS continue to serve as the primary mechanism for identifying sites and their priority status?

If the current AML funding formula is scrapped, what amount will be paid out to the noncertified AML States and tribes over the remainder of the program? What does OSM mean by the term “remaining funds” in its proposal? Is it only the AML fees yet to be collected? What happens to the historic share balances in the Fund, including those that were supposed to be re-directed to the Fund based on an equivalent amount of funding being paid to certified States and tribes each year? Would the “remaining funds” include the unappropriated/prior balance amounts that have not yet been paid out over the 7-year installment period? What about the amounts due and owing to certified States and tribes that were phased in during fiscal year 2009–2011?

Has anyone alleged or confirmed that the States/tribes are NOT already addressing the highest-priority sites for reclamation within the context of the current AML program structure under the 2006 Amendments? Where have the 2006 Amendments faltered in terms of high-priority sites being addressed as envisioned by the Congress? What would remain unchanged in the 2006 Amendments under OSM’s proposal?

*The Nature and Purpose of the Advisory Council*

Who would be on the AML Advisory Council and how could they collectively have better decisionmaking knowledge about hazardous AML sites than the State and tribal project managers and administrators who work with these sites on a daily basis?

What will be the criteria to serve on the Advisory Council? Will the Federal Advisory Committee Act (FACA) requirements apply to the formation and deliberations of the Council? How long does OSM envision it will take to establish the Council and when will it become operational?

Will the Advisory Council be providing recommendations to OSM or will OSM make all final decisions? Will these decisions be appealable? If so, to who? Does OSM envision needing to develop internal guidance for its own review process? If so, how long will it potentially take from Advisory Council review and recommendation to final OSM decision in order to complete the grant process so a State can begin a project?

What degree of detail will be required in order to review and approve competitive grant applications? Will the Council review each project? What type of time constraints will be placed on their review?

Will the Advisory Council consider partial grants for projects that may exceed the allocation for a single year? Would minimum program States be authorized to apply for a grant that would exceed \$3 million?

Will grant applications be based on an individual project or will the grant be based on a project year? How will cost overruns be handled?

*Planning for Abandoned Mine Lands Work*

One of the greatest benefits of reauthorization under the 2006 Amendments to SMCRA was the predictability of funding through the end of the AML program. Because State and tribes were provided with hypothetical funding levels from OSM (which to date have proven to be quite accurate), long-term project planning, along with the establishment of appropriate staffing levels and project assignments, could be made more accurately and efficiently. How can States/tribes plan for future projects given the uncertainty associated with having to annually bid for AML funds? NEPA compliance issues alone can take years of planning. One State recently asked its State Historic Preservation Office for initial consultation regarding project sites that may be reclaimed over the next 5 years. This process will also have significant impacts on those States that utilize multi-year construction contracts that are paid for with annual AML grants.

State and tribal AML projects are often planned 18 months to 2 years in advance of actually receiving construction funds, based on anticipated funding under the 2006 Amendments. During that time, States and tribes are performing environmental assessments, conducting archeology reviews, completing real estate work and doing NEPA analyses. There could be considerable effort and money wasted if a project does not get approved during the competitive allocation process.

At what point does a State or tribe seek approval from the advisory council? Considerable investigation must take place prior to developing most projects, whether they be acid mine drainage projects or health and safety projects. How much time should be spent in design prior to proceeding to the Council? How accurate must a cost estimate be prior to taking a project before the Council? The greater the accuracy, the greater the design time expended, possibly for a project that will be rejected.

State and tribes often seek and obtain valuable matching funds from watershed groups, which take considerable lead time to acquire. It will be difficult to commit to partners if we don't know what level of funding, if any, will be made available from OSM.

Several States have committed significant amounts of money to waterline projects across the coalfields. Local governmental entities have started designs and applied for additional funds from other agencies to match AML funds in order to make these projects a reality. Ending all AML funding for these projects (assuming they are not considered "high priority") could have significant consequences for local communities. Our understanding is that these projects were excluded under the 2006 Amendments from the priority scheme contained in section 403(a) of SMCRA.

Does OSM's proposal allow acid mine drainage (AMD) projects to be undertaken? Can these be designated as high priority? (Our understanding is that those AMD projects undertaken pursuant to the "AMD set-aside program" are not subject to the priority scheme under section 403(a) and that those AMD projects done "in conjunction with" a priority 1 or 2 project are considered "high priority".) How do States handle ongoing engineering, operating and maintenance costs for existing AMD treatment systems? As the administration works diligently to develop a new rule to protect streams nationwide, why would it advance a proposal to essentially halt the cleanup of streams funded by the AML program?

#### *Overarching Concerns*

Given the original design of SMCRA by its framers that AML funds will only be allocated to those States who agree to implement title V regulatory programs for active mining operations, to what extent can we expect that States will continue to implement and fund their title V programs if Title IV funding is drastically cut or eliminated under the proposal? Furthermore, since States and tribes will not know what level of AML program staffing to maintain from year to year under the proposal, who would desire to work for a program that is in a constant state of flux?

The SMCRA 2006 Amendments were the result of roughly 10 years of negotiations, discussions, and debates in the Congress. Since the legislative process to enact these new proposed changes could take years, why didn't OSM begin with the legislation and then follow up with an appropriate budget proposal? Why weren't the States/tribes or the NAAMLIP included in discussions that led to this legislative proposal?

As OSM develops the legislative proposal for a competitive bidding process, the agency should consider the impacts on minimum programs and consider maintaining the minimum allocation of \$3 million for minimum program States.

What type of State AML plan amendments does OSM foresee as a result of this new process?

#### *Proposed Elimination of Funding for Abandoned Mine Lands Emergencies*

While amendments to title IV of SMCRA in 2006 (Public Law 109-432) adjusted several provisions of the Act, no changes were made to OSM's emergency powers in section 410. Quite to the contrary, section 402(g)(1)(D)(2) states that the Secretary shall ensure "strict compliance" with regard to the States' and tribes' use of nonemergency grant funds for the priorities listed in section 403(a), none of which include emergencies. The funding for the emergency program comes from the Secretary's discretionary share, pursuant to section 402(g)(3) of the act. This share currently stands at \$416 million. OSM's elimination of funding for the emergency program will result in the shift of approximately \$20 million annually that will have to be absorbed by the States. This is money that cannot be spent on high-priority AML work (as required by SMCRA) and will require the realignment of State AML program operations in terms of personnel, project design and development, and construction capabilities. In most cases, depending on the nature and extent of an emergency project, it could preclude a State's ability to undertake any other AML work during the grant year (and even following years), especially for minimum program States. How does OSM envision States and tribes being able to meet their statutory responsibility to address high-priority AML sites in light of the elimination of Federal funding for AML emergencies? How does OSM reconcile this proposal with the intentions of the Congress expressed in the 2006 amendments to move more money out of the AML Fund sooner to address the backlog of AML problems that continue to linger?

#### *Proposed Elimination of Funding to Certified States and Tribes*

From what we can ascertain, OSM proposes to eliminate all payments to certified States and tribes—in lieu of funds; prior balance replacement funds; and monies that are due and owing in fiscal year 2018 and 2019 from the phase-in during fiscal years 2008 and 2009. Is this accurate? OSM says nothing of what the impact will



be on noncertified States as a result of eliminating these payments to certified States and tribes—especially the equivalent payments that would otherwise be made to the historic production share that directly relate to “in lieu of” payments to certified States and tribes under section 411(h)(4). Previously, OSM has stated that “the amounts that would have been allocated to certified States and tribes under section 402(g)(1) of SMCRA will be transferred to the historical production allocation on an annual basis to the extent that those States and tribes receive in lieu payments from the Treasury (through the Secretary of the Interior) under section 402(i) and 411(h)(2) of SMCRA.” By OSM’s own admission in its fiscal year 2013 proposed budget, this will amount to \$1.2 billion over 10 years. If the in lieu payments are not made (as proposed), how can the transfer to historic production occur? The result, of course, would be a drastic impact on the historic production allocation otherwise available to uncertified States. Will OSM address this matter in its proposed legislation? If so, how?

Has OSM considered the fiscal and programmatic impacts that could result if the certified States and tribes, who no longer receive AML monies, choose to return their title V regulatory programs to OSM (especially given the severe reductions being proposed for fiscal year 2013 in title V grants)?

Finally, how do the cuts in the title IV program line up with the administration’s other economic, fiscal and environmental objectives as articulated in the deficit reduction and jobs bills that have been considered by the Congress? These objectives include environmental stewardship, cleaning up abandoned mines (coal and noncoal) nationwide, creating green jobs, pumping dollars into local communities, putting money to work on the ground in an expeditious manner, sustainable development, infrastructure improvements, alternative energy projects, protecting public health and safety, and improving the environment. It seems to us that there is a serious disconnect here and we remain mystified as to how these laudable objectives and OSM’s budget proposal can be reconciled.

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RESOLUTION

INTERSTATE MINING COMPACT COMMISSION

*BE IT KNOWN THAT:*

- WHEREAS, Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Abandoned Mine Land (AML) reclamation program; and
- WHEREAS, the Interstate Mining Compact Commission (IMCC) is a multi-state organization representing the natural resource and environmental protection interests of its 24 member States, including the elimination of health and safety hazards and the reclamation of land and water resources adversely affected by past mining and left in an abandoned or inadequately restored condition; and
- WHEREAS, pursuant to the cooperative federalism approach contained in SMCRA, several IMCC member States administer AML programs approved, funded and overseen by the Office of Surface Mining Reclamation and Enforcement (OSM) within the U.S. Department of the Interior; and
- WHEREAS, SMCRA, Title IV establishes a reclamation fee on each ton of coal mined in the United States to pay for abandoned mine land reclamation; and
- WHEREAS, SMCRA, Title IV mandates that 50 percent of the reclamation fees collected annually are designated as State share funds to be returned to the States from which coal was mined to pay for reclamation projects pursuant to programs administered by the States; and
- WHEREAS, SMCRA, Title IV also mandates that a minimum level of funding should be provided to ensure effective State program implementation; and
- WHEREAS, Congress enacted amendments to SMCRA in 2006 to address, among other things, continued collection of AML fees and funding for State programs to address existing and future AML reclamation; and
- WHEREAS, the 2006 Amendments established new, strict criteria that ensure States expend funds on high-priority AML sites; and
- WHEREAS, the proposed 2012 budget for the Office of Surface Mining Reclamation and Enforcement within the U.S. Department of the Interior would disregard the State-Federal partnership established under SMCRA and renege on the funding formula under the 2006 Amendments by, among other things, eliminating mandatory funding for States who have certified the completion of their coal reclamation work and adjusting the mechanism by which noncertified States receive their mandatory funding through a competitive bidding process; and

WHEREAS, if statutory changes are approved by Congress as suggested by the proposed fiscal year 2012 budget for OSM, reclamation of abandoned mine lands within certified States would halt; reclamation of abandoned mine lands in all States would be jeopardized; employment of contractors, suppliers, technicians and others currently engaged in the reclamation of abandoned mine lands would be endangered; the cleanup of polluted lands and waters across the United States would be threatened by failing to fund reclamation of abandoned mine lands; minimum program State funding would be usurped; the AML water supply replacement program would be terminated, leaving coalfield citizens without potable water; and the intent of Congress as contained in the 2006 Amendments to SMCRA would be undermined

*NOW THEREFORE BE IT RESOLVED:*

That the Interstate Mining Compact Commission opposes the legislative proposal terminating funding for certified States and altering the receipt of mandatory AML funding for noncertified States contained in the fiscal year 2012 budget proposal for the Office of Surface Mining Reclamation and Enforcement and instead supports the AML funding mechanism contained in current law.

Issued this 10th day of March, 2011

ATTEST:

GREGORY E. CONRAD,  
*Executive Director.*

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PREPARED STATEMENT OF THE IZAAK WALTON LEAGUE OF AMERICA

The Izaak Walton League of America appreciates the opportunity to submit testimony for the record concerning appropriations for fiscal year 2013 for various agencies and programs under the jurisdiction of the subcommittee. The League is a national, nonprofit organization with more than 39,000 members and 250 local chapters nationwide. Our members are committed to advancing common sense policies that safeguard wildlife and habitat, support community-based conservation, and address pressing environmental issues. The following pertains to programs administered by the Departments of Agriculture and the Interior, Fish and Wildlife Service, U.S. Geological Survey, and Environmental Protection Agency.

*Keep Fiscal Year 2013 Bill Free of Extraneous Policy Provisions*

This year, the American people will be celebrating the 40th anniversary of passage of the Clean Water Act. With this in mind, the League strongly urges the subcommittee not to accept any provision in its fiscal year 2013 bill barring the Environmental Protection Agency (EPA) from finalizing and implementing Clean Water Act guidance or proceeding with the formal rulemaking process to revise its clean water regulations. Our organization and other hunting, angling and conservation groups across the country actively opposed a similar provision advanced by the U.S. House in its fiscal year 2012 bill.

Since proposing draft guidance last spring, EPA has conducted a nearly unprecedented public engagement process for agency guidance. During this process, EPA and the Army Corps of Engineers held a 90-day public comment period. The agencies received more than 230,000 comments and have publicly stated that 90 percent of individual comments supported the proposal. In mid-February 2012, the Corps and EPA submitted revised guidance to the Office of Management and Budget (OMB) for another round of inter-agency review. This process also allows nongovernmental organizations to meet with OMB to discuss this policy.

Guidance proposed by EPA and the Corps is based on sound science and clearly complies with the Supreme Court decisions in SWANCC and Rapanos. Allowing EPA to proceed with guidance will partially restore protections for streams flowing to public drinking water supplies for 117 million Americans. It will also begin—but only begin—to restore protections for some wetlands. Healthy wetlands provide essential habitat for waterfowl, fish, and other wildlife, offer cost-effective flood protection, and improve water quality. They also support hunting, angling, and wildlife watching, which together inject \$122 billion annually into our economy. Finalizing the guidance will also provide more clarity and certainty about Clean Water Act implementation to landowners, developers, agency personnel, and State and local governments.

*Departments of Agriculture and the Interior, Land and Water Conservation Fund*

The League supports providing \$450 million for the LWCF in fiscal year 2013 as requested by the administration. It is important to begin to reinvest in strategic land acquisition to protect critical habitat, secure valuable in-holdings, and expand recreational access to existing Federal public lands. Dramatically reducing funding for LWCF will not provide meaningful savings to taxpayers because it is capitalized with revenue from offshore oil and gas drilling. As importantly, diverting resources from LWCF to offset other expenditures from the general treasury directly undermines the fundamental premise on which LWCF is based. That common sense premise is a portion of the revenue generated by natural resource extraction should be invested in conserving other natural resources at the national, regional, and State levels.

In addition to supporting the overall request, the League backs proposals by the Bureau of Land Management (BLM) and USDA Forest Service to allocate \$2.5 million and \$5 million, respectively, to projects which expand recreational access to existing public lands through easements or acquisition from willing sellers. The League and many other national hunting, angling, and conservation groups support legislation in the Congress that would achieve a similar purpose by annually allocating 1.5 percent of LWCF appropriations to expand recreational access.

*Fish and Wildlife Service, National Wildlife Refuge System Operations and Maintenance*

The League joins other members of the Cooperative Alliance for Refuge Enhancement (CARE), a diverse coalition of 22 wildlife, sporting, conservation, and scientific organizations representing approximately 15 million of members and supporters, in supporting the \$495 million requested for operations and maintenance of the National Wildlife Refuge system.

The League and CARE groups appreciate the importance of fiscal discipline and making strategic spending decisions. CARE annually develops an estimate of the operations and maintenance budget that is necessary to effectively provide visitor services and law enforcement and conserve and manage fish, wildlife, and habitat across the refuge system. CARE estimates operations and maintenance needs total \$900 million annually. Although our long-term goal is to make steady progress toward a budget which more accurately reflects demands on the ground, the fiscal year 2013 request balances fiscal responsibility with pressing resource conservation, visitor services, and law enforcement needs.

*Fish and Wildlife Service, State and Tribal Wildlife Grants*

As a member of the Teaming with Wildlife Coalition, the League urges the subcommittee to provide at least \$61 million in fiscal year 2013 for State and Tribal Wildlife Grants. This amount equals the administration's request and the appropriation for the current fiscal year. State Wildlife Grants support proactive conservation projects aimed at preventing wildlife from becoming endangered. Experience shows that efforts to restore imperiled wildlife can be particularly contentious and costly when action is taken only after species are formally listed as threatened or endangered pursuant to the Endangered Species Act. State Wildlife Grants augment State and community-based efforts to safeguard habitat and wildlife before either reaches the tipping point. The Federal investment leverages significant funding from private, State, and local sources.

*U.S. Geological Survey, Asian Carp Research and Control*

Asian carp pose a serious and potentially devastating threat to the long-term health of the Great Lakes. Asian carp have been steadily migrating north along the Mississippi River and could reach the Great Lakes through a system of canals that artificially connect the Mississippi River and Great Lakes basins. Experts warn invasive carp could devastate the \$7 billion commercial and recreational fishery in the Great Lakes. In fiscal year 2013, the U.S. Geological Survey (USGS) requests a \$3 million increase to accelerate research designed to detect, limit, and control carp in the Upper Mississippi River and Great Lakes. In the Upper Mississippi region, the research would focus on improving methods to detect Asian carp populations at low levels and identifying habitats most vulnerable to colonization. In the Great Lakes, research would be directed toward developing methods for oral delivery of fish toxicants, identifying and developing chemical attractants to aid in targeted removal of carp, and testing seismic technology as a means of restricting the passage of carp through locks and other navigation infrastructure.

The League believes one of the most effective ways to safeguard the Great Lakes from aquatic invasive species is to restore the natural hydrologic separation between

the Great Lakes and Mississippi River basins. In the mean time, we support this request, which represents a prudent near-term investment in invasive carp control.

*U.S. Geological Survey/Environmental Protection Agency, Hydraulic Fracturing Research and Analysis*

The League supports requests by the USGS and Environmental Protection Agency (EPA) for funding to continue and augment research concerning the potential effects of high-volume hydraulic fracturing on water and air quality, surface and groundwater resources, habitat, and fish and wildlife. The League supports responsible development of domestic energy resources, including natural gas, as well as greater emphasis on renewable sources and energy efficiency in order to improve energy independence and security. At the same time, the accelerated use of hydraulic fracturing in the Marcellus region, in particular, continues to outpace our knowledge about potential negative impacts on a wide range of natural resources.

The proposed budget would augment research across a range of issues. For example, the USGS requests approximately \$18.6 million for fracturing-related research. With this funding, USGS would prioritize research on water quality and supply, air quality, characterizing gas resources and the related geologic formations, movement of methane gas during the drilling process, and the impacts of fracturing on landscapes, habitat, and other natural resources. EPA is requesting approximately \$14 million in fiscal year 2013 for research in this area. This will support an ongoing EPA study assessing the impacts of hydraulic fracturing on water resources and other applied research in cooperation with USGS and the Department of Energy.

*Environmental Protection Agency, Great Lakes Restoration Initiative*

The League supports providing \$300 million as requested for the Great Lakes Restoration Initiative. The Great Lakes provide drinking water to 35 million people and support jobs and recreational opportunities for millions more. However, the health of the Great Lakes is seriously threatened by untreated sewage, toxic pollution, invasive species, and habitat loss. The eight States that border the Lakes and many nongovernmental organizations have invested significant resources to safeguard these national treasures. Sustained Federal investment at a significant level is also needed or the problems will only get worse and cost even more to fix.

Cleaning up the Great Lakes will provide many benefits, including economic development in the region. According to the Brookings Institution, Great Lakes restoration efforts produce \$2 in economic return for every \$1 invested. Restoration projects create jobs for engineers, landscape architects, and construction workers and improve water quality, support outdoor recreation, and reestablish healthy fish and wildlife habitat. These results lay the foundation for long-term prosperity in the region.

*Environmental Protection Agency, Nonpoint Source Management Program (Clean Water Act Section 319)*

The League is concerned that the Congress and EPA have reduced funding for section 319, the Non-point Source Management Program. These reductions are counterproductive as EPA and many States report that nonpoint source pollution is the leading cause of water quality problems, including harmful effects on drinking water supplies, recreation, fisheries and wildlife. Based on the pressing nature of the problem, it makes sense to invest resources that help States and local governments more aggressively tackle nonpoint source pollution. The League urges the subcommittee to provide at least the amount requested by EPA for section 319.

*Environmental Protection Agency, Chesapeake Bay Program*

The League supports the administration's request for approximately \$72.6 million in fiscal year 2013 for the Chesapeake Bay Program. The Chesapeake Bay is the largest estuary in the United States and one of the largest in the world. More than 16 million people live within the Bay watershed. The Bay is a critical economic, environmental, and recreational resource for these residents and the Nation as a whole. However, the productivity and health of this nationally significant resource remain seriously impaired by nutrient pollution from multiple sources throughout the watershed.

The EPA and States have launched a significant and rigorous effort to cut pollution and improve water quality. Few would argue that implementing the total maximum daily load (TMDL) will not be challenging or not require significant investment to reduce point and non-point source pollution. However, EPA is requesting additional funds, in part, to support States, local governments, and other partners as they begin implementing the TMDL. The League believes it is essential to provide technical and financial assistance to achieve results on-the-ground and lay the foundation for sustained pollution reductions over the long-term.

The Izaak Walton League appreciates the opportunity to testify about these important issues.

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PREPARED STATEMENT OF THE JAMESTOWN S'KLALLAM TRIBE, WASHINGTON STATE

On behalf of the Jamestown S'Klallam Tribe, we are pleased to submit this written testimony on our funding priorities and requests for the fiscal year 2013 Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) budgets. While we recognize that the Congress faces unusually difficult funding decisions this year, funding for tribal programs and services must be a priority in the Federal budget if the United States is to fulfill its trust obligation and live up to the promises made to American Indian/Alaska Native (AI/AN) tribal governments.

Congressional support of our proposed funding initiatives will promote efficiency and accountability, strengthen reservation and surrounding local economies, and affirm tribal sovereignty and Self-Governance. We have long appreciated this subcommittee's support of our funding requests and are pleased to submit the following recommendations and requests:

*Tribal-Specific Appropriation Priorities*

- \$495,000 land purchase for Tamanowas Rock Sanctuary Project.
- \$200,000 increase to BIA tribal base budget for fish & wildlife management.

*Local/Regional Requests and Recommendations*

The Jamestown S'Klallam Tribe is a direct beneficiary of the collective tribal efforts and continues to support the requests and recommendations of the Affiliated Tribes of Northwest Indians, Northwest Portland Area Indian Health Board, and the Northwest Indian Fisheries Commission.

*National Requests and Recommendations*

*Bureau of Indian Affairs Requests*

- Provide \$89 million increase for tribal priority allocations.
- Provide \$8.8 million increase for BIA contract support cost (CSC).
- Provide \$13.7 million increase for fixed costs/pay costs.
- Restoration and increase funding for Indian Loan Guarantee Program.
- Establishment and funding for a Surety Bonding Guarantee Program.

*Indian Health Service Requests*

- Hold Harmless Indian Health Programs.
- Provide \$99.4 million increase more than President's fiscal year 2013 budget to fully fund contract support costs.
- Provide \$304 million increase to fund mandatory costs for current services.
- Provide \$45 million increase for the Indian Health Care Improvement Fund.

The leadership of the Jamestown S'Klallam Tribe remains actively involved in both the National Congress of American Indians (NCAI) and the National Indian Health Board (NIHB) and we are extremely supportive of their requests.

*Tribal-Specific Appropriation Justification*

*\$495,000 Land Purchase for Tamanowas Rock Sanctuary Project*

The purpose of the project is to preserve tribal cultural and ceremonial access to an important archaeological site of the S'Klallam American Indian people. Tamanowas Rock, located in Eastern Jefferson County on the Olympic Peninsula of Washington State, is of great cultural and spiritual significance to the tribes in the region, and also holds special significance for the local non-Indian community. As a geological formation, the estimated age of the Rock is 43 million years. More importantly, the oral history associated with the Rock among the local tribes includes the era of the mastodons (extinct for 8,000 years), when it was used as a perch by tribal hunters and a story of a great flood (assumed to be a tsunami from around 3,000 years ago) when people tied themselves to the Rock to avoid being swept away.

In 1976, the Rock was listed in the Washington Heritage Register as having significant archaeological interest. The tribes, Washington State Parks, and local community have been working for more than 13 years to try to protect the Rock from development. In February 2005, the Jamestown S'Klallam Tribe, acting on behalf of all the S'Klallam Tribes, obtained loans to purchase a 20-acre parcel and a group of platted properties totaling 66.32 acres (if dedicated roads are vacated, the acreage is closer to 100 acres for the platted properties). This property was in imminent threat of development in the vicinity of the Rock. We are taking the lead to seek

funds to purchase the land and the remaining 80 acres directly surrounding Tamanawas Rock, all of which would be protected in perpetuity.

*\$200,000 Increase to Bureau of Indian Affairs Tribal Base Budget for Fish and Wildlife Management*

Jamestown S'Klallam Tribe is one of four tribes that signed the Point No Point Treaty with the U.S. Government in 1855. The U.S. Government formally recognized Jamestown in 1981. By then, the BIA was contracting with tribes to provide fisheries management services. The Point No Point Treaty Council (PNPTC) was serving as the fisheries management agency for the other Klallam and Skokomish Tribes. Rather than redistribute the funding pie, Jamestown received a smaller portion for fisheries management in relation to the other three tribes. Even with Self-Governance, the BIA continues to distribute contracted funds based on funding history, thus Jamestown receives a significantly smaller portion of the PNPTC base funding than the other three tribes. The Jamestown S'Klallam Tribe is nonetheless required to meet the basic fisheries and wildlife management responsibilities of *United States v. Washington* including planning, negotiation, regulation, technical expertise and enforcement.

In addition to meeting our own responsibilities under *United States v. Washington*, our tribal staff regularly perform the essential fisheries management duties that other governmental jurisdictions are charged with but either do not administer or administer poorly. As a result, Treaty tribes are assuming responsibility for observing, documenting and urging the agencies with regulatory responsibilities to act in order to preserve critical fish habitat and protect dwindling fish species from further decline. Development pressures along streams and rivers have increased the need for local government monitoring and enforcement of shoreline regulations; however, local and State funding shortfalls have contributed to the decline in biologists and environmental enforcement officers. Our immediate concerns are that as State and local governments cut back on their capacity to carry out and enforce these obligations, our Treaty rights are further imperiled. The \$200,000 increase to our fiscal year 2012 Self-Governance base is needed to implement these essential treaty fish and wildlife management services.

*National Requests and Priorities*

*Bureau of Indian Affairs Requests*

The President has committed to support and advance Tribal Self-Determination and Self-Governance for the Nation's 567 federally recognized tribes. Consistent with that commitment, the fiscal year 2012 budget should include the following critical increases:

*Tribal Priority Allocation General Increase—Provide \$89 million (10-percent increase more than fiscal year 2012 enacted).*—TPA is one of the most important funding areas for tribal governments. Tribes use these funds to administer social service programs for our tribal communities including, critical services such as law enforcement, education, transportation, natural resources and economic development. This funding has steadily eroded due to inflation and population growth. We urge you to adequately fund TPA to enhance the health and well-being of tribal reservations and the surrounding non-Native communities.

*Contract Support Costs—Provide \$8.8 Million Increase as Included in the President's Fiscal Year 2013 Budget Request for BIA to Fully Fund Contract Support Cost.*—The Indian Self-Determination and Education Assistance Act of 1975, (Public Law 93-638) allowed Indian tribes to manage Federal trust programs for the benefit of their citizens that would otherwise be administered by the U.S. Government. Under Self-Determination contracts or Self-Governance compacts, tribes administer a vast array of governmental services, including healthcare, law enforcement services, education, housing, land and natural resource management, as well as many other vital social service programs. The greatest impediment to the successful administration of these trust programs is the failure on the part of the U.S. Government to fully fund contract support costs.

*Fixed Costs/Pay Costs—Provide \$13.7 Million Increase.*—Most Federal agencies receive adjustments to their fixed cost rates each year to cover inflationary costs associated with fringe benefits and pay costs. Tribes have never received similar adjustments to account for these costs.

*Indian Loan Guarantee Program—Restoration and Increase Funding.*—The Bureau of Indian Affairs (BIA) loan guarantee program is vital to tribes because it creates jobs, provides new sources of revenue to tribal communities, and critical support in advancing economic development in Indian Country. Part of the rationale to cut back this program is that the program could be duplicating

other services, such as SBA loan programs. This assumption is wrong and will undermine the tribes economic development efforts.

*Surety Bonding—Establishment and funding of a Surety Bonding Program.*—There has long been a need for a Surety Bonding program for Indian Country. The traditional bonding industry—uncomfortable and unfamiliar with sovereign tribes—requires excessive waivers of sovereign immunity to issue surety bonds for our companies requiring these bonds. This industry impediment clearly suppresses our business opportunities.

*Indian Health Service Requests*

Our tribe strongly encourages the following:

*Hold Harmless.*—Hold Indian health programs harmless and protect prior year and proposed fiscal year 2012 and fiscal year 2013 increases from budget roll-backs, freezes, and rescissions. We are encouraged by the increased investments in Indian health we are equally concerned that efforts by the Congress and the administration to reduce the overall size of the Federal budget may jeopardize the recent progress.

*Contract Support Costs—Provide \$145 Million for IHS to Fully Fund CSC, Including Direct CSC.*—Tribal healthcare systems have proven successful in providing quality, culturally appropriate services to their citizens. However, the success of the program will not be realized, without adequate CSC funding to support these efforts.

*Fund Mandatory Costs—\$400 million.*—Mandatory costs include adjustments for inflation, pay costs, staffing for new facilities and population increases. Failing to fund these mandatory requirements forces the tribes to cut vital healthcare services.

*Fund the Indian Health Care Improvement Fund—\$45 million.*—The purpose of the Indian Health Care Improvement Fund is to ensure the equitable provision of healthcare services to Indian people. The fiscal year 2010 \$45 million appropriation brought all operating units within the IHS to a 45-percent Level of Need Funded (LNF). We are requesting \$45 million in 2013 to further decrease the disparity.

In closing, thank you for this opportunity to provide this written testimony.

PREPARED STATEMENT OF THE KERN COUNTY VALLEY FLOOR HABITAT  
CONSERVATION PLAN INDUSTRY AND GOVERNMENT COALITION

Mr. Chairman and members of the subcommittee: On behalf of the California Industry and Government Coalition for the Kern County Valley Floor Habitat Conservation Plan (KCVFHCP), we are pleased to submit this statement for the record in support of our funding request for the Interior, Environment, and Related Agencies appropriations bill for fiscal year 2013.

First, the Coalition supports the President's budget request for the Department of the Interior's Cooperative Endangered Species Conservation Fund, especially funding for HCP land acquisition.

Second, the Coalition urges the subcommittee to appropriate additional funding for land acquisition above the funding requested by the President. The additional funding requested by the Coalition anticipates that \$1 million will be needed by the Kern County program to be used for purposes of acquiring and maintaining habitat preserves.

The Coalition's request is supported by the timely need to complete and implement the KCVFHCP. The County's local oil and gas production industry and Water Districts have contributed more than \$573,500 to the development of this program. In 1997, the U.S. Fish and Wildlife Service allocated \$500,000 of Federal Endangered Species Act section 6 funds to assist in program implementation (land acquisition and endowment). The California State Government has authorized \$1 million to augment the Federal funds. In order to secure the \$3 million total necessary to assist in the implementation of the plan, we will require \$1 million for fiscal year 2013 and \$500,000 for fiscal year 2014.

The Coalition requests that the subcommittee appropriate the maximum possible amount for this program, so that the funding pool can accommodate our request and need. We are confident that the plan's merits and need support this request.

Kern County's program is unique from other regions in the Nation in that it contains some of the highest concentrations of plant and animal species protected by the Endangered Species Act (ESA) within the continental United States. The region is occupied by 11 wildlife species and 14 plant species covered as threatened or endangered under the program. The potential for conflict with the Federal ESA is

great in Kern County because of the extensive oil and gas production activities, water conveyance and management efforts and other economic pursuits that are occurring. Since Kern County is the top oil producing county in the Nation and experiencing continued growth, potential conflicts with the ESA and their resolution through a proactive conservation program has significant national importance.

In recognition of the conflicts posed to economic growth by Federal and State endangered species laws, a joint agency Memorandum of Understanding was entered into by the U.S. Fish and Wildlife Service, Bureau of Land Management, California Energy Commission, California Division of Oil and Gas and Geothermal Resources, California Department of Fish and Game and Kern County. The participating agencies agreed to develop a unified conservation strategy with the goal of providing a streamlined and consistent process of complying with State and Federal endangered species laws, yet at the same time allow important industry activities such as oil and gas, water conveyance and other economic pursuits to continue.

Preparation of the KCVFHCP began in 1989 and involved a number of Federal, State and local government agencies, as well as the oil and gas industry, water interests, utilities, and environmental groups.

Kern County's Valley Floor Habitat Conservation Plan is one of the largest and most diverse endangered species conservation programs under development in the Nation encompassing more than 3,110 square miles. The program represents a departure from traditional endangered species conservation programs which utilize prohibitory controls to assure conservation of species habitat. Instead, it will utilize an incentive-based system of selling or trading habitat credits in an open market. This innovative approach, for the first time, provides landowners with real incentives and more importantly, the ability to choose how best to manage their own private property. The KCVFHCP is in the final stages of preparation. The HCP document is completed. An environmental impact statement is being prepared for public review in the near future. Final approval will occur in 2013.

Numerous agencies, in concert with the State of California and local government entities, as well as the private oil and gas industry have contributed funding, time and other resources toward developing the KCVFHCP. This program will be completed in 2013, provided there is the necessary Federal funding for the acquisition of habitat to mitigate for oil and gas operations and development. Additional funding is critical to completing the HCP. This is one of the final steps necessary to implement the conservation strategy. Because of the extensive private, local and State government financial support that went into the development of this program, Federal participation in program implementation will demonstrate that the burden of ESA compliance is not being placed exclusively on private property owners. Program funding will also contribute to eventual species recovery.

#### PROGRAM FUNDING NEEDS

In order for the KCVFHCP to be implemented, the program requires funding in the amount of \$1.5 million (augments the \$1.5 million in State and Federal funding received in 1997) that could be funded in increments over the first 2 years of the program. The purpose of this funding is described as follows:

##### *Oil Development Issue*

A mitigation strategy has been devised that is intended to acknowledge existing oil field activities within Kern County. The strategy proposes to acquire 3,000 acres of endangered species habitat to mitigate for species loss resulting from oil field development outside of established oil field production areas, but within proximity of those areas. This is to allow for reasonable expansion of oil field activities over the life of the HCP program. The program strategy allocates \$3 million for acquisition and perpetual maintenance of species reserve areas. With this type of strategy, oil field expansion activities would be provided for in the program. This strategy would be of great benefit to the small independent oil and gas companies within the program area.

##### *Urban Development/County Infrastructure Issue*

The conservation program includes an Urban Development/County Infrastructure mitigation strategy that mitigates for species habitat loss through the use of an incentive-based system of selling or trading habitat credits in an open market. This innovative program will add market value to land that is needed by project proponents to comply with endangered species laws which, in turn, will encourage the owners of such properties to offer lands for the benefit of species conservation. Protected species of plants and animals will benefit from a program that promotes private property owners to conserve permanent habitat preserves consistent with the objectives of the ESA.



*Water District Activity Issue*

A Water District Strategy is included in the program to address Covered Species protection due to the construction of new facilities and the operation and maintenance of existing water management and conveyance facilities. The Covered Species will benefit from reduced and less intrusive operation and maintenance measures than have been conducted historically due to concerns for conflicts with endangered species laws.

*Federal Funding Support Will Augment Local Government and Private Industry Efforts To Comply With the Endangered Species Act*

The \$1.5 million required for the oil field strategy would help contribute to satisfying the program's endangered species conservation goals, while also providing for continued economic growth of Kern County's oil and other development activities. Protected species would benefit from a comprehensive long-term program that promotes the creation of permanent habitat preserves.

Numerous private businesses, in concert with the State of California and local government entities, are attempting to do their part, and we come to the appropriations process to request assistance in obtaining a fair Federal share of financial support for this important effort. This unique cooperative partnership involving State and local government, as well as private industry, has contributed substantial funds to date, to assist in the development of this program.

The California Industry and Government Coalition appreciates the subcommittee's consideration of this request for a fiscal year 2013 appropriation to support implementation of this significant program.

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 PREPARED STATEMENT OF THE KODIAK AREA NATIVE ASSOCIATION

My name is Andy Teuber and I am the President and CEO of the Kodiak Area Native Association (KANA) in Kodiak, Alaska. KANA is a 501(c)(3) nonprofit tribal organization formed in 1966 to provide health and social services for Alaska Natives of the Koniag region. KANA provides these services on behalf of the United States Government through contracts with the Indian Health Service (IHS) and with the Bureau of Indian Affairs (BIA). I am submitting this testimony on behalf of the Kodiak Area Native Association, which experienced contract support cost shortfalls but has been denied its day in court, due to no fault of its own. On behalf of this tribal organization, I request that the Committee include language which would deem its claims to have been timely filed so that it can finally have its day in court. The language would not guarantee any outcome on the claims, and would only assure that the tribal organization is permitted to bring them.

Indian tribes and tribal organizations are the only Federal contractors that do not receive full CSC. There is a clear obligation on the part of the Federal Government to fully fund CSC. But more importantly, lack of full funding for CSC has a very real and detrimental impact on our programs that are already substantially underfunded.

CSC is used to reimburse our fixed costs for items that we are required to have but are not otherwise covered by the IHS budget, either because another governmental department is responsible or because the IHS is not subject to that particular requirement. Examples include federally required annual audits and telecommunication systems. We cannot operate without these things, so when CSC reimbursements are underfunded we have to use other program funds to make up the shortfall, which means fewer providers that we can hire and fewer health services that we can provide to our patients.

We are very thankful for the increases in CSC that this Committee has been able to provide, beginning with fiscal year 2010, particularly the large increase that tribes and tribal organizations received last year thanks to the efforts of this subcommittee. Although these increases have gone a long way toward helping to diminish the CSC shortfall, a significant CSC shortfall remains.

The best projections available show that the CSC shortfall for fiscal year 2012 will be approximately \$60 million, and that the shortfall in fiscal year 2013 will be nearly \$99 million. Given these significant shortfalls, IHS's request for only a \$5 million increase in CSC for fiscal year 2013 is extremely disappointing. Our disappointment is particularly acute when we consider that the BIA has requested full CSC for its programs.

The inadequate IHS request could return us to a situation similar to the one we endured from 2002 to 2009, when there were virtually no increases for IHS CSC appropriations and the CSC shortfall increased by more than \$130 million. During

that period, as our fixed costs increased every year, all major tribal health programs in Alaska were forced to lay off staff due to lack of funds.

KANA respectfully requests that the Federal Government honor its legal obligations to tribes and tribal organizations and fully fund CSC reimbursements by providing \$571 million for IHS CSC reimbursements in fiscal year 2013.

I appreciate your consideration of our recommendation for additional CSC funding to improve the level, quality and accessibility of desperately needed health services for AI/ANs whose healthcare status continues to lag far behind other populations in Alaska and in this Nation.

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PREPARED STATEMENT OF THE LAC DU FLAMBEAU BAND OF LAKE SUPERIOR  
CHIPPEWA INDIANS

My name is Tom Maulson, I am President of the Lac du Flambeau Band of Lake Superior Chippewa Indians, located in Wisconsin. I am pleased to submit this testimony, which reflects the needs and concerns of our tribal members for the upcoming fiscal year 2013. I would especially like to thank the subcommittee for its leadership and commitment to tribes and the programs that are critical to our operations.

This subcommittee's support of tribal programs demonstrates the very best of the Congress and our Nation's leaders. Today, I am going to discuss the funding needs of several programs vital to tribes, including tribal EPA funding, the BIA Natural Resource Programs and Indian Health Service funding.

ENVIRONMENTAL PROTECTION AGENCY PROGRAMS

*Tribal General Assistance Program.*—The tribe strongly supports the proposed \$28 million increase for the Tribal General Assistance Program (Tribal GAP). The Tribal GAP program provides base environmental funding to assist tribes in the building of their environmental capacity to assess environmental conditions, utilize available data and build their environmental programs to meet their needs. According to the EPA's budget justification, this level of funding would increase the funding amounts available to eligible tribes by 40 percent, which is the first base increase these programs have received since 1999. This increased funding will help reduce staff turnover rates and enhance long-term sustainability of tribal environmental programs. This funding is critical for tribes in the Great Lakes as our region begins to examine resource extraction issues, in particular mining. While we understand the need for job creation, we believe any action must be done in a way that does not destroy our natural resources, which are the basic foundation of our way of life and economies today.

*Great Lakes National Program Office.*—We want to express our continuing support for the Great Lakes Restoration Initiative (GLRI) and in particular, the \$3 million tribal set-aside. As the subcommittee knows, the Great Lakes represent three-quarters of the world's supply of fresh water. But for us, the indigenous people of Wisconsin, the Great Lakes represent the life blood of our economies and our culture. The protection and preservation of the Great Lakes is necessary to the protection and preservation of the tribal communities that have made the Great Lakes their home since time immemorial.

The Tribal GLRI funding has allowed the Lac du Flambeau Tribal Natural Resource Program to conduct a comprehensive bird survey and establish an inventory of current and past wild rice beds. This data will be used to draft restoration plans. The tribe also purchased a Marsh Master. This all-terrain vehicle allows us to implement our Fire Management Plan on the 8,000-acre Powell Marsh, a critical Reservation wetland habitat area for wildlife and waterfowl, and to establish and restore other important wildlife areas.

*Clean Water Program.*—The Clean Water Program provides grants to tribes under section 106 of the Clean Water Act to protect water quality and aquatic ecosystems. The Lac du Flambeau Clean Water program monitors, maintains and improves water quality for the tremendous amount of surface and ground water within the exterior boundaries of our Reservation. According to the 2010 census, the Lac du Flambeau Reservation includes nearly one-half of all of the water area (56.34 square miles) within the Wisconsin Indian Reservations. The tribe's GIS Program indicates that there are 260 lakes covering 17,897 acres, 71 miles of streams, and 24,000 acres of wetlands within the Reservation. Surface waters cover nearly one-half of the Lac du Flambeau Reservation. Funding to maintain clean waters on our Reservation has already decreased below the minimum required to maintain our program. We ask the subcommittee to protect funding for this program that is so important to the health of our communities.

## BUREAU OF INDIAN AFFAIRS

While the tribe is disappointed that the BIA's proposed budget for fiscal year 2013 is essentially level funding for most programs, the tribe recognizes the difficult fiscal times the Nation is in and thus, the tribe is pleased that the BIA did not propose decreases to many of the BIA's programs. In particular, we are pleased that the BIA maintained funding for critical welfare and education programs. The tribe is concerned that the BIA has proposed an administrative streamlining initiative (including offering incentives for early retirements) to achieve cost savings. We are fearful that if these cost savings are not achieved that there will be a reduction across the board in program funding. Thus, we urge the subcommittee to be mindful of this and require the BIA to regularly report its progress in achieving this initiative's goals.

Today, we want to particularly focus on the funding needs for the BIA Education and Natural Resource Programs.

*Tribal Education Programs.*—Education is a top priority for the Lac du Flambeau Band. We believe that it is through investment in education that we will be able to restore stability to our Nation's economy. In particular, to continue the progress Indian Country has made in participation and control of education programs and schools, it is imperative that funding for tribal higher education programs be increased.

Thus, we support the budget's proposed small increases for the BIA scholarship and adult education program and for the BIA Special Higher Education Scholarships (SHEP) program. This funding supports Indian students working for higher education and advanced degrees. Tribal communities have made great strides in educating their youth. Those strides are evident in the fact that more Indian students are attending and graduating from colleges and other post-secondary institutions. However, tribal communities must continue to evolve with other communities. The national and global economy has changed—students must earn college and graduate degrees to remain competitive. After making progress in Indian education, Indian students cannot be allowed to fall behind again because of lack of access to higher education programs.

*Tribal Natural Resource Departments.*—Tribes are leaders in natural resource protection and BIA natural resource funding is essential to maintain our programs. Lac du Flambeau has a comprehensive Natural Resources Department and dedicated staff with considerable expertise in natural resource and land management. Our activities include raising fish for stocking, conservation law enforcement, collecting data on water and air quality, developing well head protection plans, wildlife habitat protection and enhancement, conducting wildlife surveys and administering timber stand improvement projects on our 86,000-acre reservation.

We would like to remind the Congress that, in addition to being important cultural and environmental resources for current and future generations, natural resources provide many tribes and surrounding communities with commercial and economic opportunities. Whether tribes use those resources to sell licenses for hunting or recreational fishing, or operate subsistence fisheries, these resources often provide much needed hunting and fishing resources for families and tribes. As you all know, each and every economic and subsistence opportunity today is invaluable, and should not be taken lightly. To ensure that these opportunities continue, these resources must be protected.

It is with this understanding of the importance of our natural resources, that the tribe strongly supports proposed increases for the Tribal Natural Management Development Programs, which would allow for a \$60,000 increase to the Lac du Flambeau Program alone. This increased funding is the first significant increase these programs have received in more than a decade. This funding will allow us to improve our efforts to conserve and enhance the natural resources that are the very foundation of our way of life.

*Conservation Law Enforcement Officers.*—One of the critical elements of our Natural Resource program is our Conservation Law Enforcement Officers. These officers are primarily responsible for enforcing hunting and fishing regulations related to the exercise of treaty rights, but they also have a much larger role in law enforcement. They are often the first to respond to emergency situations. These officers play an integral part in protecting our cultural and economic resources, as well as assisting with the most important role of protecting public safety.

Thus, we urge the subcommittee to support the BIA's proposed \$500,000 increase for Conservation Law Enforcement in the fiscal year 2013 budget. While this funding will be divided among tribes nationwide and not sufficient to meet the overall need, it does represent an acknowledgement of the importance of tribal conservation law enforcement officers to the Federal law enforcement family.

*Circle of Flight: Wetlands Waterfowl Program.*—We urge the subcommittee to support the \$800,000 for the BIA Circle of Flight Program. This program supports tribal efforts throughout the Great Lakes Region to restore and preserve wetlands and waterfowl habitat within tribal territories. This program also gives the Great Lakes Region Tribes, States, USFWS, USDA, Ducks Unlimited and other private sector groups an opportunity to work cooperatively in projects that provide wetland protection, flood control, clean water, and recreation in the Great Lakes Region. The subcommittee's strong support of this program for the last two decades has resulted in tremendous successes in restoring wetlands and waterfowl habitat throughout the Mississippi Flyway.

*Great Lakes Indian Fish and Wildlife Commission.*—Related to the tribe's natural resource needs, we would like to voice our continuing support for the Great Lakes Indian Fish and Wildlife Commission (GLIFWC). The tribe is a member of the Commission, which assists the tribe in protecting and implementing its treaty-guaranteed hunting, fishing and gathering rights. We urge the subcommittee to fully support the increased programmatic funding for GLIFWC. GLIFWC has played an invaluable role in providing science and sound management practices for our off-reservation resources. This role could not be filled by any other agency.

*Cooperative Landscape Conservation.*—The tribe strongly supports the \$1 million for the BIA's Cooperative Landscape Conservation initiative. This funding will allow tribal participation in activities intended to address climate change throughout the country, as well develop and implement adaption/mitigation projects. Only through collaborative initiatives will we address the challenges that climate change presents for all of us.

#### INDIAN HEALTH SERVICE

The tribe strongly supports the testimony of both the National Congress of American Indians and the National Indian Health Board regarding the Indian Health Service's fiscal year 2013 funding needs. We join with them in expressing great appreciation to this subcommittee for your efforts to increase the funding for tribal programs in the face of very difficult fiscal times. Nevertheless, the level of funding has not kept pace with the rising cost of healthcare or with the population growth of our communities. Thus, we urge this subcommittee to continue your efforts.

*Contract Health.*—We want to call particular attention to the need for contract healthcare funding, which is a need that is expressed to the subcommittee every year. This request is constant because contract healthcare funding is so important to the basic health and well-being of our communities, and is historically and continually tragically underfunded. Again we would like to express our appreciation to the subcommittee for providing increases to contract healthcare funding over the past couple of years. In this regard, we strongly support the \$20 million programmatic increase for contract healthcare services proposed for the fiscal year 2013 budget.

#### CONTRACT SUPPORT COSTS

We cannot commend the subcommittee enough for your efforts to fully fund Tribal Contract Support Costs. The last 2 years of increases have been unprecedented and vital to the continued success of the Indian self-determination policy. While we appreciate the BIA's \$8.9 million increase for Contract Support Costs, which the Agency reports should fully fund this account, we are disappointed in the Indian Health Service's request of only \$5 million. We understand that this will result in a \$100 million shortfall for fiscal year 2013. Under the Indian Self-Determination Act, many tribes have assumed responsibility for providing core services to their members. If these services were provided by the Federal Government, employees would receive pay cost increases mandated by Federal law, but the Congress and Interior have historically failed to fulfill their obligation to ensure that tribes have the same resources to carry out these functions.

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#### PREPARED STATEMENT OF THE LAND AND WATER CONSERVATION FUND COALITION

Mr. Chairman, Ranking Member Murkowski, and honorable members of the subcommittee: Thank you for the opportunity to present testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and related Agencies appropriations bill. My name is Kevin Boling, I am a resident of Coeur d'Alene, Idaho and owner of The Boling Company, a forestland investment company. I am pleased to be appearing today on behalf of the Land and Water Conservation Fund (LWCF) Coalition. The Coalition represents a broad array of groups and individuals across the country who value land conservation and out-

door recreation with members from ranging from business leaders to sportsmen to conservation organizations.

In a career spanning thirty years, I have had the great good fortune to combine a personal passion for the outdoors with a career in forest management, planning and investment. During the two decades that I managed Potlatch Corporation's logging and forestry operations, I became aware of the challenges for private landowners in the face of changing land-use patterns and development pressures. Beginning in 2002, I managed extensive timberland investments for Forest Capital Partners and, later, oversaw the successful closing of land and conservation easements sales valued at \$87 million. I worked on several transactions funded through the Land and Water Conservation Fund and experienced firsthand its importance in helping communities and landowners work together to maintain privately owned working forests while protecting public values.

I appreciate this opportunity to advocate for the Land and Water Conservation Fund (LWCF), America's premier Federal program to ensure that we all have access to the outdoors. Whether it is a local community park or playground, or the vast expanses of our Federal public lands, the Congress created the LWCF in 1964 to guarantee America's natural, historical and outdoor recreation heritage. In 1968, Congress had the wisdom to authorize an income stream of \$900 million annually for LWCF from offshore oil and gas leasing revenues—not taxpayers' dollars. With an average of more than \$6 billion coming in from offshore leasing royalties annually (and significantly more expected in future years), \$900 million for the LWCF account is a reasonable conservation offset to offshore energy development. It only makes sense as we draw down some natural resources, that we reinvest a portion of the proceeds to conserve other natural resources.

LWCF is a time-tested program with remarkable range, reaching all Americans. Each of us has likely visited a local or State park, trail or fishing access site that has benefitted from it. In total, more than 40,000 LWCF State assistance grants have added value to every State and 98 percent of the counties across the country. Each year, millions of Americans as well as international tourists visit our national parks and forests, hunt, fish or bird watch at our national wildlife refuges, or hike along our national trails. Yet, few are aware of the added protection that the LWCF program provides to our public lands. From Gettysburg to Yosemite, and countless places in between, LWCF funding has protected our natural, cultural, historical and recreation legacy, preserving our uniquely American landscapes, stories and traditions.

Continued strategic LWCF investments in inholdings and conservation easements protects the asset that is our public lands, preventing incompatible development, creating management efficiencies, and enhancing access to outdoor recreation opportunities. During my tenure at Forest Capital, with the help of a conservation partner, we worked on the conveyance of 6,600 acres of Forest Capital timber holdings to the Siskiyou National Monument south of Medford, Oregon. This represented the best possible outcome to meet the management needs of the public agency, the financial considerations of Forest Capital, and the interests of the local community. From the vantage point of the private landowner, having a reasonable expectation that LWCF funding would be made available for the purchase was critical in our decision to invest time and manpower towards this conservation outcome at the Siskiyou.

Increasingly, LWCF funding is playing an important role in landscape-scale protection. This doesn't involve extensive Federal purchases of land. Rather, open space, clean water, and wildlife habitat can often be preserved by partnering with private landowners to sustain working landscapes and keep land on the tax rolls. Conservation easements purchases allow ranchers and farmers to remain responsible land stewards, as they have for generations. Today, LWCF funding is needed to protect working lands from the Everglades Headwaters to the Dakota Grasslands to the Rocky Mountain Front. These projects—stunning in scale and impact to local communities and traditional landscapes—are relatively small and strategic in terms of Federal investment.

In my home State of Idaho, LWCF funding has contributed substantially to the conservation of working farms and ranches along the South Fork of the Snake River. Over the last decade and a half, a unique partnership of landowners, local communities, conservation partners, and Federal agencies has resulted in the permanent protection of what the U.S. Fish and Wildlife Service has dubbed one of our country's most sensitive and unique natural areas. Today, this continuous corridor of conservation easement-protected lands is keeping the ranching traditional alive. With 350 recreational visitor days per year along the South Fork Snake, it is also providing a major economic driver in East Idaho.

The Forest Legacy Program, funded under LWCF since 2004, has partnered with States and private landowners to protect more than 2 million acres of working forests in 42 States and the Commonwealth of Puerto Rico. Even during tough economic times, with presumably fewer private buyers out there, the reality is that these properties are still worth more to a second-home or subdivision developer than today's forest investor is willing or able to invest in them on a long-term basis. Through the purchase of development rights today, the timberland owner is no longer held hostage to future development considerations. They can focus on the full measure of long-term forest management opportunities and protect conservation values, while continuing to pay property taxes, produce logs for local mills and, importantly, preserve private sector jobs for rural communities.

One such example is the McArthur Lake Corridor in northern Idaho. Several years ago, while a manager at Forest Capital, I oversaw the conveyance of development rights for 3,943 acres utilizing Forest Legacy funding. An important wildlife travel corridor between the Bitterroot and Selkirk ranges, this ownership was already surrounded by considerable rural residential development, so preventing further development was critical. This year, the State of Idaho has requested a Forest Legacy Program grant of \$4 million to protect an additional 6,000 acres of working forests lands across the McArthur Lake Wildlife Corridor. Stimson Lumber Company, the landowner, is contributing more than \$1 million in donated land value. Stimson will continue sustainable timber harvest operations of approximately 2.5 million board feet annually supporting about 33 full-time forest products jobs plus another 69 full-time in other related sectors of the economy. By guaranteeing public access to these lands in perpetuity, the easement will also help to support numerous local businesses that are part of Idaho's outdoor recreation economy—which statewide supports 37,000 jobs and accounts for more than \$2 billion annually in retail sales and services. This is a win-win that maintains vital timber industry jobs and production while supporting the local tourism and recreation economy.

If we are serious about creating jobs and getting the economy back on track, conservation spending on LWCF is not only a wise, but an essential investment. Today, outdoor recreation and tourism represent a major part of the U.S. economy, one that America still dominates globally, and one that represents opportunities for sustained economic growth in rural and urban communities across America. A recent report from the National Fish and Wildlife Foundation tells us that, together, outdoor recreation, natural resource preservation and historic preservation activities support 9.4 million jobs (1 out of every 15 jobs in the United States) and contributes \$1.06 trillion annually to our economy. The popularity and demand for opportunities to recreate on public lands will only increase as our population grows and these natural places increase in aesthetic and economic value.

I am an avid outdoorsman and my most treasured memories are of time spent in Idaho with family and friends, hunting and fishing, skiing and camping, and rafting our magnificent rivers. Across the country, LWCF purchases within federally designated areas, as well as conservation easements across private lands, are protecting our most threatened waterfowl, trout and big-game habitat. These Federal dollars often provide leverage for significant State, local, and private investments in land protection as well. Furthermore, LWCF funding can play an increasingly important role in making public lands public by ensuring that sportsmen and other outdoor enthusiasts have access to favorite hunting grounds, trout streams, and trails. With changing land use and ownership patterns, historic recreational access is being cut off or blocked in many areas. Strategic LWCF purchases can defuse conflicts with private landowners by securing permanent access. Additionally, they serve to connect existing public lands and create expanded parking and trailhead access for the public. Conservation easement acquisitions through the Forest Legacy Program compensate private landowners who have often provided voluntary public access to lands, thereby ensuring permanent public access to prime hunting and fishing lands.

Mr. Chairman and members of the subcommittee, I join with the LWCF Coalition and many others across the Nation in urging you to support funding for LWCF. This year, the administration's budget request includes high-priority, now-or-never, willing seller projects across our national parks, wildlife refuges, forests and other public land. It makes investments in stateside LWCF grants including local parks and trails, and in non-Federal protection of working forests, key wildlife habitat, and other irreplaceable outdoor resources. It also expands LWCF investments in landscape conservation, hunting and fishing access, civil war heritage sites, and national trails. These are priorities I think we can all agree upon.

We understand the severe financial constraints under which you and this Congress are operating. At the same time, we recognize that America simply cannot afford to lose the public opportunities that LWCF provides, or the activity it injects

into the economy. It is a program that enables local communities and private landowners to make economically sound choices to protect the natural, cultural and recreation resources we all commonly share. I therefore respectfully ask that you support the administration's fiscal year 2013 recommendation of \$450 million for LWCF program. At one-half the authorized funding level for the program, this represents a measured proposal that spreads limited resources wisely across urgent and diverse LWCF priorities and programmatic goals.

In closing, I thank you for your dedication and service. I can think of no greater legacy for my three lovely granddaughters than the conservation of our traditional working landscapes, and the protection of our recreation lands, clean waters, and wildlife heritage.

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PREPARED STATEMENT OF THE LEAGUE OF AMERICAN ORCHESTRAS

The League of American Orchestras urges the subcommittee to approve fiscal year 2013 funding for the National Endowment for the Arts (NEA) at a level of \$155 million. We urge the Congress to continue supporting the important work of this agency, which broadens public access to the arts, nurtures cultural diversity, spurs the creation of new artistic works, and fosters a sense of cultural and historic pride, all while supporting countless jobs in communities nationwide.

The League of American Orchestras leads, supports, and champions America's orchestras and the vitality of the music they perform. Its diverse membership of approximately 850 orchestras across North America runs the gamut from world-renowned symphonies to community groups, from summer festivals to student and youth ensembles.

With communities throughout the Nation continuing to weather difficult economic conditions, the award of an intensely competitive NEA grant is a compelling boost to an orchestra's pursuit of funding from other sources. A grant from the NEA is seen as a mark of public value and national artistic significance, and the distinction of presenting these nationally recognized programs is enjoyed by communities large and small. In fiscal year 2011, the NEA's Grants to Organizations included 88 grants to orchestras, and continued funding for the agency will support orchestras' ability to serve the public. The NEA promotes creation, engagement, and learning in the arts through Art Works, the major support category for organizations, and the Challenge America: Reaching Every Community grant program—as well as through vital Federal/State partnerships.

In addition to educating and engaging people of all ages, fueling local economies, and attracting new business development, orchestras unite people and cultures in a uniquely powerful way. The League is committed to helping our members engage with their communities, and the NEA plays an invaluable leadership role through its direct grants, strategic initiatives, and research on trends in public participation and workforce development.

NEA GRANTS HELP ORCHESTRAS EDUCATE AND ENGAGE AMERICA'S YOUTH

The Boston Youth Symphony Orchestras (BSYO), comprising 9 full-time administrative staff and 68 part-time artistic staff serves approximately 450 students every year. With an fiscal year 2012 NEA Art Works grant, BYSO initiated and continues to develop the Intensive Community Program (ICP), a nationally recognized string training program for underrepresented youth from Boston's inner city. BYSO provides ICP students with financial assistance for weekly music lessons, ensemble classes, instrument rental and tuition subsidy in BYSO orchestras. Additionally, BYSO makes more than 6,000 free tickets available each year to the community through partnerships and offers free outreach concerts directly in inner-city Boston neighborhoods, bringing classical music to traditionally underserved populations.

Thanks to an NEA Art Works grant, the Eugene Symphony Orchestra, with 7 full-time employees and 84 part-time musicians, will be able to continue the Laura Avery Visiting Masters Program, an artistic development program for student musicians. This program is an annual series of artistic development activities for student musicians in Eugene, Springfield, and Roseburg, Oregon, which offers master classes, coaching sessions, lectures, and workshops by guest artists from the Eugene Symphony's season, which in 2012 include violinist Midori and pianist Adam Golka. All program activities are free and open to the public.

The San Francisco Symphony Youth Orchestra (SFSYO) also received an NEA Art Works grant, which it will use in its Artistic Development Program to provide specialized training to prepare students for careers in music through intensive coaching, collaboration with guest artists, internships, mentoring, and training in chamber music, instrument care, and audition techniques. An annual concert series and

community appearances reach more than 20,000 attendees each year, serving a broad and diverse population through free tuition for its members; free open rehearsals for seniors, students, and community groups; free concert tickets for public school instrumental music students; and ensemble performances at community events. The youth orchestra provides paid part-time apprenticeships to 4–5 students each year.

#### NEA FUNDING INCREASES PUBLIC ACCESS TO CULTURALLY DIVERSE EXPERIENCES

The NEA, together with the organizations it helps support, is dedicated to improving public access to the arts. The experience of live music can serve as a conduit for disparate communities to connect with each other, and the Pacific Symphony, which employs 88 part-time musicians and 44 full-time staff, is utilizing an NEA Art Works grant to produce a celebration of the Persian New Year. The centerpiece is the world premiere of *Toward a Season of Peace*, a work for chorus, orchestra and solo soprano by the Iranian American composer Richard Danielpour. The Symphony is committed to building unity in the community through music, exploring a different facet of American music each year. The Nowruz celebration has sparked considerable interest nationally and spurred cross-cultural discourse among the orchestra's culturally diverse surrounding community.

An fiscal year 2012 Challenge America grant will enable the Billings Symphony Orchestra and Chorale, with 4 full-time employees, 500 volunteers, and 160 musicians, to present *Classical Music/World Class Artists*, a three-concert series that will engage Montana audiences in symphonic music presented by internationally acclaimed guest artists who have roots in Ireland, Serbia, and Mexico. Challenge America grants are specifically intended to support projects from primarily small and mid-sized arts organizations that extend the reach of the arts to underserved audiences. Accordingly, in addition to making international artistry available to the regional population of 250,000, the Billings Symphony Orchestra and Chorale will offer master classes, a community concert in rural Red Lodge, and three school showcases in conjunction with this concert series.

With an NEA Art Works grant, the Baltimore Symphony Orchestra (BSO) will establish the Orchestra Fellows Program for post-conservatory musicians of color. Fellows will rehearse and perform in the main BSO season and receive private coaching and preparation for auditions. Beyond the concert stage, Fellows will engage in the orchestra's after-school and community programs, including OrchKids, the BSO Academy, and Rusty Musicians. The Orchestra Fellowship Program is part of the BSO's broader vision of inclusivity and relevance within the community that has marked the tenure of Music Director Marin Alsop. Among its goals, the Fellows Program seeks to create a welcoming destination for musicians of color and to increase the number of African-American musicians in the BSO, thus better reflecting the diversity of Baltimore. The BSO has 138 full-time and 318 part-time/freelance employees, and a volunteer force of 438.

This May, an NEA Art Works grant will support the Milwaukee Symphony Orchestra's (MSO) participation in the second annual Spring for Music Festival at Carnegie Hall in New York. The Festival is a series of concerts by North American symphony and chamber orchestras with artistic profiles built around innovative, creative programming. The MSO, which employs 35 full-time staff, was selected for participation based on the submission of a program including works by Olivier Messiaen, Claude Debussy and Qigang Chen. The program's inspiration comes from the influence of world cultures and the generational teacher-student dynamic that enhances the creation and performance of the music.

While many orchestras draw inspiration from the various ethnic cultures that make up our country, others celebrate distinctly local traditions and landscapes, such as the Louisiana Philharmonic Orchestra (LPO), which received funding from the NEA to support the concert *Becoming American: The Musical Journey*. Presented in collaboration with The Historic New Orleans Collection, the concert celebrated the 200th anniversary of Louisiana statehood by exploring the diverse classical music traditions of New Orleans influencing the development of jazz into the American tradition it has become today. The LPO, with 16 full-time employees and 67 full-time musicians, was able to leverage its NEA grant to secure funding from a national foundation to webcast the performance to Internet audiences, resulting in more than 1,000 views by audience members from 41 States and 17 countries.

Meanwhile, the Arkansas Symphony Orchestra, which employs 10 full-time musicians, approximately 50 contracted musicians, 13 full-time staff and 2,436 volunteers in three community guilds across the State, will utilize its NEA grant for the American premiere of Michael Torke's *Mojave Concerto for Marimba*. The Mojave Desert directly inspired the composition, with the pulse of the marimba and accom-



paniment representing the moving panorama as one drives the interstate between Las Vegas and Los Angeles. In addition to the premiere, the composer and percussionist will spend 1 week leading education workshops and lectures for student musicians and community members.

NEA FUNDING ENCOURAGES NEW WORKS AND LOCAL ARTISTRY

NEA grants to orchestras help support the creative initiatives of American composers and musicians. The Bismarck-Mandan Symphony Orchestra, with a staff of 3 full-time employees, received its first-ever NEA Challenge America grant for *A Place in Heaven*, a series of activities culminating in a full orchestra concert featuring Metropolitan Opera star and North Dakota native soprano Korliss Uecker. Area students will be offered a college-level master class and there will be an open rehearsal and presentation for students with disabilities in partnership with VSA North Dakota.

A grant from the NEA will support the *City of Fountains Celebration*, presented by the Kansas City Symphony, whose 80 musicians and 30 full-time staff are dedicated to sharing music with audiences. The Celebration includes world premiere performances of Daniel Kellogg's *Water Music*, Steven Hartke's *Muse of the Missouri*, and Chen Yi's *Fountains of KC*, all inspired by the fountains of Kansas City. The project includes discussions with the composers, master classes, open rehearsals for students, visual media postings, and a special presentation about the fountains co-sponsored by the Kansas City Public Library.

The Rochester Philharmonic Orchestra (RPO) also received NEA support to commission and premiere a new work, which will include a composer residency, by American composer Margaret Brouwer. The project includes workshops with high school and college-level composers and coaching at the International Viola Congress in Rochester with an Eastman School of Music student performing Brouwer's *Viola Concerto*. The RPO employs 58 full-time core musicians and 21 full-time administrative employees. In addition, nearly 900 volunteers assist the RPO, giving more than 22,000 hours of their time.

NEA grants encourage orchestras to commission innovative compositions, bring music to underserved regions, and help educate and engage citizens young and old. Thank you for this opportunity to convey the tremendous value of NEA support for orchestras and communities across the Nation. The Endowment's unique ability to provide a national forum to promote excellence, both through high standards for artistic products and the highest expectation of accessibility, remains one of the strongest arguments for a Federal role in support of the arts. We urge you to support creativity and access to the arts by approving \$155 million in funding for the National Endowment for the Arts.

PREPARED STATEMENT OF THE LITTLE RIVER BAND OF OTTAWA INDIANS

Aaniin! (greetings) My name is Jimmie Mitchell, Director of Natural Resources for the Little River Band of Ottawa Indians, located in Manistee, Michigan. First of all, allow me to thank you for the past support that you have respectfully provided and also for this opportunity to present our testimony in support of the President's fiscal year 2013 budget.

I represent the Chippewa Ottawa Resource Authority, herein referred to as CORA, a natural resource management coalition comprised of 5 federally recognized Indian tribes:

- the Bay Mills Indian Community;
- the Grand Traverse Band of Ottawa and Chippewa Indians;
- the Little River Band of Ottawa Indians;
- the Little Traverse Bay Bands of Odawa Indians; and
- the Sault Ste Marie Tribe of Chippewa Indians.

The CORA Tribes currently manage federally protected Treaty-reserved Rights under the BIA Rights Protection Implementation Program (RPI). These program funds are crucial as they greatly assist CORA and its member tribes with the ability effectively and responsibly uphold management obligations found under two separate decrees in *United States v. Michigan*:

- the 2000 Great Lakes Consent Decree; and
- the 2007 Inland Consent Decree.

*United States v. Michigan*

The five CORA tribes are parties to the historic *United States v. Michigan* court case concerning the exercise of treaty-reserved fishing, hunting, trapping and gathering rights under Article 13 of the 1836 Treaty of Washington of March 31, 1836.

In Article 13 the tribes “stipulate[d] for the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement.” The 1836 Ceded Territory covers a significant portion of the Northern Great Lakes surrounding Michigan and also 13.7 million acres of land found in the Northern Lower and Western Upper Peninsula of Michigan. The 1836 Ceded Territory is quite arguably the oldest expanse of its type remaining where Treaty Reserved Rights have been reserved and exercised upon, prior to its inception through to current times.

In the early 1970’s, tribal members sought to further expand their Article 13 rights by engaging in commercial fishing activities on the Great Lakes. The State of Michigan did not recognize the tribes’ Article 13 rights and responded by citing, arresting and prosecuting tribal members. The dispute led the United States to file *United States v. Michigan* in the United States District Court for the Western District of Michigan, to seek an adjudication of the tribes’ Article 13 rights. Eventually, all five CORA tribes intervened in the case.

#### *2000 Great Lakes Consent Decree*

*United States v. Michigan* focused initially on the tribes’ fishing rights in the treaty-ceded waters of the Great Lakes. In a landmark decision in 1979, the court held that the tribes retained their aboriginal fishing rights in the Great Lakes. The court found specifically that the “usual privileges of occupancy” reserved in Article 13 included the right to fish and that the Great Lakes had not been required for settlement. The court has since entered two decrees governing the allocation and management of the Great Lakes fishery:

- a 15-year decree entered in 1985 that expired in 2000; and
- a subsequent 20-year decree entered in 2000 that remains in force today.

The 2000 Great Lakes consent decree was negotiated by all parties to the case, including the United States, the tribes and the State, and contains extensive provisions for the restoration, preservation and enhancement of Great Lakes fishery resources. In accordance with these provisions (and their predecessors in the 1985 decree), the tribes have developed programs that are necessary to protect and manage the Great Lakes fishery resource while continuing to exercise the tribes’ commercial and subsistence fishing rights. These programs include the following elements:

- Enactment of conservation-based regulations governing the manner and means by which tribal members may exercise the right to harvest resources;
- Staffing of conservation enforcement departments;
- Establishment of adjudicatory bodies to determine the existence of violations of regulations;
- Biological assessment of the fishery resource and conduct of resource protection and enhancement programs;
- Development of access sites for use by tribal fishermen; and
- Development of an inter-tribal management organization to provide coordination and cooperation among the tribes and with the State, the United States and international organizations.

#### *2007 Inland Consent Decree*

It was not until after the entry of the 2000 Great Lakes Consent Decree that the parties to *United States v. Michigan* addressed the tribes’ inland hunting, fishing, trapping and gathering rights under Article 13 of the 1836 Treaty. After several years of litigation, followed by several years of negotiations, the court entered a permanent consent decree on November 2, 2007, that recognizes the continued existence of the tribes’ inland Article 13 rights and defines the nature and extent of those rights.

The 2007 Inland Consent Decree contains allocation and management provisions governing treaty-reserved hunting, fishing, trapping, and gathering rights throughout the expanse of the 1836 Ceded Territory. It is a comprehensive and complex document that resolves the final phase of *United States v. Michigan*.

The 2007 Inland Consent Decree establishes many new obligations and responsibilities for the tribes. These responsibilities are heavily weighted toward:

- Biological programs to protect and enhance inland natural resources;
- Establishment of appropriate regulations of member harvesting activities;
- Provision of adequate law enforcement personnel to ensure that such harvesting is conducted in compliance with applicable law;
- Provision of judicial forums for the adjudication of any alleged violations; and
- Establishment, implementation, and maintenance of joint information sharing and management activities through CORA to assist in inter-tribal coordination and co-management with State and Federal resource managers.

All of these obligations impose a substantial and permanent financial burden for the tribes to realize the full potential the Consent Decree is designed to provide.

In order to meet the obligations mandated by the 2007 Inland Consent Decree, while providing for long-term sustainable use of the resources for the next seven generations, each of the tribes are required to establish a management capability in several core areas, including conservation enforcement, biological monitoring and assessment, tribal court, and administration. Initiation of these management programs necessitates adequate funding to ensure that the tribes can meet their obligations, which is critical to ensure the future viability of both the treaty right and the newly established 2007 Inland Consent Decree.

*Support for Bureau of Indian Affairs Rights Protection Implementation Program in the President's Budget*

After making such landmark, long-term commitments, it is imperative that the tribes not be placed in a position where inadequate funding prohibits them from meeting their obligations, responsibilities, and opportunities under either the Great Lakes or Inland consent decrees. Adequate funding is absolutely critical to achieving the objectives and responsibilities described in both consent decrees.

CORA's base funding for implementation of the Great Lakes consent decree has suffered congressional funding reductions in recent years, threatening the tribes' ability to meet consent decree obligations and effectively manage and self-regulate their treaty fishery. However, most of the proposed increase in funding for CORA is for implementation of the newly enacted 2007 Inland consent decree, which has not been provided with recurring base funding. Very little funding to implement the Inland consent decree has been provided since it was entered into 5 years ago.

CORA heralds the BIA Rights Protection Implementation Program in the President's budget, which provides an increase of \$1.6 million in CORA's funding. A small portion of the requested increase will be provided through CORA to return the CORA tribes' funding base for the Great Lakes treaty fishery to fiscal year 2010 levels. The vast majority of the increase will provide \$1.5 million to allow the beneficiary tribes and their members to meet their obligations under the 2007 Inland consent decree and to implement their treaty-reserved inland hunting, fishing, trapping and gathering rights. The BIA Rights Protection Implementation Program in the President's budget provides base funding for the very first time for affected tribes to meet Federal-court mandated responsibilities in the conservation and management of fish and wildlife resources.

The CORA Tribes stand united in reminding the Congress of the Federal Government's trust obligations to sustain funding for tribal natural resource management programs. This obligation is the result of treaties negotiated by tribes and Federal Government, which must be honored and protected within the limits of available funding, including current limits on discretionary funding. The President's budget demonstrates that this can be achieved.

CORA hopes that you will recognize the fact that the tribes, State of Michigan, and the United States have successfully resolved many difficult legal, biological, social and political problems confronting the Great Lakes fishery and inland resources in the 1836 ceded territory. With your assistance, the tribes can continue to enhance cooperative inter-governmental programs, build upon past collaborative successes and to secure and promote our shared natural resources with sound management structures for both tribal and nontribal users now and forward into future generations.

I thank you again for providing this opportunity to convey with you, both the challenges we face and the opportunities the RPI funds assist us to accomplish as managing co-sovereigns'.

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PREPARED STATEMENT OF THE LUMMI NATION

Thank you Mr. Chairman and distinguished subcommittee members for the opportunity to share with you the appropriation priorities of the Lummi Nation for the fiscal year 2013 budgets of the Bureau of Indian Affairs and the Indian Health Service.

BACKGROUND INFORMATION

The Lummi Nation is located on the northern coast of Washington State, and is the third-largest tribe in Washington State serving a population of more than 5,200. The Lummi Nation is a fishing Nation. We have drawn our physical and spiritual sustenance from the marine tidelands and waters for hundreds of thousands of years. Now the abundance of wild salmon is gone. The remaining salmon stocks do

not support commercial fisheries. Our fishers are trying to survive from shellfish products. In 1999 we had 700 licensed fishers who supported nearly 3,000 tribal members. Today, we have about 523 remaining. This means that more than 200 small businesses in our community have gone bankrupt in the past 15 years. This is the inescapable reality the Lummi Nation fishers face without salmon. We were the last surviving society of hunters/gatherers within the contiguous United States. We can no longer survive in the traditional ways of our ancestors.

*Lummi Specific Requests—Advisory Council on Historic Preservation*

*The Role of the Advisory Council on Historic Preservation in Preserving Ancestral Knowledge.*—We would first like to acknowledge the most recent revisions to section 106 that emphasize landscapes when dealing with locations of cultural and historical significance. However, we need to bring to your attention the marginalization and de-legitimization of Native American ancestral knowledge. The question is not whether ancestral knowledge is meaningful to Native Americans when we speak of the significance of sacred landscapes. Instead, the question is how, for what reason, to whose benefit, at what cost, and by what authority Native American ways of knowing knowledge have been marginalized as less than true knowledge. Our ancestral knowledge must contend with the influences of Christian belief and its moral order as well as conventional education, anatomo-economic regulations of the capitalized workplace, bureaucratized and jural-legal as opposed to ancestral systems of governance, and the imperium of science that marginalizes through the re-representation of Native American traditional knowledge and ways of knowing our world. The Advisory Council on Historic Preservation is one of the few entities in a position to acknowledge our forms and frameworks of knowledge as coeval with those of modern science and bring a degree of justice to our efforts to protect not only our sacred landscapes, but also our ways of understanding and experiencing them.

*Lummi Specific Requests—Bureau of Indian Affairs*

*+\$2 million—Phase 1. New Water Supply System—Increase in funding for Hatchery construction, operation and maintenance.*—Funding will be directed to increase hatchery production to make up for the shortfall of wild salmon. +\$300,000 funding for the Conservation Law Enforcement Officer Program to insure that Lummi Nation need for Natural Resources Enforcement Officers will be funded.

*Committee Directive Requests*

*Bureau of Reclamation.*—The Lummi Nation requests that the Committee directs the Bureau of Reclamation to fund Lummi Nation work to develop comprehensive water resources conservation and utilization plans that accommodates the water needs of its residents, its extensive fisheries resources.

*Bureau of Indian Affairs Natural Resources Branch.*—Direct the BIA to work with Lummi Nation to ensure that its needs related to the removal of wild stocks from the salmon available for harvest are compensated through increased hatchery construction, operations and maintenance funding.

Direct the DOI Office of Indian Energy, Economic and Workforce Development to work with the Lummi Nation in support of its comprehensive Fisherman's Cove Harbor and Working Water Front Project which addresses Indian Energy, Economic and Workforce Development needs of the Lummi Nation membership.

*Lummi Specific Requests—Indian Health Service*

*Implement ACA & IHCA.*—Direct the Department and the U.S. Indian Health Services to fully and completely implement the Indian Specific provision of the Affordable care Act and the newly re-authorized Indian Health Care Improvement Act.

*Wellness is the #1 Priority of the Council in 2012–13.*—Lummi Nation requests the committee support the SAMHSA Proposed Tribal Block Grant to combat Drug Epidemic among the Lummi Nation membership.

*Head Start for Tribal Development.*—The Lummi Nation requests the Committee directs BIE and DHHS, Children's Bureau support the construction of a new Lummi Nation head start/day care facility with technical and financial assistance.

*Serve Native American Veterans.*—Direct the Indian Health Services to immediately develop and provide formal consultation between Indian Health Services, U.S. Veteran's Affairs and tribes on the formal Memorandum of Understanding for the provision of VA medical services to tribal veterans and their families.

*Lummi Specific Requests—Bureau of Indian Affairs*

*+\$2 million—Phase 1. New Water Supply System—Increase in funding for Hatchery construction, operation and maintenance. Funding will be directed to increase hatchery production to make up for the shortfall of wild salmon.*—The Lummi Na-

tion currently operates two salmon hatcheries that support tribal and nontribal fishers in the region. The tribal hatchery facilities were originally constructed utilizing Federal funding from 1969–1971. Understandably most of original infrastructure needs to be repaired, replaced and/or modernized. Lummi Nation Fish Biologists estimate that these facilities are currently operating at 30 percent of their productive capacity. Through the operation of these hatcheries the tribe annually produces 1 million fall Chinook and 2 million Coho salmon. To increase production, we must pursue a “phased approach” that addresses our water supply system first. The existing system only provides 850 GPM to our hatchery. To increase production to a level that will sustain tribal and nontribal fisheries alike, we need to increase our water supply four-fold. A new pump station and water line will cost the tribe approximately \$6 million. We are requesting funding for the first phase of this project. Our goal is to increase fish returns by improving aquaculture and hatchery production and create a reliable, sustainable resource to salmon fishers by increasing enhancement.

+ \$300,000 to increase the funding for the BIA Conservation Officer Program to support *Natural Resources Law Enforcement*.—The Lummi people rely on several commercial fisheries for their livelihood and several noncommercial fish, game, fowl and natural plants for ceremonial and subsistence purposes. There are currently three Natural Resource Enforcement Officers (NREOs) and one Sergeant to patrol the 1,846 square miles of marine area and 9,145 square miles of the ceded lands. The Natural Resource Officers patrol a vast area, with a large amount of Natural Resources to protect, including:

- shellfish;
- salmon;
- halibut;
- deer;
- elk; and
- other protected species.

Although Lummi Code of Laws Title 10 (Natural Resources Code) prohibits timber harvests without a permit, members and nonmembers periodically conduct timber harvests without necessary permits. Tideland Trespass on the Lummi tidelands is a major enforcement challenge. The fact that all of the Reservation tidelands are held in trust by the United States for the exclusive use of the Lummi Nation was most recently re-affirmed in *United States and Lummi Nation v. Milner, et al.* No. CV–01–00809–RBL (9th Cir. 2009). Although all of the Reservation tidelands are closed to persons, who are not members of the Lummi Nation in the absence of a lease permitting nonmember use of the tidelands, or use permits issued pursuant to LCL Title 13 (Tidelands Code), and this closure is posted at several places around the Reservation, nonmembers continue to regularly trespass on these tidelands. Although LCL Title 17 (Water Resources Protection Code) prohibits the withdrawal of Reservation Waters without a permit, nonmembers continue to drill ground water wells on the Reservation. Illegal dumping is a major challenge on the Reservation. Although LCL Title 18 (Solid Waste Control and Disposal Code) prohibits solid waste dumping, like many places throughout rural America, illegal dumping continues to occur. Currently, the Lummi NREOs are only able to concentrate their patrol to the major Treaty concerns of fishing, crabbing, and shellfish harvesting. Additional funding is necessary for to prosecute actual incidents.

*Direct the Bureau’s Office of Indian Energy, Economic and Workforce Development Division to work with the Lummi Nation in support of its comprehensive Fisherman’s Cove Harbor and Working Waterfront Project.*—Unemployment on the reservation has been very difficult to address with limited on-reservation jobs. Tribal governments need to be able to meet the employment and training needs of our membership as well as the business development needs of our communities. This is the objective of the Lummi Nation Fisherman’s Cove Harbor and Working Waterfront Project. We need financial assistance to enable our membership to get the job skills the local (Reservation and Non-Reservation) labor market demands. We ask the Committee to direct the Bureau to work with the Lummi Nation to fully develop the Working Waterfront Project for the benefit of the Lummi Nation fishers, members, and others invested in the marine economy of the extreme northwest corner of the United States.

*Lummi Specific Requests—Indian Health Service*

*Support for full and complete implementation of the Indian Specific provision of the Affordable care Act and newly re-authorized Indian Health Care Improvement Act.*—Tribes are dismayed by the lack of support they have received in the development and implementation of the following:

*Long-Term and Community-Based Care.*—The authorization of long-term and community-based care tribal communities are among the last to receive access to this all important health care option.

*Tribal Medicaid Program Demonstration Project.*—The act authorizes a demonstration project to enable tribes to demonstrate their ability to successfully plan, develop, implement and operate Medicaid Programs for the benefit of their membership.

*Healthcare Insurance Exchanges.*—To support the planning development, implementation, and operation of tribes as providers of healthcare insurance on the same basis as State are receiving this technical and financial assistance from the Department.

*Lummi Nation requests the subcommittee support the SAMHSA Proposed Tribal Block Grant to combat Drug Epidemic among the Lummi Nation membership.*—Wellness is the #1 Priority of the Council in 2012–13. Drug abuse is at epidemic proportions on the Lummi Reservation. The proximity of the Lummi Reservation to the U.S. and Canadian borders makes for a key ingredient in successful drug trafficking. With that prime ingredient add production, transportation, distribution, abuse and drug related crimes . . . this is our reality where my people are becoming prisoners in our own homes.

*What We Have Done.*—Our people are seeking a return to health through massive consumption of Lummi Nation Health Care resources. We have increased the number of tribal members receiving substance abuse treatment and mental health counseling.

*What We Still Need.*—We are not equipped to keep pace with the increasing access and use of heroin and other opiate addictive drugs that have besieged our ports, borders, communities and citizens. Lummi Nation and other tribes cannot successfully compete with politically connected communities and interest groups which receive the majority of the funding that is available through the State block grant system. We need assistance to secure funding to plan develop, construct and implement, programs services and facilities needed to improve health and safety in our communities.

*Head Start for Tribal Development—New Head Start Facility.*—The Lummi Nation Requests that the Committee directs BIE and DHHS, Children's Bureau support the construction of a new head start/day care facility for the Lummi Nation membership with technical and financial assistance. Lummi has operated a Head Start program since 1966 in the same facility. Successive Head Start Performance reviews have consistently identified the building as not meeting Head Start Performance standards. The tribe is seeking gap financing in the amount of \$1.2 million to complete the proposed new facility. These additional costs are generated by Head Start Performance and tribal Child Care Facility Standards.

*Support Formal Consultation Between Indian Health Services, U.S. Veteran's Affairs and Tribes on the Formal Memorandum of Understanding for the Provision of VA Medical Services to Tribal Veterans and Their Families.*—Tribes have been seeking the development of relationship between the Veterans Administration and the Indian Health Services which results in simple parity of services between Indian and non-Indian Veterans for more than a century. There is a need to insure that the provisions of the final agreement between the Veterans Administration and the Indian Health Services are consistent with Indian Veterans needs.

*National and Self-Governance Fiscal Year 2013 Budget Priorities.*—In general, all Bureau of Indian Affairs (BIA) and Indian Health Services (IHS) line items should be exempt from any budget recessions and discretionary funding budget reductions.

*Bureau of Indian Affairs.*—Fully Fund Contract Support Costs—Support \$8.8 million increase included in fiscal year 2013 President's request. Tribal Priority Allocations—Provide \$89 million increase. Law Enforcement—Full Fund all Provisions of the Tribal Law & Order Act of 2010 that affect Indian Tribes & Increase funding for Bureau of Indian Affairs Law Enforcement by \$30 million. Office of Self-Governance (OSG)—Provide increase funding to the OSG.

*Indian Health Services.*—Contract Support Costs (CSC)—Provide increase of \$99.4 million more than President's fiscal year 2013 request to fund the CSC shortfall. Mandatory Costs—Provide \$304 million increase to for Mandatory costs to address these ongoing fiscal responsibilities to maintain current services. Contract Health Services (CHS)—Provide a \$200 million increase to provide CHS. Adequate Funding for Implementation of the Indian Health Care Improvement Act (IHCIA). Office of Tribal Self-Governance—Increase \$5 million to the HIS Office of Tribal Self-Governance.

Hy'shqe (thank you) for the opportunity to provide these appropriations priorities of the Lummi Nation.

## PREPARED STATEMENT OF MALHEUR WILDLIFE ASSOCIATES

Mr. Chairman and members of the subcommittee: On behalf of Malheur Wildlife Associates, the friends group for Malheur National Wildlife Refuge and its 110 members, we would like to thank the committee for their strong support of the National Wildlife Refuge System and for giving us the opportunity to submit testimony. We are a volunteer nonprofit organization whose purpose is to promote conservation, awareness, and appreciation of the wildlife and habitats of the Malheur National Wildlife Refuge and to provide assistance to Refuge operations. We urge you to show your continued support of the National Wildlife Refuge System by approving the President's fiscal year 2013 budget request of \$495 million for the operations and maintenance of the world's premier system of public lands and water set aside to conserve America's fish, wildlife, and plants. This level of funding will barely maintain current management capabilities. The National Wildlife Refuge Association estimates that refuges would need at least \$527 million in fiscal year 2013 to maintain management capabilities from fiscal year 2010, and the Cooperative Alliance for Refuge Enhancement (CARE) estimates that the Refuge System needs at least \$900 million in annual funding to properly administer its 150 million acres and remains committed to aiming for this goal.

Refuges are vital places for the American people to connect with nature and get involved. Currently, refuge Friends and volunteers do approximately 20 percent of all work on refuges. In 2011, these 1.5 million hours equated to roughly 8 volunteers for every 1 Refuge System employee. Without staff to oversee volunteers, their commitment and passion is lost, as is their desperately needed contribution to the System. We request \$80 million for Visitors Services for the NWRs.

We ask you to support \$3.8 million in fiscal year 2013 for Challenge Cost Share (CCS). Partners are the key to successful conservation; no Federal or State agency can do it alone. Because of this, we support programs that leverage Federal dollars such as the CCS program. Partner organizations such as local volunteer "Friends" groups leverage these funds to give American taxpayers more bangs for their buck for projects like trails, education, boardwalks and habitat restoration. Malheur Wildlife Associates is helping Malheur NWR with such projects by providing matching grant funds and volunteer work crews.

We also request that you fund the Land and Water Conservation Fund (LWCF) at \$700 million. Created in 1965 and authorized at \$900 million per year (more than \$3 billion in today's dollars), the LWCF is our most important land and easement acquisition tool. With more than 8 million acres still unprotected within existing refuge boundaries, and the need to establish key wildlife corridors and connections between protected areas, the LWCF is more important than ever. Also please support the new Collaborative Conservation requests of the Departments of the Interior and Agriculture, which brings together several Federal agencies around a common goal.

#### *Malheur National Wildlife Refuge*

Malheur NWR is one of the largest freshwater wetland refuges in the Refuge System. It is considered one of the jewels of the Refuge System and despite its remote location, receives very high visitor use, which is very beneficial to both the local Harney County and Oregon economy. It is the most popular birding destination in the State of Oregon. A 2004 study reported that Malheur NWR visitors spent \$2.2 million. The net economic benefit showed an economic value of \$1.62 for every \$1 of the refuge budget. Such funding is a worthy investment in our Nation's economy.

The refuge encompasses more than 187,000 acres and is critical to migrating and nesting waterfowl and waterbirds in the Pacific Flyway. It supports one of the largest nesting sandhill crane populations in North America and is home to many other important bird species such as the Greater Sage Grouse, Trumpeter Swan and American White Pelican and also a wide variety of other native plants and animals.

#### *Current Challenges and Needs*

Malheur NWR wetlands have been seriously degraded by an introduced population of invasive common carp. Carp have destroyed much of the critical habitat on the Refuge, and are also affecting wetlands on private lands in all the tributaries to Malheur and Harney Lakes. These adjacent private lands have very high values for waterfowl and waterbirds and along with the Refuge, make up one of the most important wetlands complexes in North America. The refuge staff is embarking on a monumental effort to reduce carp impacts on wetland habitats and improve conditions for birds to further the Refuge's Mission. This effort has also resulted in a strong local partnership between Malheur NWR, private landowners, the Burns Paiute Tribe and State and Federal agencies to focus on restoring wetlands and enhancing conditions for wildlife on a landscape scale in Harney County.

There is also huge maintenance backlog at Malheur NWR and much work is needed to properly manage the refuge. Malheur has one of the largest infrastructures in the National Wildlife Refuge System, with approximately 200 miles of public roads; 2,000 miles of waterways/dikes; 5 dams; 1,000 water control structures; 6 automated fish screens; 27 administrative, 7 quarters, and 25 visitor services facilities; 4 historic building sites; and a large fleet of heavy/light vehicles and equipment. This extensive infrastructure requires a high degree of routine maintenance/repair to efficiently and effectively support the various Refuge programs and maintain tens of thousands of acres of wetlands, 30 miles of rivers/creeks, and 16,000 acres of irrigated meadow. At the current staffing level, a vast majority of routine maintenance and repair needs are addressed reactively. Additional funding is needed to proactively address the maintenance and repair backlog and move this Refuge forward to its full ecological potential and ensure biological integrity. In 2011, the deferred maintenance backlog for the Refuge was approximately \$48 million.

#### *Sequestration*

Malheur Wildlife Associates is very concerned about the devastating impact across-the-board sequestration cuts of 9–10 percent in fiscal year 2013 will have on our refuges and the entire Refuge System. If sequestration occurs refuge management estimates there will just enough funds to pay salaries and utilities. The impacts will affect wildlife, visitors and the local Harney County economy.

*Impacts on Wildlife.*—Managing the habitat will be staff's first goal; however management will not be as effective. Invasive carp will further degrade Refuge wetlands, reducing the value to waterfowl and other wildlife that depend on them. Important populations of waterfowl and waterbirds will suffer from this neglect. Refuge efforts to control invasive weeds will be curtailed, causing further loss of wildlife habitat and natural diversity, resulting in more costly control needs in the future. Reduced law enforcement efforts will likely lead to increased poaching of big game, livestock trespass, and looting of Refuge archeological sites.

*Impact on Visitors.*—If sequestration goes into effect, refuge led visitor service programs will be severely reduced. Staff time for assisting visitors will be very restricted and access to the refuge will be reduced. Trails and roads that are obstructed by storm events will be closed. There will be no extended hours during the summer or weekends. Regular trail and road maintenance will be deferred. Vaulted toilets will be cleaned every few weeks instead of weekly and portable toilets will be closed.

Friends and other volunteers will not be able to compensate for all of these losses. To assist with managing the habitat, volunteers need oversight and training, but there will be no funds to pay for the training. The Friends organization is willing to expand our interpretive programs; the challenge will be access, safety, and the quality of wildlife viewing.

#### *Opportunities To Embrace*

Malheur NWR staff has been presented a great opportunity for forming a "Beyond the Boundaries" partnership, the Harney Basin Wetlands Initiative. This is a collaborative partnership which includes the Refuge, local landowners, State and Federal agencies and the Burns Paiute Tribe. The goal of this initiative is to improve aquatic health and restore wetlands on a large scale (more than 300,000 acres of lands) in the Basin. Malheur Wildlife Associates is assisting with these efforts.

In 2011, the National Wildlife Refuge System created a vision to guide the management of the System during the next decade and beyond. The new vision seeks to make wildlife conservation more relevant to the public and engage them in the National Wildlife Refuge System. Because of its high visitation, Malheur NWR has the opportunity to help the public understand the values of the National Wildlife Refuge System and the benefits of our wildlife heritage.

#### *In Summary*

Wildlife Refuges matter to your constituents. In spite of its remote location, Malheur NWR is by far the most popular destination for birders in Oregon and has many fans who visit annually.

Our members realize that our country is facing difficult economic times and we must all share in the challenges of the recovery. We thank you for the meaningful funding increases allowed the System in fiscal year 2008–2010 that provided stability to our refuges. We respectfully ask you to support the following funding allocations for the National Wildlife Refuge System that will allow the System to maintain existing management capabilities:

- \$495 million for the operations and maintenance accounts of the National Wildlife Refuge System including:
- \$39 million for Refuge Law Enforcement;



- \$80 million for Visitor's Services;
- \$3.8 million for Challenge Cost Share; and
- \$37 million for the Fish and Wildlife Service construction account.

The Malheur Wildlife Associates invite all the members of this Subcommittee, your family, and staff to visit Malheur NWR, to see what a treasure the place is, watch the wildlife, enjoy the scenery and relax.

#### PREPARED STATEMENT OF MAINE'S DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

The Congress created the State Wildlife Grant (SWG) Program in 2001 to help State and tribal fish and wildlife agencies address the unmet needs of fish and wildlife and associated habitats, especially species of greatest conservation need (SGCN). Funds appropriated under the State Wildlife Grants program are allocated to States according to a formula that takes into account each State's size and population. To date, Maine has received more than \$6.5 million in SWG funds. Projects funded to date are diverse, covering many species groups, all geographic areas of the State, and ranging in scale from ecosystems to subspecies. They vary in length from 1 to 5 years, and include baseline surveys and inventories, research, and habitat conservation. State Wildlife Grant funds support 10 full-time positions within the Maine Department of Inland Fisheries and Wildlife (MDIFW) and have funded many projects that support conservation actions identified in Maine's Wildlife Action Plan (WAP). Here are a few examples of projects that State Wildlife Grant funds have supported. Other SWG-supported activities not described here include:

- organizing a network of citizen-volunteers to locate and monitor colony-nesting wading birds such as herons; and
- population monitoring and public outreach for species such as falcons, bats, New England cottontail rabbit, rare butterflies, dragonflies, and freshwater mussels, and significant wildlife habitats.

#### *Beginning With Habitat*

Beginning with Habitat is a cooperative effort of agencies and organizations working together to secure Maine's outdoor legacy. The goal of the program is to maintain sufficient amounts of habitats to support all native plant and animal species currently breeding in Maine 100 years from now. We aim to provide each Maine town with a collection of maps and accompanying information depicting and describing various habitats of statewide and national significance in the town. Beginning with Habitat partners then work with communities to design a landscape that accommodates the growth they need with the highest resource conservation. Beginning with Habitat is the foundation of Maine's Wildlife Action Plan and is a non-regulatory collaborative and information-based habitat conservation tool.

#### *Seabird Outreach*

The principal objective of this project was to inform Maine students and the general public about seabird biology and marine conservation by providing insight into the lives of Maine seabirds (e.g., puffins and terns) through a web-based school curriculum and Internet access that features live-streaming video from Eastern Egg Rock, a State-owned 7-acre sanctuary managed by National Audubon Society.

#### *Distribution and Ecology of Purple Sandpipers Wintering in Maine*

The northeast Atlantic Coast is recognized by the U.S. Shorebird Conservation Council as an area that is extremely important to the survival of wintering purple sandpipers in the Western Hemisphere. In fact, there is strong evidence that Maine supports a large percentage of the wintering population. With threats from catastrophic oil spills and consequent damage to shorebird habitats or shorebirds themselves, the Maine Department of Inland Fisheries and Wildlife identified the need to locate and map important purple sandpiper habitats and determine population abundance, distribution, and limiting factors. This project enabled the Department to:

- estimate abundance and distribution of purple sandpipers in Maine;
- assess movements and site fidelity of individuals at particular sites; and
- develop a protocol for monitoring purple sandpiper populations in Maine.

#### *Enhance Management of Piping Plovers and Least Terns*

Piping plovers and least terns are designated as endangered species in Maine and are known to nest on a handful of beaches in the State. To successfully raise young, these birds need sand beaches free from human disturbance and predators. This project enabled MDIFW, working in cooperation with Maine Audubon and local towns, to conduct the planning and data gathering necessary to enhance the man-

agement of piping plovers and least terns, including the development of cooperative beach management agreements with Maine municipalities.

#### *Bald Eagle Survey and Essential Habitat*

Bald eagles continue their dramatic comeback in Maine. Presently, the State is home to at least 500 nesting pairs, a remarkable increase from the 30 nesting pairs reported in the late-1970s. Despite this accomplishment, our ultimate challenge is to provide suitable habitat for eagles in the future. Nesting eagles need mature trees and wooded buffers in shorelands, a niche that will always be at risk to land development and recreational pressures. This project devised statewide strategies and identified optimal sites for long-term conservation of bald eagle nesting habitat as the fundamental safeguard for a lasting recovery of the species in Maine. The delisting of the bald eagle is a great example of what SWG is all about. This is a tremendous story of conservation successful through Federal and State partnership, and we are striving for many more to come.

#### *Ecoregional Surveys*

Since 1997, MDIFW and the Maine Natural Areas Program have been working on a systematic, statewide, 10-year survey of rare and endangered wildlife, plants, and natural communities. Surveys are designed to document new locations of rare species to better assess their status and distribution and design conservation strategies to predict potential new occurrences and promote their recovery. SWG funds helped support surveys in the Aroostook Hills and Lowlands (2.5 million acres), Eastern Lowlands (2.2 million acres), and Central and Western Mountains ecoregions (5 million acres). Inventories focused on high value habitats supporting rare, threatened, and endangered animals. Data gathered support voluntary land protection by large and small private landowners.

#### *Canada Lynx Ecology*

The Canada lynx has long been a rare carnivore in northern and western Maine. Ten years ago, its status was largely unknown and was based on anecdotal reports or a track in the snow. SWG funds helped support an ongoing study of Canada lynx in Maine to:

- determine that there is in fact a viable, self-supporting population of lynx in the State;
- document mortality factors affecting lynx;
- identify habitats used by lynx and how they relate to distribution and abundance of prey;
- investigate how lynx distribution in Maine is affected by populations of bobcats, coyotes, fishers, and fox; and
- test the efficacy of various survey methods used to determine status of lynx.

#### *Stream Survey Databasing of Restored Aquatic Habitats*

The Maine Department of Inland Fisheries and Wildlife is enhancing its efforts toward managing and conserving flowing water habitats and their respective animal communities. Although the Department currently holds extensive survey information regarding these ecosystems, most data exist in a multitude of formats and physical locations. This project will compile existing stream habitat and fish community data into a computerized Geographic Information System (GIS) database for easier use, analysis, and visualization within landscapes.

#### *Lake Habitat Inventories*

One of the primary responsibilities of the Maine Department of Inland Fisheries and Wildlife is to conduct habitat surveys of the aquatic resources in the State. These surveys include gathering data related to water quality, fish species composition and relative abundance, bathymetry, aquatic habitat types, and macroinvertebrate species composition. Surveys are important to present and future management of Maine's lakes and ponds. To date, there are roughly 3,800 ponds that have never been inventoried by MDIFW staff and many that have been completed need to be updated. The purpose of this project is to use various fisheries techniques to collect data to properly plan for the future management of lacustrine habitat in Maine.

#### *Aquatic Biodiversity Project*

Effective resource management depends on ready access to existing data resources and on the ability to design and implement future data collection efforts in a rational and cost-effective manner. This project enabled the Department to ensure that all priority freshwater fisheries data were in a format that permitted electronic mapping and analyses of this information.

#### *Unique Aquatic Ecosystems*

Fishless ponds are believed to be rare in the Maine landscape. Many of these ponds occur in mountainous terrain where fish access is limited because of local topography. These sites have sometimes been targeted for introductions of sport fish, but they may have unique ecological attributes, especially for invertebrates and amphibians. Introduction of predatory fish could permanently alter the ecology of fishless ponds. This study documented the ecology of fishless ponds in Maine and conducted a landscape analysis to predict and evaluate the presence of these potentially unique natural communities.

#### *Wildlife Park Displays*

The Maine Wildlife Park receives more than 80,000 visitors annually, including a large number of school children on field trips. These visitors come to the park to learn more about Maine's fish and wildlife resources and management. This project enabled the Department to construct a new fisheries display and to complete educational exhibits for moose, deer, coyote, turkeys, and turtles.

#### *Fish and Wildlife Education*

This project provided educational materials to every fourth grade classroom in the State to increase students' awareness and understanding of fish and wildlife resources. The materials consisted of posters, activity guides for teachers, animal and fish guides, and management reports.

#### *Wildlife Management Areas: Planning and Habitat Management for the Future*

Two-thirds of MDIFW's 52 Wildlife Management Areas (WMAs) contain special habitats or communities that support Federal or State-listed threatened or endangered wildlife, species of special concern, and species identified of greatest conservation need. SWG funds supported development of a statewide WMA database, update of WMA management plans, development of a WMA schedule of development and maintenance treatments, and implementation of a schedule of habitat treatments across all WMAs to benefit a diversity of featured wildlife species and species of greatest conservation need.

#### *An Investigation of Blanding's Turtle Road Mortality*

There is increasing emphasis on the part of Federal and State transportation authorities to minimize and mitigate impacts to wildlife passage and mortality from road construction projects. This project helped the Maine Departments of Inland Fisheries and Wildlife and Transportation identify the location and extent of road impacts on endangered turtles in Maine as a precursor toward designing strategic mitigation measures.

#### *Status and Monitoring of Maine Owls*

MDIFW worked with Maine Audubon to evaluate the abundance and distribution of owls in Maine and to develop a volunteer-based monitoring system. Both Partners in Flight and recent initiatives directed at integrated bird conservation have identified monitoring of nocturnal birds as a high-priority research and management need in the northeast.

#### *Species of Greatest Conservation Need Research and Status Investigations*

Maine has identified 213 species of greatest conservation need (SGCN) in its Wildlife Action Plan:

- 103 birds;
- 7 herpetofauna (1 amphibian and 6 reptiles);
- 72 invertebrates;
- 12 inland fish;
- 6 nonmarine mammals; and
- 13 marine species (5 diadromous fish, 5 whales, and 3 turtles).

For many SGCN, there is a need for financial resources to evaluate population dynamics and habitat relationships and use information gathered to support listing and de-listing proposals (State endangered, threatened, or special concern) and aid in conservation and management of these species, so that they may ultimately be de-listed.

For more information on Maine's Wildlife Action Plan please visit [www.mefishwildlife.com](http://www.mefishwildlife.com).

## PREPARED STATEMENT OF THE MARINE CONSERVATION BIOLOGY INSTITUTE

Mr. Chairman and members of the subcommittee: Marine Conservation Institute, based in Bellevue, Washington, is a nonprofit conservation organization that uses the latest science to identify important marine ecosystems around the world, and then advocate for their protection. As a member of the Cooperative Alliance for Refuge Enhancement (CARE), we support the U.S. Fish and Wildlife Service (USFWS) National Wildlife Refuge System (NWRS), particularly the monuments and refuges that conserve marine environments. I wish to thank the members of the Subcommittee on the Interior, Environment, and Related Agencies for the opportunity to submit written testimony to support the President's request of \$494.8 million in fiscal year 2013 for the NWRS. This is an \$8.8 million increase more than the fiscal year 2012 enacted level. Marine Conservation Institute recommends \$3.5 million of that increase be allocated for the management of our Nation's unique marine monuments.

President George W. Bush established four marine national monuments in the Pacific Ocean:

- Papahānaumokuākea Marine National Monument;
- Marianas Trench Marine National Monument;
- Pacific Remote Islands Marine National Monument; and
- Rose Atoll Marine National Monument.

Together, these monuments protect approximately 335,348 square miles of marine habitat, and constitute about one-third of the entire Refuge System. The four monuments include 12 marine refuges and more than 20 islands, atolls and reefs spread across the Pacific Ocean. Each monument was designated because of its individual ecological and cultural uniqueness.

*Papahānaumokuākea Marine National Monument*

Papahānaumokuākea Marine National Monument, also referred to as the Northwestern Hawaiian Islands, is home to millions of seabirds, an incredible diversity of coral reef species (including deep-sea corals), and the highly endangered Hawaiian monk seal. Approximately 90 percent of Hawaii's green sea turtles nest in the monument, as do about 99 percent of the world's population of Laysan albatross and 98 percent of the black-footed albatross. These islands are also important to Native Hawaiians for culture, history, and religion.

*Pacific Remote Islands Marine National Monument*

The Pacific Remote Islands Marine National Monument contains some of the last remaining, relatively intact coral reef and pelagic ecosystems in the Pacific Ocean. Any one of the seven coral islands within the monument contains nearly four times more shallow water, reef-building coral species than the entire Florida Keys. The monument provides habitat for an estimated 14 million seabirds and many threatened or endangered species, such as leatherback, loggerhead, and green sea turtles; humphead wrasse; bumphead parrotfish; and the globally depleted giant clam. An estimated 200 seamounts, most of which have yet to be identified or explored, are predicted to exist in the pelagic zone within 200 nautical miles of the seven islands. Seamounts are important biodiversity hotspots because they provide habitat and localized nutrients for many species in the vast pelagic waters of the Pacific.

*Rose Atoll Marine National Monument*

Rose Atoll Marine National Monument is home to a very diverse assemblage of terrestrial and marine species, many of which are threatened or endangered. Rose Atoll supports 97 percent of the seabird population of American Samoa, including 12 federally protected migratory seabirds and 5 species of federally protected shorebirds. Rose Atoll is the largest nesting ground in the Samoan Islands for threatened green sea turtles, and is an important nesting ground for the endangered hawksbill turtle. Rose Atoll also provides sanctuary for the giant clam, whose population is severely depleted throughout the Pacific Ocean.

*Marianas Trench Marine National Monument*

The Marianas Trench Marine National Monument protects areas of biological, historical and scientific significance. The monument is home to many unusual life forms found in its boiling and highly acid waters, highly diverse and unique coral reef systems (more than 300 species of stony coral), and an astonishingly high population of apex predators, including large numbers of sharks. The monument also encompasses the Mariana Trench, the deepest ocean area on Earth, which is deeper than Mount Everest is tall.

*Marine National Monument Management Implementation*

President Bush gave the Department of the Interior (U.S. Fish and Wildlife Service) management responsibility over the three newest monuments, while the Department of Commerce has primary responsibility for managing fishing in the outer waters of each monument. Although it has been more than 3 years since their designation, very little funding (<\$200,000 annually) has been added specifically for managing the Rose Atoll, Marianas Trench, and Pacific Remote Islands Marine National Monuments. As a result, monument plans and fishing regulations have not been completed and most islands remain essentially unmanaged and unmonitored.

It is imperative that USFWS establish appropriate management measures to adequately protect the land, waters and seafloor of all four marine monuments. In particular, the USFWS must have adequate funds to finalize management plans for the three newest monuments, hire adequate personnel, provide transportation to visit the islands on a regular basis, develop plans to restore damaged reefs and lands, and consult with the National Oceanic and Atmospheric Administration and the U.S. Coast Guard to provide proper surveillance and enforcement of illegal activities such as trespassing and illegal fishing.

Restoration actions are needed at most of the islands, including restoring natural habitats, removing discarded equipment and structures from past military occupations, and dealing with old waste disposal sites. Additionally, human exploration and occupation introduced many invasive species to the islands which should be removed.

For example, two fishing vessels that grounded in the Pacific Remote Islands Marine National Monument have yet to be removed and are currently devastating the surrounding coral ecosystems. In 1991, a 121-foot Taiwanese fishing boat sank on Palmyra Atoll; in 2007 an abandoned 85-foot fishing vessel was discovered on Kingman Reef. These two islands are home to some of the most pristine coral reefs in the world. The Palmyra wreck sits directly on the reef and continues to damage the ecosystem by leaching iron into the water which has accelerated the rapid growth of a nuisance corallimorph, *Rhodactis howesii*. According to a recent report by the U.S. Geological Service, more than 740 acres of the coral habitat has been smothered and destroyed so far by the corallimorph whose growth continues to be promoted by the wreck's presence.

A recent study by L. Wegley, et al. on nearby Kingman Reef, indicates that the live coral cover surrounding the wreck has decreased to less than 10 percent of its original size due to accelerated algae growth and corallimorph infestation. The reef destruction extends 1.5 kilometers along the reef horizontally, and was observed spreading down the reef slope to approximately 35 meters. As this growth continues unabated, it is expected to spread toward the north facing shoreline where fragile coral gardens are located.

*Appropriations Needs*

Marine Conservation Institute requests that the subcommittee increase funding for NWRs operations by \$8.8 million to a level of \$494.8 million in fiscal year 2013 to better manage our Nation's refuges. We recommend that \$3.5 million of that amount be allocated to the marine monuments, which now receive approximately \$200,000 annually. USFWS responsibilities in the Pacific Islands have increased substantially since the designation of the monuments in 2009, but funding has not followed suit.

Additional monument funding would allow USFWS to properly manage Midway Atoll Airfield, and more adequately protect and restore the Papahānaumokuākea Marine National Monument. Furthermore, the additional funding would allow USFWS to provide adequate management of the three newest monuments. Funding is needed to hire managers for Marianas and Pacific Remote Islands (a Rose Atoll Manager has been funded over the last several years); hire one public planner position to aid in management responsibilities; and pay for associated administrative costs such as office space costs and travel expenses. Additional funds would also continue to address nuisance and invasive species that are hurting native wildlife populations, and hire additional law enforcement officers to combat illegal entry and fishing. The remaining funds would pay for an initial cost assessment for removal of the two shipwrecks mentioned above that are damaging coral reef habitats.

Thank you for the opportunity to share our views.

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PREPARED STATEMENT OF THE MERRITT ISLAND WILDLIFE ASSOCIATION

Mr. Chairman and members of the subcommittee: On behalf of the nearly 1,300 members of the Merritt Island Wildlife Association (MIWA), thank you for this op-

portunity to submit comments on the proposed fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. MIWA is a nonprofit volunteer organization formed in 1994. Our mission is “to promote conservation, awareness, appreciation, and use of the Merritt Island National Wildlife Refuge (MINWR) and to support Refuge programs.”

We appreciate your prior support of the National Wildlife Refuge System (NWRS), and specifically request that you continue that commitment to sustaining the world’s foremost wildlife conservation system with approval of the President’s budget request of \$495 million for NWRS operation and maintenance. In the broader context of the overall Fish and Wildlife Service budget request, we also urge your support of the \$51 million appropriation proposed for the Migratory Bird Management program. Further, we believe funding of the Land and Water Conservation Fund at \$700 million is vitally important to acquisition and preservation of critical habitat throughout the United States.

#### *Merritt Island National Wildlife Refuge*

MINWR was established in 1963, the 286th refuge in the system which now numbers 556. It serves as the headquarters for a complex of seven refuges which comprise a total of 172,000 acres located in five counties in east-central Florida. The complex includes Pelican Island NWR, the Nation’s first Refuge, as well as the system’s most recent addition—the Everglades Headwaters NWR. MINWR itself is an overlay of NASA’s Kennedy Space Center and extends more than 140,000 acres of northern Brevard and southern Volusia counties. More than 2 million people live within an hour’s drive of the Refuge.

The initial primary purpose of MINWR was “. . . for use as an inviolate sanctuary . . . for migratory birds.” (Migratory Bird Conservation Act); later expanded under the North American Wetlands Conservation Act to include “. . . to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife . . .” and “. . . to sustain an abundance of waterfowl and other migratory birds consistent with the goals of the North American Waterfowl Management Plan . . .”

The Refuge has been designated by the State of Florida as an “Outstanding Florida Water” in recognition of the exceptional ecological value and water quality of the Indian River Lagoon within MINWR; and is also identified as “Essential Fish Habitat” under the Magnuson-Stevens Act.

These mandates and accolades speak to the quality of the biological and physical resources within MINWR and the necessity to preserve and protect them. Implicit in the mission of the NWRS, however, is the firm commitment to also serve the interests of the people who pay the bills. MINWR has done an excellent job of this. The Refuge receives more than 750,000 visitors each year and another 250,000 visit the rest of the complex’s lands and facilities. The spectrum of interests is broad—many come for wildlife observation, photography, or simply to enjoy some quiet time in a natural setting; but there are also waterfowl hunters, anglers, boaters, and hundreds of school children drawn by the environmental education programs. MINWR is a highly favored stop on the Great Florida Birding Trail managed by the Florida Fish & Wildlife Conservation Commission.

They come from near and far—more than 60 percent from outside the local area (50-mile radius) according to an extensive 2010–2011 visitor survey. For most, visiting the Refuge was either the primary purpose of their trip or one of a few equally important purposes. And they spend money locally; an average of \$52 per day for local visitors, and \$91 for those from farther away (who typically stayed in the area for a few days). Nearly 80 percent of the respondents stopped at the Visitor Center for information, services, and gift shopping; more than 95 percent said they were very satisfied with all aspects of their visit; and 92 percent believed that National Wildlife Refuges provide a unique recreational experience in comparison to other public lands. The survey, one of several done at refuges across the country, achieved a remarkable 79-percent response rate.

#### *The National Wildlife Reserve System Operations and Maintenance Budget Request*

It has been estimated that “full funding” of the NWRS would require a \$900 million annual appropriation. We are all aware of the realities of our current economy, however, and request your approval of the fiscal year 2013 request of \$495 million. We note that while this amount will avoid further sharp cuts in system staff and programs, it falls short of holding the line in terms of constant dollars. The Refuge staff has done an admirable job with the available resources, but they face a number of current and impending budget-related issues:

- The current MINWR staff is 29 people, which provides less than one-half man-hour per acre per year of available labor for all operation and maintenance requirements. (The staff of the other six refuges in the complex is only 11.) One Refuge Manager position was eliminated in 2011, and the Supervisory Refuge Ranger position remains vacant for lack of available funding. That position is responsible for managing the Refuge's public services program . . . for those 750,000 people who visit each year. The vacancy will force the reduction of Visitor Center hours to 5 days per week from its current level of 7 days during the winter "high season" and 6 days through the summer.
- Some of the Refuge's roads that historically have been open to the public have been closed this year due to lack of maintenance funds. Lack of adequate staffing also has caused planned expansions of the hunting program (to include upland game at MINWR and the satellite St. Johns NWR) to be postponed until 2015 or later. Inadequate funding also will reduce maintenance of the levees and control structures used to manage water levels in the impoundments critical for waterfowl habitat. Without proper and timely water control, wintering waterfowl numbers can decline precipitously.
- There are only about 250 law enforcement personnel within the entire NWRS; the MINWR 7-refuge complex has but 2. A 2005 assessment by the International Association of Chiefs of Police recommended a NWRS force of 845 full-time officers. While crime within our refuge complex has not yet become a major problem, it is increasing. The law enforcement budget request for the entire NWRS is less than \$40 million . . . for 150 million acres in more than 500 locations spread throughout 50 States. That is about a one-third of the annual budget for either the Brevard County Sheriff's Office or the Orlando Police Department.
- Nationally, the 230 "Friends" groups such as MIWA and individual volunteers provide 1.4 million hours for NWRS programs and facilities—the equivalent of 665 full-time positions. But volunteers must be trained and managed to be effective, and that requires F&WS staff.
- MINWR is responsible for wildfire protection throughout the Refuge, including Kennedy Space Center. Prescribed burning is the primary management tool for both fire risk reduction and for maintenance of scrub habitat for one of Florida's largest populations of the endangered Florida Scrub Jay. Staff has projected that prescribed burns may have to be reduced by up to 25 percent in the coming year if sufficient staff and funds are not available.

The impact of these issues on visitor orientation, assistance, and satisfaction is obvious, and quite likely to result in reduced visitation. And that problem extends well beyond MINWR.

The Refuge is a linchpin in the local economy, and its senior staff have been closely and cooperatively involved in the efforts of Titusville and northern Brevard County—indeed, all of east central Florida—to deal with the repercussions of the ending of the NASA Space Shuttle program. The area has lost thousands of jobs in the past year and suffers from a painfully high unemployment rate.

Local leaders have united to address this immediate and pressing problem . . . to turn an extraordinarily sour lemon into lemonade, to fall back on an old cliché. A notable example is the Greater Titusville Renaissance whose mission is to "embark on an exciting path of revitalization by celebrating our natural and historic resources, cultivating arts and culture, and energizing our economy." Promoting and sustaining our nature-based tourism is an integral part of that concept.

Using the survey data presented above, we estimate that our 750,000 annual visitors are the source of more than \$50 million in local gas, food, lodging, and other spending. MINWR is clearly a significant element in local economic recovery planning. Our community will be even more severely damaged if the Refuge's funding is eroded. We are a reflection of the entire NWRS in this regard. Nationwide, 45 million annual refuge visitors contribute nearly \$1.7 billion to local economies and support tens of thousands of local jobs.

#### *Migratory Bird Management Program Budget*

Given the fundamental importance of migratory bird habitat preservation and enhancement to the purpose of MINWR, MIWA strongly supports the \$51 million budget request for these programs. While originally focussed on our wintering waterfowl populations, the Refuge also includes some of the last intact coastal hammock and upland scrub along the Florida coast. These areas are heavily used by migrating neotropical land birds—passerines and other woodland species—moving along the Atlantic Flyway. MINWR also has many large expanses of mud flats and

salt marsh used by migrating shorebirds, many of which are species of concern, and several miles of undisturbed beach and dunes.

Coupled with our excellent waterfowl areas, these additional components of the Refuge underlie its 2001 designation by the American Bird Conservancy as a Globally Important Bird Area. There are only 500 such areas worldwide—including 183 of our National Wildlife Refuges.

This also underscores the global nature of the need for migratory bird protection. Many of the species passing through MINWR winter in Central and South America where habitat degradation is an increasingly serious problem. We also support the proposed \$3.8 million appropriation request for the Neotropical Migratory Bird Conservation Fund.

A significant percentage of the visitors to MINWR are birders. Without large numbers of wintering species and the recurring passage of the migrants, our birders will go elsewhere.

#### *Land and Water Conservation Fund*

The Land and Water Conservation Fund (LWCF) was created in 1965 with the intention, never fulfilled, of annual funding of \$900 million. These funds are derived primarily from offshore oil and gas drilling fees, not from general tax revenue. The administration's request this year is \$104.7 million for the NWRS, but the Senate Transportation bill, as amended, would provide \$700 million for national, State, and local efforts to conserve irreplaceable lands. We ask for your support of the increased amount. The LWCF can be an unequalled mechanism for the acquisition and preservation of critical habitats at the landscape scale. These would include the 8 million acres still unprotected within our National Wildlife Refuges and wildlife corridors between existing sanctuaries, preserves, and refuges.

#### *Summary*

We believe our National Wildlife Refuges are viewed as great national assets by the American people, and we know that Merritt Island National Wildlife Refuge enjoys that support in Florida. These are places where we go for the enjoyment of things not built by man, for reconnection with our natural heritage, and sometimes simply for stress relief. Our members know they provide all of that. We hope you will find the time to experience these things personally and often, and that you will support the National Wildlife Refuge System to—and perhaps beyond—the extent we have requested.

Thank you again for this opportunity to comment on this proposed appropriation.

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#### PREPARED STATEMENT OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

The Metropolitan Water District of Southern California (Metropolitan) encourages the subcommittee's support for the U.S. Bureau of Land Management's (BLM) Soil, Water, and Air Program. This includes for fiscal year 2013, Federal funding of \$5.2 million for general water quality improvement efforts within the Colorado River Basin and, of that amount, specifically \$1.5 million for salinity specific projects to prevent further degradation of Colorado River water quality and increased downstream economic damages.

The concentrations of salts in the Colorado River cause approximately \$300 million in quantified damages in the lower Colorado River Basin States each year and significantly more in unquantified damages. Salinity concentrations of Colorado River water are lower than at the beginning of Program activities by more than 100 milligrams per liter (mg/L). Modeling by the U.S. Bureau of Reclamation (USBR) indicates that the quantifiable damages would rise to more than \$500 million by the year 2030 without continuation of the Colorado River Basin Salinity Control Program (Program).

Water imported via the Colorado River Aqueduct has the highest level of salinity of all of Metropolitan's sources of supply, averaging around 630 mg/L since 1976, which leads to economic damages. For example, damages occur from:

- A reduction in the yield of salt sensitive crops and increased water use for leaching in the agricultural sector;
- A reduction in the useful life of galvanized water pipe systems, water heaters, faucets, garbage disposals, clothes washers, and dishwashers, and increased use of bottled water and water softeners in the household sector;
- An increase in the cost of cooling operations, and the cost of water softening, and a decrease in equipment service life in the commercial sector;
- An increase in the use of water and the cost of water treatment, and an increase in sewer fees in the industrial sector;



- A decrease in the life of treatment facilities and pipelines in the utility sector;
- Difficulty in meeting wastewater discharge requirements to comply with National Pollutant Discharge Elimination System permit terms and conditions, and an increase in desalination and brine disposal costs due to accumulation of salts in groundwater basins, and fewer opportunities for recycling due to groundwater quality deterioration; and
- Increased use of imported water for leaching and the cost of desalination and brine disposal for recycled water.

Concern over salinity levels in the Colorado River has existed for many years. To deal with the concern, the International Boundary and Water Commission approved Minute No. 242, Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River in 1973, and the President signed into law the Colorado River Basin Salinity Control Act in 1974 (Act). High total dissolved solids in the Colorado River as it enters Mexico and the concerns of the seven Colorado River Basin States regarding the quality of Colorado River water in the United States drove these initial actions. To foster interstate cooperation and coordinate the Colorado River Basin States' efforts on salinity control, the seven Basin States formed the Colorado River Basin Salinity Control Forum.

The Program reduces salinity by preventing salts from dissolving and mixing with the River's flow. Irrigation improvements (sprinklers, gated pipe, lined ditches) and vegetation management reduce the amount of salt transported to the Colorado River. Point sources such as saline springs are also controlled. The Federal Government, Basin States, and contract participants spend more than \$40 million annually on salinity control programs.

The Program, as set forth in the Act, benefits both the Upper Colorado River Basin water users through more efficient water management and the Lower Basin water users, hundreds of miles downstream from salt sources in the Upper Basin, through reduced salinity concentration of Colorado River water. California's Colorado River water users are presently suffering economic damages in the hundreds of millions of dollars per year due to the River's salinity.

The Act provides that the Secretary of the Interior shall "develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management." BLM is the largest landowner in the Colorado River Basin. Due to geological conditions, much of the lands that are controlled and managed by the BLM are heavily laden with salt. Past management practices have led to human-induced and accelerated erosion processes from which soil and rocks, heavily laden with salt have been deposited in various stream beds or flood plains. As a result, salts are dissolved into the Colorado River system causing water quality problems downstream.

The Congress has charged Federal agencies, including the BLM, to proceed with programs to control the salinity of the Colorado River. BLM's rangeland improvement programs can lead to some of the most cost-effective salinity control measures available. These measures significantly complement programs and activities being considered for implementation by the U.S. Bureau of Reclamation through its Basin-wide Program and by the U.S. Department of Agriculture through its on-farm Environmental Quality Incentives Program.

Over the past years, the Colorado River Basin Salinity Control Program has proven to be a very cost-effective approach to help mitigate the impacts of increased salinity in the Colorado River. Continued Federal funding of this important Basin-wide program is essential.

Metropolitan urges the subcommittee to fund BLM's Soil, Water, and Air Program for fiscal year 2013 at \$5.2 million for general water quality improvement efforts in the Colorado River Basin. Metropolitan additionally urges you to specifically designate \$1.5 million of that amount for the Colorado River Basin Salinity Control Program.

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PREPARED STATEMENT OF THE MISSISSIPPI INTERSTATE COOPERATIVE RESOURCE  
ASSOCIATION

*Background*

One of the most significant threats to biodiversity in the Nation's coastal and estuarine habitats as well as inland navigable waters is the introduction of nonindigenous aquatic nuisance species (ANS) into the ecosystem. The introduction of ANS through intentional or accidental means establishes a stress on ecosystems that can result in the decline of native species population, serve as an impediment to species recovery and pose a long-term economic and ecological threat to the health of the area. The control and management of these ANS in such areas as the Mississippi

River Basin Drainage, Great Lakes, Everglades, and San Francisco Bay/Inland Delta costs the economy and taxpayers billions of dollars annually.

MICRA commends the Congress and the Federal Government's recognition of this problem and efforts to address it through enactment of the Non-indigenous Aquatic Nuisance Prevention and Control Act (NANPCA) of 1990 (Public Law 101-646) and the National Invasive Species Act (NISA) of 1996 (Public Law 104-332). The establishment of the Aquatic Nuisance Species Task Force (ANSTF) makes use of a coordinating body to improve efforts to administer the Government's responsibilities as carried out by the National Oceanic and Atmospheric Administration; U.S. Fish and Wildlife Service (USFWS); U.S. Coast Guard; U.S. Environmental Protection Agency; U.S. Army Corps of Engineers; and other Federal agencies.

As a part of their authority and responsibility for water resources management, individual States have moved forward with State based programs to combat aquatic nuisance species and to prevent their introduction into State waters. These programs supplement the national activity and are indicative of an ongoing need for resources and action to reduce the threat and minimize the impacts of ANS on U.S. waters.

#### *State/Interstate Aquatic Nuisance Species Management Plan*

The NANPCA (as amended by NISA) recognized that States are integral partners in the battle against ANS by authorizing the State/Interstate Aquatic Nuisance Species Management Plan (SIANSMP) grant program. Managed by the Service, the program provides annual funding to States, tribes, and Regional organizations to support the implementation of State and interstate ANS management plans that have been approved by the ANSTF. The SIANSMPs identify feasible, cost-effective measures to be undertaken by the States and cooperating entities to manage ANS infestations in an environmentally sound manner. This funding has helped many States initiate an ANS program and has enabled them to establish mechanisms for prevention, early detection and rapid response, containment, and control. Through their SIANSMPs, State efforts link together to form an effective national ANS program that combines strong Federal and State partnerships to eliminate or reduce the environmental, economic, public health and human safety risks associated with ANS.

Section 1301(c) of NANPCA authorized a total of \$4 million for the SIANSMP grant program; however, that amount has never been fully appropriated. Funding was gradually increased from \$68,000 for the first approved State Management Plan in 1994, to its current level of \$1,075,000 beginning in 2004. Over the years, the number of plans approved far outpaced the capacity of the SIANSMP funding. In 2011, the number of approved plans had reached 39, and the amount of support requested by the States was more than \$9 million. The number of plans has increased almost 2.5 times since 2004, causing the amount of annual funding per plan to decrease over the same time period. In 2000, the Service provided approximately \$100,000 per State for plan implementation; in 2004, it was approximately \$71,000 per plan. In fiscal year 2011, the Service provided \$29,800 to support each of the 36 approved SIANSMPs that requested funding.

More than 75 percent of the States have approved SIANSMPs. All but one Mississippi River Basin State are implementing an ANSTF approved plan or are at various stages of developing their State ANS plan. Each State has invested significant resources to develop a plan that meets its needs and addresses its priority ANS issues, and each has been able to significantly leverage available Federal funds. In 2010, the States combined the Federal contribution of \$1.075 million with more than \$6.6 million in State and partner funds to complete a wide array of accomplishments toward the goals and objectives of their SIANSMPs.

In some cases the funding from the FWS for SIANSMPs represents the only funding the States spend on AIS, while in other cases, the annual allocation from the Service represents only a small portion of their total Invasive Species Management budgets. In either case, however, these funds are vital to supporting State AIS Coordinator positions or are pooled with other funds, and with other partners, to allow for effective and efficient collaborative projects to address plan priorities. For many States, a lack of dedicated State funding for the ANS Plans is an ongoing problem. Many elements of the SIANSMP have not been successfully implemented due to a lack of sufficient resources, and demands placed on the capacity of States to address these issues continue to outpace the availability of resources.

#### *President's Fiscal Year 2013 Budget*

The States have developed ANSTF approved management plans and ANS programs in accordance with congressional authorizations in NANPCA and NISA. The SIANSMP grant program remains a high priority to States and is critical to their ability to implement successful ANS prevention and control programs. Funding for

the SIANSMPs has remained stable since 2004 at only 25 percent of the authorized level, however total requests to support the 36 approved State/Interstate ANS Management Plans that applied for funding in fiscal year 2011 exceeded \$9 million. The States have consistently demonstrated a need for increased appropriations to implement ANS prevention and control priorities, yet the President's fiscal year 2013 budget eliminates the SIANSMP grant program for implementation of ANSTF-approved plans.

MICRA urges the Congress to restore fiscal year 2013 appropriations of \$1,075,000, and to provide additional fiscal year 2013 appropriations to fully fund that SIANSMP grant program at \$4 million as authorized by NANPCA and NISA.

NOTE.—Information provided in this document was pulled from existing documents including:

- 2011–2012 Policy Positions for the Jurisdiction of the Environment Committee, National Conference of State Legislatures, <http://www.ncsl.org/state-Federal-committees.aspx?tabs=855,23,667>.
- State/Interstate Aquatic Nuisance Species Management Plans 2010 (1st in a Series of 3). U.S. Fish and Wildlife Service. April 2012.
- Accomplishments of the State/Interstate Aquatic Nuisance Species Management Plans A Summary of State Efforts in the Battle Against ANS (2nd in a Series of 3). U.S. Fish and Wildlife Service. February 2012.
- The Evolution of the State/Interstate Aquatic Nuisance Species Management Plan Grant Program (3rd in a Series of 3). U.S. Fish and Wildlife Service. April 2012.

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#### PREPARED STATEMENT OF THE MOAT CREEK MANAGING AGENCY

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF. As part of this LWCF request, the Bureau of Land Management included \$4.5 million for the acquisition of land at the California Coastal National Monument in Mendocino County. I respectfully urge you to support robust funding for the LWCF to ensure that this critical California conservation priority will receive the necessary funds.

LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical, and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

For more than 100 years the small incorporated City of Point Arena and the Point Arena Lighthouse have clung to the rugged and remote coastline of Mendocino County in California. Surrounding the point and lying north of the town of Point Arena are the Stornetta Public Lands and Manchester Beach State Park, a complex of Federal and State conserved lands totaling approximately 3,350 acres.

A unique designation, the national monument was proclaimed in 2000 by President Bill Clinton to protect the coastline; offshore rocks, reefs, and islands; and marine habitats along the 1,100-mile Pacific Coast of California. The monument is part of the BLM's National Landscape Conservation System (NLCS), first created in 2000 and later authorized by the Congress in 2009. The State of California protects 1,500 acres at Manchester Beach State Park. A privately held conservation easement inland along the Garcia River protects another 589 acres. In total the public lands complex protects 6 miles of coastline.

The jagged coastline of northern California is a major draw for tourists to Mendocino County. Most visitors access the area via California Route 1. Attracted by the scenery of the coast and recreational opportunities including hiking, biking, camping, wildlife viewing, ocean sports, and horseback riding, tourists also enjoy the hospitality of small communities like Point Arena. Tourism depends not only on the multiple small businesses along the Route 1 corridor, ranging from inns, shops, res-

taurants, and historic sites like the lighthouse, but also from the ecological and visual integrity of the high quality surrounding landscape.

Available for acquisition in fiscal year 2013 is the 409-acre second phase of the Cypress Abbey property. This property has BLM lands on three of its borders including California Coastal National Monument to its west, Stornetta Public Lands to its north, and the tract recently acquired in the first phase of the project to its south. The property boasts miles of gentle coastal bluff, rich riparian corridors, and approximately 2 miles of terraces and wild beach with natural bridges, tide pools, waterfalls, sinkholes and blowholes. The coastal bluffs and terraces include open meadows and forests of Shore Pine. The property and surrounding area supports habitat for the Behren's Silverspot Butterfly, Point Arena Mountain Beaver, and California Red-legged Frog, all federally listed endangered or threatened species.

The acquisition will allow for a variety of onsite recreational uses, including interpretive hikes and studies; walking, and bicycling along multi-modal trails; and wild-life viewing. Visitors will be able to observe an array of seabirds along with wintering and migrating shorebirds such as black turnstones, surfbirds, and rock sandpipers. The exposed and vegetated offshore rocks support nesting sites for pelagic cormorants, pigeon guillemots, and black oystercatchers.

Coastal trail access resulting from the proposed acquisition would create a gateway to the national monument and the scenic coastline, making this extraordinary resource accessible for public enjoyment. Acquisition of phase II lands will also provide the opportunity to create more than 8 miles of California Coastal Trail originating in the heart of the City of Point Arena and connecting to the protected open space. The protection of the property will also enhance the viewshed along California Route 1, the main access road for visitors to the coastline. The route is designated by Caltrans as an eligible State scenic highway.

The project has the support of the U.S. Fish and Wildlife Service, the California State Coastal Conservancy, the California Department of Fish and Game, Mendocino County, the City of Point Arena, and other interested groups and organizations. The first phase of the project, comprising 123 acres, was completed in January 2012 using funds from the BLM and the California State Coastal Conservancy. A total of \$5.3 million is needed for the acquisition of the second phase.

In its budget request for fiscal year 2013, the BLM included \$4.5 million from the Land and Water Conservation Fund (LWCF) for California Coastal National Monument. Additional funds are being sought from State sources, the Federal Public Lands Highways Discretionary program, and private donors.

In closing, I urge you to provide funding for the Land and Water Conservation Fund of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for California Coastal National Monument. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in California, and I appreciate your consideration of this funding request.

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PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF ABANDONED MINE LAND PROGRAMS

My name is Madeline Roanhorse and I serve as the Manager of the AML Reclamation/UMTRA Department with the Navajo Nation. I am appearing today on behalf of the National Association of Abandoned Mine Land Programs (NAAML) The NAAML represents 30 States and tribes with federally approved abandoned mine land reclamation (AML) programs authorized under Title IV of the Surface Mining Control and Reclamation Act (SMCRA). Title IV of SMCRA was amended in 2006 and significantly changed how State and tribal AML grants are funded. These grants are still based on receipts from a fee on coal production, but beginning in fiscal year 2008, the grants are funded primarily by mandatory appropriations. As a result, the States and tribes should receive \$488 million in fiscal year 2013. In its fiscal year 2013 budget, the Office of Surface Mining (OSM) is requesting \$307 million for State and tribal AML grants, a reduction of \$180 million. OSM's budget also includes a legislative proposal for the establishment of a competitive grant process that would allegedly improve AML program efficiency. The legislative proposal would also eliminate funding to States and tribes that have "certified" completion of their highest-priority abandoned coal reclamation sites.

Over the past 30 years, the accomplishments of the States and tribes under the AML program has resulted in tens of thousands of acres of abandoned mine lands having been reclaimed, thousands of mine openings having been closed, and safeguards for people, property and the environment having been put in place. Be assured that States and tribes continue to be committed to address the unabated haz-

ards at both coal and noncoal abandoned mines. We are all united to play an important role in achieving the goals and objectives as set forth by the Congress when SMCRA was first enacted—including protecting public health and safety, enhancing the environment, providing employment, and adding to the economies of communities impacted by past coal and noncoal mining.

SMCRA was passed in 1977 and set national regulatory and reclamation standards for coal mining. The act also established a Reclamation Fund to work toward eliminating the innumerable health, safety and environmental problems that exist throughout the Nation from the mines that were abandoned prior to the act. The Fund generates revenue through a fee on current coal production. This fee is collected by OSM and distributed to States and tribes that have federally approved regulatory and AML programs. The promise the Congress made in 1977, and with every subsequent amendment to the Act, was that, at a minimum, half the money generated from fees collected by OSM on coal mined within the boundaries of a State or tribe, referred to as “State Share”, would be returned for the uses described in title IV of the act if the State or tribe assumed responsibility for regulating active coal mining operations pursuant to title V of SMCRA. The 2006 Amendments clarified the scope of what the State Share funds could be used for and reaffirmed the promise made by the Congress in 1977.

If a State or tribe was successful in completing reclamation of abandoned coal mines and was able to “certify” under section 411 of SMCRA, then the State Share funds could be used to address a myriad of other abandoned mine issues as defined under each State’s or tribe’s approved Abandoned Mine Reclamation Plan. These Abandoned Mine Reclamation Plans are approved by the Office of Surface Mining and they ensure that the work is in accordance with the intent of SMCRA. Like all abandoned mine reclamation, the work of certified States and tribes eliminates health and safety problems, cleans up the environment, and creates jobs in rural areas impacted by mining.

The elimination of funding for certified State and tribal AML grants not only breaks the promise of State and Tribal Share funding, but upsets the balance and compromise that was achieved in the comprehensive restructuring of SMCRA accomplished by the 2006 Amendments following more than 10 years of discussion and negotiation by all affected parties. The funding reduction is inconsistent with the administration’s stated goals regarding jobs and environmental protection. We therefore respectively ask the subcommittee to support continued funding for certified States and tribes at the statutorily authorized levels, and turn back any efforts to amend SMCRA in this regard.

In addition to the \$180 million reduction for certified States and tribes, the proposed fiscal year 2013 budget perpetuates the termination of Federal funding for the AML emergency program, leaving the States and tribes to rely on funds received through their nonemergency AML grant funds. This contradicts the 2006 amendments, which require the States and tribes to maintain “strict compliance” with the nonemergency funding priorities described in section 403(a), while leaving section 410, Emergency Powers, unchanged. Section 410 of SMCRA requires OSM to fund the emergency AML program using OSM’s “discretionary share” under section (402)(g)(3)(B), which is entirely separate from State and tribal nonemergency AML grant funding under sections (402)(g)(1), (g)(2), and (g)(5). SMCRA does not allow States and tribes to administer or fund an AML emergency program from their non-emergency AML grants, although, since 1989, 15 States have agreed to implement the emergency program on behalf of OSM contingent upon OSM providing full funding for the work. As a result, OSM has been able to fulfill their mandated obligation more cost effectively and efficiently.

Regardless of whether a State/tribe or OSM operates the emergency program, only OSM has the authority to “declare” the emergency and clear the way for the expedited procedures to be implemented. In fiscal year 2011, OSM issued guidance to the States that the agency “will no longer declare emergencies.” OSM provided no legal or statutory support for its position. Instead, OSM has “transitioned” responsibility for emergencies to the States and tribes with the expectation that they will utilize nonemergency AML funding to address them. OSM will simply “assist the States and tribes with the projects, as needed”. Of course, given that OSM has proposed to eliminate all funding for certified States and tribes, it begs the question of how and to what extent OSM will continue to assist these States and tribes.

If the Congress continues to allow the elimination of emergency program funding, States and tribes will have to adjust to their new role by setting aside a large portion of their nonemergency AML funds so that they can be prepared for any emergency that may arise. Emergency projects come in all shapes and sizes, vary in number from year to year and range in cost from thousands of dollars to millions of dollars. Requiring States and tribes to fund emergencies will result in funds being

diverted from other high-priority projects and delay certification under section 411, thereby increasing the backlog of projects on the Abandoned Mine Land Inventory System (AMLIS). For minimum program States and States with small AML programs, large emergency projects will require the States to redirect all or most of their AML resources to address the emergency, thereby delaying other high-priority reclamation. With the loss of stable emergency program funding, minimum program States will have a difficult, if not impossible, time planning, budgeting, and prosecuting the abatement of their high-priority AML problems. In a worst-case scenario, a minimum program State would not be able to address a costly emergency in a timely fashion, and would have to "save up" multiple years of funding before even initiating the work to abate the emergency, in the meantime ignoring all other high-priority work.

OSM's proposed budget suggests addressing emergencies, and all other projects, as part of a competitive grant process whereby States and tribes compete for funding based on the findings of the proposed AML Advisory Council. OSM believes that a competitive grant process would concentrate funds on the highest-priority projects. While a competitive grant process may seem to make sense at first blush, further reflection reveals that the entire premise is faulty and can only undermine and upend the deliberate funding mechanism established by the Congress in the 2006 Amendments. Since the inception of SMCRA, high-priority problems have always taken precedence over other projects. The focus on high priorities was further clarified in the 2006 Amendments by removing the lower-priority problems from the Act and requiring "strict compliance" with high-priority funding requirements. OSM already approves projects as meeting the definition of high priority under its current review process and therefore an AML Advisory Council would only add redundancy and bureaucracy instead of improving efficiency.

Based on our understanding of OSM's legislative proposal, there are a myriad of potential problems and implications for the entire AML program. A listing of our questions and concerns regarding the legislative proposal is attached to this statement and we urge the subcommittee to press OSM for answers. Given the uncertainties and the negative implications for the accomplishment of AML work under title IV of SMCRA, the Congress should reject the proposed amendments to SMCRA as being counterproductive to the purposes of SMCRA and an inefficient use of funds. We request that the Congress continue mandatory funding for certified States and tribes and provide funding for AML emergencies. A resolution to this effect adopted by NAAMLPL last year is attached.

On a somewhat related matter, there appears to be increasing concern by some in Washington that the States and tribes are not spending the increased AML grant moneys that they have received under the 2006 Amendments in a more expeditious manner, thus resulting in what the administration has characterized as unacceptable levels of "undelivered orders". What these figures and statements fail to reflect is the degree to which AML grant moneys are obligated or otherwise committed for AML reclamation work as part of the normal grant process. Most AML grants are either 3 or 5 years in length and over that course of time, the States and tribes are in a continual process of planning, bidding and contracting for specific AML projects. Some projects are multi-layered and require extended periods of time to complete this process before a shovel is turned at the AML site. And where Federal funding is concerned, additional time is necessary to complete the myriad statutory approvals for AML work to begin, including compliance with the National Environmental Policy Act and the National Historic Preservation Act.

In almost every case, however, based on the extensive planning that the States and tribes undertake, AML grant funds are committed to specific projects even while clearances and bidding are underway. While funds may not technically be "obligated" because they are not yet "drawn down", these funds are committed for specific purposes. Once committed, States and tribes consider this grant money to be obligated to the respective project, even though the "order" has not been "delivered" and the funds actually "drawn down". The latter can only occur once the project is completed, which will often be several years later, depending on the size and complexity of the project. We would be happy to provide the subcommittee with more detailed information about our grant expenditures and project planning in order to answer any questions you may have about how we account for and spend our AML grant moneys. Given the confusion that often attends the various terms used to describe the grant expenditure process, we believe it is critical that the Congress hear directly from the States and tribes on this matter and not rely solely on the administration's statements and analyses. We welcome the opportunity to brief your subcommittee in more detail regarding this issue should you so desire.

One of the more effective mechanisms for accomplishing AML restoration work is through leveraging or matching other grant programs, such as EPA's 319 program.

Until fiscal year 2009, language was always included in OSM's appropriation that encouraged the use of these types of matching funds, particularly for the purpose of environmental restoration related to treatment or abatement of acid mine drainage (AMD) from abandoned mines. This is an ongoing, and often expensive, problem, especially in Appalachia. NAAMLIP therefore requests the subcommittee to support the inclusion of language in the fiscal year 2013 appropriations bill that would allow the use of AML funds for any non-Federal cost-share required by the Federal Government for AMD treatment or abatement.

We also urge the subcommittee to support funding for OSM's training program and TIPS, including moneys for State/tribal travel. These programs are central to the effective implementation of State and tribal AML programs as they provide necessary training and continuing education for State/tribal agency personnel, as well as critical technical assistance. Finally, we support funding for the Watershed Cooperative Agreements in the amount of \$1.2 million because it facilitates and enhances State and local partnerships by providing direct financial assistance to watershed organizations for acid mine drainage remediation.

Thank you for the opportunity to submit this statement regarding OSM's proposed budget for fiscal year 2013. We would be happy to answer any questions you may have or provide additional information.

#### ATTACHMENT

##### QUESTIONS AND CONCERNS RE THE ABANDONED MINE LAND LEGISLATIVE PROPOSAL IN OSM'S FISCAL YEAR 2013 BUDGET

###### *The Proposed Competitive Allocation Process*

What is the potential for this new review and ranking process to reduce expenditures and increase efficiency without being counter-productive? Will it introduce an additional level of bureaucracy and result in more time being spent formulating proposals and less on actual AML reclamation? The present funding formula, while not perfect, at least provides some direction on which to base long-term strategic planning and efficient use of available funds. The closest analogy to what OSM is proposing by way of its competitive allocation process is the way BLM and the Forest Service currently allocate their AML funds through competitive proposals to various State offices and regions. Because of the uncertainties of funding, neither agency has been able to develop significant in-house expertise, but instead often rely on SMCRA-funded States like Montana, New Mexico, Utah and Colorado to do a good portion of their AML work. Why would OSM want to duplicate a system that has proven problematic for other agencies?

Who would be the "other parties" potentially bidding on AML grant funds? Would this include Federal agencies such as BLM, USFS, NPS, etc? If so, in many cases, those agencies already rely on the States to conduct their reclamation work and also determine priorities based on State input or guidance.

What do the State project managers and inspectors do if a State does not win a competitive bid for AML funds? How does a State gear up if it receives funding for more projects than it can handle with present staffing? Each State and tribe has different grant cycles. Unless all are brought into one uniform cycle, how will everyone compete for the same dollars? In this regard, how can the competitive allocation process and the use of the Advisory Council be more efficient and simple than what we already have in place?

How long will OSM fund a State's/tribe's administrative costs if it does not successfully compete for a construction grant, even though the State/tribe has eligible high-priority projects on AMLIS? How will OSM calculate administrative grant funding levels, especially since salaries and benefits for AML project managers and inspectors predominantly derive from construction funds? Would funding cover current staffing levels? If not, how will OSM determine the funding criteria for administrative program grants?

How do the States and tribes handle emergency projects under the legislative proposal? Must these projects undergo review by the Advisory Council? Will there be special, expedited procedures? If a State/tribe has to cut back on staff, how does it manage emergencies when they arise? If emergency programs do compete for AML funds, considerable time and effort could be spent preparing these projects for review by the Advisory Council rather than abating the immediate hazard. Again, how can we be assured that emergencies will be addressed expeditiously?

What ranking criteria will be used to determine the priority of submitted AML project grant requests? The number of people potentially affected? The current priority ranking on AMLIS? How would the Council determine whether a burning gob pile near a city presents a greater hazard than a surface mine near a highway or

an underground mine beneath a residential area? Would the winning bid be the “most convincing” proposal? The one with the most signatures on a petition? The one with the most influential legislative delegation? Will AMLIS continue to serve as the primary mechanism for identifying sites and their priority status?

If the current AML funding formula is scrapped, what amount will be paid out to the noncertified AML States and tribes over the remainder of the program? What does OSM mean by the term “remaining funds” in its proposal? Is it only the AML fees yet to be collected? What happens to the historic share balances in the Fund, including those that were supposed to be re-directed to the Fund based on an equivalent amount of funding being paid to certified States and tribes each year? Would the “remaining funds” include the unappropriated/prior balance amounts that have not yet been paid out over the 7-year installment period? What about the amounts due and owing to certified States and tribes that were phased in during fiscal year 2009–2011?

Has anyone alleged or confirmed that the States/tribes are NOT already addressing the highest-priority sites for reclamation within the context of the current AML program structure under the 2006 Amendments? Where have the 2006 Amendments faltered in terms of high-priority sites being addressed as envisioned by the Congress? What would remain unchanged in the 2006 Amendments under OSM’s proposal?

#### *The Nature and Purpose of the Advisory Council*

Who would be on the AML Advisory Council and how could they collectively have better decisionmaking knowledge about hazardous AML sites than the State and tribal project managers and administrators who work with these sites on a daily basis?

What will be the criteria to serve on the Advisory Council? Will the Federal Advisory Committee Act (FACA) requirements apply to the formation and deliberations of the Council? How long does OSM envision it will take to establish the Council and when will it become operational?

Will the Advisory Council be providing recommendations to OSM or will OSM make all final decisions? Will these decisions be appealable? If so, to who? Does OSM envision needing to develop internal guidance for its own review process? If so, how long will it potentially take from Advisory Council review and recommendation to final OSM decision in order to complete the grant process so a State can begin a project?

What degree of detail will be required in order to review and approve competitive grant applications? Will the Council review each project? What type of time constraints will be placed on their review?

Will the Advisory Council consider partial grants for projects that may exceed the allocation for a single year? Would minimum program States be authorized to apply for a grant that would exceed \$3 million?

Will grant applications be based on an individual project or will the grant be based on a project year? How will cost overruns be handled?

#### *Planning for Abandoned Mine Land Work*

One of the greatest benefits of reauthorization under the 2006 Amendments to SMCRA was the predictability of funding through the end of the AML program. Because State and tribes were provided with hypothetical funding levels from OSM (which to date have proven to be quite accurate), long-term project planning, along with the establishment of appropriate staffing levels and project assignments, could be made more accurately and efficiently. How can States/tribes plan for future projects given the uncertainty associated with having to annually bid for AML funds? NEPA compliance issues alone can take years of planning. One State recently asked its State Historic Preservation Office for initial consultation regarding project sites that may be reclaimed over the next 5 years. This process will also have significant impacts on those States that utilize multi-year construction contracts that are paid for with annual AML grants.

State and tribal AML projects are often planned 18 months to 2 years in advance of actually receiving construction funds, based on anticipated funding under the 2006 Amendments. During that time, States and tribes are performing environmental assessments, conducting archeology reviews, completing real estate work and doing NEPA analyses. There could be considerable effort and money wasted if a project does not get approved during the competitive allocation process.

At what point does a State or tribe seek approval from the advisory council? Considerable investigation must take place prior to developing most projects, whether they be acid mine drainage projects or health and safety projects. How much time should be spent in design prior to proceeding to the Council? How accurate must



a cost estimate be prior to taking a project before the Council? The greater the accuracy, the greater the design time expended, possibly for a project that will be rejected.

State and tribes often seek and obtain valuable matching funds from watershed groups, which take considerable lead time to acquire. It will be difficult to commit to partners if we don't know what level of funding, if any, will be made available from OSM.

Several States have committed significant amounts of money to waterline projects across the coalfields. Local governmental entities have started designs and applied for additional funds from other agencies to match AML funds in order to make these projects a reality. Ending all AML funding for these projects (assuming they are not considered "high priority") could have significant consequences for local communities. Our understanding is that these projects were excluded under the 2006 Amendments from the priority scheme contained in section 403(a) of SMCRA.

Does OSM's proposal allow acid mine drainage (AMD) projects to be undertaken? Can these be designated as high priority? (Our understanding is that those AMD projects undertaken pursuant to the "AMD set-aside program" are not subject to the priority scheme under section 403(a) and that those AMD projects done "in conjunction with" a priority 1 or 2 project are considered "high priority".) How do States handle ongoing engineering, operating and maintenance costs for existing AMD treatment systems? As the administration works diligently to develop a new rule to protect streams nationwide, why would it advance a proposal to essentially halt the cleanup of streams funded by the AML program?

#### *Overarching Concerns*

Given the original design of SMCRA by its framers that AML funds will only be allocated to those States who agree to implement title V regulatory programs for active mining operations, to what extent can we expect that States will continue to implement and fund their title V programs if Title IV funding is drastically cut or eliminated under the proposal? Furthermore, since States and tribes will not know what level of AML program staffing to maintain from year to year under the proposal, who would desire to work for a program that is in a constant state of flux?

The SMCRA 2006 Amendments were the result of roughly 10 years of negotiations, discussions, and debates in the Congress. Since the legislative process to enact these new proposed changes could take years, why didn't OSM begin with the legislation and then follow up with an appropriate budget proposal? Why weren't the States/tribes or the NAAMLIP included in discussions that led to this legislative proposal?

As OSM develops the legislative proposal for a competitive bidding process, the agency should consider the impacts on minimum programs and consider maintaining the minimum allocation of \$3 million for minimum program States.

What type of State AML plan amendments does OSM foresee as a result of this new process?

#### *Proposed Elimination of Funding for Abandoned Mine Land Emergencies*

While amendments to title IV of SMCRA in 2006 (Public Law 109-432) adjusted several provisions of the act, no changes were made to OSM's emergency powers in section 410. Quite to the contrary, section 402(g)(1)(D)(2) states that the Secretary shall ensure "strict compliance" with regard to the States' and tribes' use of non-emergency grant funds for the priorities listed in section 403(a), none of which include emergencies. The funding for the emergency program comes from the Secretary's discretionary share, pursuant to section 402(g)(3) of the act. This share currently stands at \$416 million. OSM's elimination of funding for the emergency program will result in the shift of approximately \$20 million annually that will have to be absorbed by the States. This is money that cannot be spent on high priority AML work (as required by SMCRA) and will require the realignment of State AML program operations in terms of personnel, project design and development, and construction capabilities. In most cases, depending on the nature and extent of an emergency project, it could preclude a State's ability to undertake any other AML work during the grant year (and even following years), especially for minimum program States. How does OSM envision States and tribes being able to meet their statutory responsibility to address high-priority AML sites in light of the elimination of Federal funding for AML emergencies? How does OSM reconcile this proposal with the intentions of the Congress expressed in the 2006 amendments to move more money out of the AML Fund sooner to address the backlog of AML problems that continue to linger?

*Proposed Elimination of Funding to Certified States and Tribes*

From what we can ascertain, OSM proposes to eliminate all payments to certified States and tribes—in lieu of funds; prior balance replacement funds; and monies that are due and owing in fiscal year 2018 and 2019 from the phase-in during fiscal years 2008 and 2009. Is this accurate? OSM says nothing of what the impact will be on noncertified States as a result of eliminating these payments to certified States and tribes—especially the equivalent payments that would otherwise be made to the historic production share that directly relate to “in lieu of” payments to certified States and tribes under section 411(h)(4). Previously, OSM has stated that “the amounts that would have been allocated to certified States and tribes under section 402(g)(1) of SMCRA will be transferred to the historical production allocation on an annual basis to the extent that those States and tribes receive in lieu payments from the Treasury (through the Secretary of the Interior) under section 402(i) and 411(h)(2) of SMCRA.” By OSM’s own admission in its fiscal year 2013 proposed budget, this will amount to \$1.2 billion over 10 years. If the in lieu payments are not made (as proposed), how can the transfer to historic production occur? The result, of course, would be a drastic impact on the historic production allocation otherwise available to uncertified States. Will OSM address this matter in its proposed legislation? If so, how?

Has OSM considered the fiscal and programmatic impacts that could result if the certified States and tribes, who no longer receive AML monies, choose to return their title V regulatory programs to OSM (especially given the severe reductions being proposed for fiscal year 2013 in title V grants)?

Finally, how do the cuts in the Title IV program line up with the administration’s other economic, fiscal and environmental objectives as articulated in the deficit reduction and jobs bills that have been considered by the Congress? These objectives include environmental stewardship, cleaning up abandoned mines (coal and noncoal) nationwide, creating green jobs, pumping dollars into local communities, putting money to work on the ground in an expeditious manner, sustainable development, infrastructure improvements, alternative energy projects, protecting public health and safety, and improving the environment. It seems to us that there is a serious disconnect here and we remain mystified as to how these laudable objectives and OSM’s budget proposal can be reconciled.

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RESOLUTION OF THE NATIONAL ASSOCIATION OF ABANDONED MINE LAND PROGRAMS

- WHEREAS, Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Abandoned Mine Land (AML) reclamation program; and
- WHEREAS, the National Association of Abandoned Mine Land Programs (NAAML) was established as a nonprofit corporation to accomplish the objectives of its 30 member tribes and States to eliminate health and safety hazards and reclaim land and water resources adversely affected by past mining and left in an abandoned or inadequately restored condition; and
- WHEREAS, NAAML members administer AML programs funded and overseen by the Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior; and
- WHEREAS, pursuant to the cooperative Federalism approach contained in SMCRA, all tribes and States who are members of NAAML have federally approved abandoned mine reclamation plans; and
- WHEREAS, SMCRA, Title IV, establishes a reclamation fee on each ton of coal mined in the United States to pay for abandoned mine land reclamation; and
- WHEREAS, SMCRA, Title IV, mandates that 50 percent of the reclamation fees collected annually are designated as State/tribal share funds to be returned to the States and tribes from which coal was mined to pay for reclamation programs administered by the States and tribes; and
- WHEREAS, SMCRA Title IV also mandates that a minimum level of funding should be provided to ensure effective State program implementation; and
- WHEREAS, Congress enacted amendments to SMCRA in 2006 to address, among other things, funding for State and tribal programs and fee collection to address existing and future AML reclamation; and
- WHEREAS, the 2006 Amendments established new, strict criteria that ensures States and tribes expend funds on high priority AML sites; and
- WHEREAS, the proposed 2012 budget for the Office of Surface Mining Reclamation and Enforcement within the U.S. Department of the Interior would abandon the 50/50 State-Federal partnership established under SMCRA and renege on the funding formula under the 2006 amendments by, among other things, elimi-

nating mandatory funding for those States and tribes who have certified the completion of their coal reclamation work and adjusting the mechanism by which noncertified States receive their mandatory funding through a competitive bidding process; and

WHEREAS, if statutory changes are approved by Congress as suggested by the proposed fiscal year 2012 budget for OSMRE, reclamation of abandoned mine lands within certified States and tribes would halt; reclamation of abandoned mine lands in all States would be jeopardized; employment of contractors, suppliers, technicians and others currently engaged in the reclamation of abandoned mine lands would be endangered; the cleanup of polluted lands and waters across the United States would be threatened by failing to fund reclamation of abandoned mine lands in some States; minimum program State funding would be usurped; the AML water supply replacement program would be terminated, leaving coal-field citizens without potable water; and the intent of Congress as contained in the 2006 amendments to SMCRA and its 2006 Amendments would be undermined

NOW, THEREFORE BE IT RESOLVED BY THE NATIONAL ASSOCIATION OF ABANDONED MINE LAND PROGRAMS THAT ITS MEMBER TRIBES AND STATES:

Opposes the legislative proposal terminating funding for certified States and tribes and altering the receipt of mandatory AML funding for noncertified States contained in the fiscal year 2012 budget proposal for the Office of Surface Mining Reclamation and Enforcement and instead supports the AML funding mechanism contained in current law.

Issued this 22nd day of February, 2011

ATTEST:

MICHAEL P. GARNER,  
*President, NAAML*

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PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF CLEAN AIR AGENCIES

The National Association of Clean Air Agencies (NACAA) appreciates this opportunity to provide testimony on the fiscal year 2013 proposed budget for the United States Environmental Protection Agency (EPA). NACAA is a national, nonpartisan, nonprofit association of air pollution control agencies in 45 States, the District of Columbia, 4 territories and more than 165 metropolitan areas. The members of NACAA have the primary responsibility under the Clean Air Act for implementing our Nation's clean air program. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the United States. The comments we offer are based upon that experience. The views expressed in these comments do not necessarily represent the positions of every State and local air pollution control agency in the country. NACAA supports the President's request for a \$65.8 million increase in Federal grants for State and local air pollution control agencies under sections 103 and 105 of the Clean Air Act—part of the State and Tribal Assistance Grant (STAG) program (for a total of \$301.5 million).

*Air Pollution is a Significant Public Health Problem*

With all the competing requests the Congress must address, one may ask why air quality programs should receive additional funding. The answer is that dirty air poses a significant risk; tens of thousands of people die prematurely every year. In fact, it would be fair to say that more people die from air pollution than from almost any other problem under this subcommittee's jurisdiction. Many more people suffer serious health problems as a result of air pollution, including aggravation of existing respiratory and cardiovascular disease; damage to lung tissue; impaired breathing; irregular heart beat; heart attacks; adverse effects on learning, memory, IQ, and behavior; and cancer.

While Federal, State and local clean air programs have made tremendous progress, millions of people in this country continue to breathe unhealthful air. EPA estimated that about 124 million people lived in areas that violated at least one of the health-based National Ambient Air Quality Standards (NAAQS) in 2010.<sup>1</sup> EPA's

<sup>1</sup>*Our Nation's Air: Status and Trends Through 2010* (February 2012), EPA, [www.epa.gov/airtrends/2011/](http://www.epa.gov/airtrends/2011/).

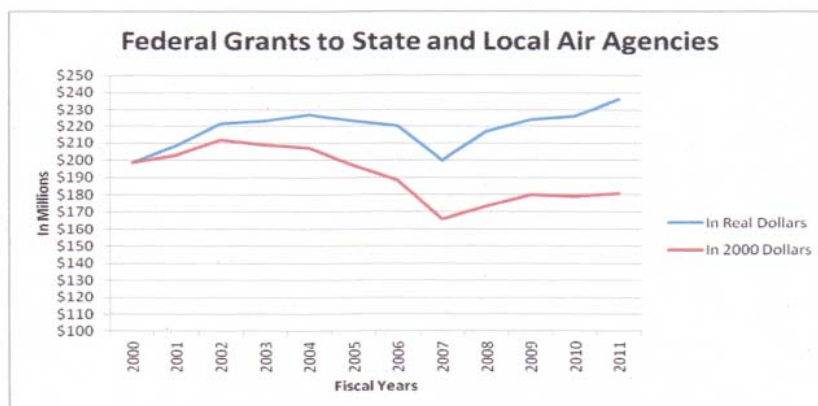
data on toxic air pollution showed that everyone in the United States had an increased cancer risk of more than 10 in 1 million (1 in 1 million is generally considered “acceptable”) in 2005.<sup>2</sup> Finally, air pollution also harms vegetation and land and water systems, impairs visibility and causes other adverse impacts.

#### *The Current State of Funding for Air Quality Programs*

Funding for State and local air pollution control programs comes from several sources, including State and local appropriations; the Federal permit fee program under title V of the Clean Air Act; State and local permit and emissions fee programs and Federal grants under sections 103 and 105 of the Clean Air Act. Section 103 has usually funded specific monitoring efforts (e.g., particulate matter monitoring), while section 105 supports the foundation of State and local air quality programs, including, but not limited to, personnel.

The Clean Air Act authorizes the Federal Government to provide grants up to 60 percent of the cost of State and local air quality programs, while State and local agencies must provide a 40-percent match (as per section 105). In reality, however, the Federal Government provides less than one-quarter of the total State/local air budget, while State and local governments supply more than three-quarters (not including income from title V permit fees). Furthermore, numerous air quality agencies receive no section 105 grants and must supply all of the funds to implement federally mandated programs to attain and maintain the national air quality standards.

Not only do Federal funds provide a small share of the cost of Clean Air Act programs, those grants have actually decreased in purchasing power over the years due to inflation. As the following chart shows, this decline between fiscal year 2000 and fiscal year 2011 has equaled 9 percent.



Because of current economic conditions, many State and local air agencies are finding it difficult to keep essential programs operating. Many have had to reduce or eliminate programs that protect public health and have had to reduce their staffs. As a result, States and localities are more dependent than ever on their Federal grants.

In this time of limited State and local resources, where State and local governments are straining to maintain existing programs, additional Federal funding is needed to meet the ongoing and ever-increasing responsibilities and challenges of air quality programs. A 2009 NACAA funding study documented an annual shortfall of \$550 million in Federal grants for State and local air programs.<sup>3</sup> While the proposed increase would not solve all our funding problems, it is critically needed to help fill the gap in our efforts to attain and maintain healthful air quality.

An EPA study from March 2011 highlighted the cost effectiveness of air quality programs, showing that the benefits from the Clean Air Act have outweighed the

<sup>2</sup>National Air Toxics Assessment for 2005—Fact Sheet, [www.epa.gov/ttn/atw/nata2005/05pdf/sum\\_results.pdf](http://www.epa.gov/ttn/atw/nata2005/05pdf/sum_results.pdf).

<sup>3</sup>*Investing in Clean Air and Public Health: A Needs Survey of State and Local Air Pollution Control Agencies* (April 2009), NACAA, <http://www.4cleanair.org/Documents/Reportneedsurvey042709.pdf>.

costs by more than 30 to 1.<sup>4</sup> Moreover, an EPA White Paper from last year reported that environmental protection, including air quality, has had a significant positive effect on our economy in general and job creation in particular.<sup>5</sup> Certainly additional jobs, a healthier and more productive workforce and fewer healthcare expenditures are all beneficial to our economy and should be encouraged through congressional appropriations, such as grants to State and local agencies.

*Permit Fees Cannot Fill the Gap*

Some believe that the permit and emission fee program under title V of the Clean Air Act is the answer to the State and local air agencies' financial problems. Unfortunately, this is not so for several reasons. First, the fees must support only the operating permit program (and associated program support) and must not be used for other activities. Second, fees only apply to major sources and do not cover the significant costs related to nonmajor sources, which include minor source permits, monitoring, enforcement, compliance assistance, etc. Third, fee revenue is decreasing due to reductions in the emissions on which they are based.

Increases in costs for air quality programs (except for permit programs themselves) are not addressed by title V permit fee programs. The Clean Air Act's fee program, while essential to State and local efforts, is not the solution to the funding problem. Federal grants must be expanded to meet the significant resource requirements.

*The Increases Will Support Essential Programs*

The President's proposed budget calls for a much-needed increase of \$65.8 million more than fiscal year 2012 levels for several very important activities. We urge the Congress to provide the amount of increased grants the administration is recommending, but to allow State and local air agencies the flexibility to determine which activities are most in need of additional funds in their areas. While there is a need for additional funds for a myriad of programs and activities at the State and local levels, most agencies find that they will require additional grants primarily for two major categories:

- core programs; and
- monitoring.

*Core Activities.*—We are gratified that the President's request calls for additional grants to support State and local air agencies' core programs. These activities are the very foundation of our programs and include current day-to-day activities, as well as new and innovative efforts to address additional requirements. As EPA issues updated health-based NAAQS, State and local air agencies must prepare or update State Implementation Plans (SIPs). Specifically in fiscal year 2013, State and local air agencies must implement the revised lead, nitrogen dioxide (NO<sub>2</sub>), and sulfur dioxide (SO<sub>2</sub>) NAAQS, and the current particulate matter (PM), and ozone NAAQS. This includes the 1997 PM<sub>2.5</sub> NAAQS, the 2006 24-hour PM<sub>2.5</sub> NAAQS, the 1-hour ozone NAAQS (through anti-backsliding requirements), the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. To develop these SIPs, State and local air agencies must compile emission inventories, carry out sophisticated modeling, significantly expand and operate monitoring networks, adopt and enforce regulations and address complex multi-pollutant and multi-state transport issues, among others. Additionally, agencies must continuously reassess and change SIPs as they are implemented. All of these important activities require significant resources.

*Monitoring.*—State and local air agencies are facing a host of ongoing and additional monitoring requirements to address standards for ozone, lead, NO<sub>2</sub> and SO<sub>2</sub> that are either new or have been revised. In addition to monitoring for the health-based criteria pollutants, additional monitoring of toxic air pollutants is necessary. These monitoring activities provide information about the amount of pollution in the air and, later, about how successful our control strategies have been. In order to accomplish this monitoring, these agencies must purchase and operate additional ambient air monitoring equipment. While the budget request for air quality monitoring in fiscal year 2013 would not address all our additional monitoring needs, it would certainly help clean air agencies to expand their monitoring programs.

EPA is proposing to begin the process of shifting funds for fine particulate matter (PM<sub>2.5</sub>) monitoring from section 103 authority, where no match is needed, to section

<sup>4</sup>*The Benefits and Costs of the Clean Air Act Amendments from 1990 to 2020* (March 1, 2011), EPA, <http://www.epa.gov/air/sect812/feb11/summaryreport.pdf>.

<sup>5</sup>*Empirical Evidence Regarding the Effects of the Clean Air Act on Jobs and Economic Growth*, EPA White Paper (February 9, 2011), [http://www.epa.gov/ocir/pdf/hottopics/2011\\_0208\\_white\\_paper.pdf](http://www.epa.gov/ocir/pdf/hottopics/2011_0208_white_paper.pdf).

105, which would require additional matching funds. We strongly urge that these funds remain under section 103 authority, as they have in the past. For individual agencies that have concerns about the matching requirements, this will ensure that they can continue receiving these monitoring funds. Additionally, we are concerned that EPA is proposing to reduce the total amount specifically set aside for fine particulate matter monitoring, based on the theory that State and local air agencies will fill in the reduced amount as part of their matching funds. However, as many agencies are already overmatched and would not be adding to the funds set aside for PM<sub>2.5</sub> monitoring, this important monitoring program could suffer. We recommend that EPA allot the same amount for PM<sub>2.5</sub> monitoring as it did last year and leave the entire amount under section 103 authority.

#### *Conclusion*

The President's budget request calls for a much-needed increase in grants to State and local air quality agencies at a time when they are required to take on significant new responsibilities and continue their current efforts. While these increases would not completely address the enormous funding deficit that these programs face, they would be very helpful to State and local air quality programs.

NACAA recommends, therefore, that the Congress appropriate an amount consistent with the President's fiscal year 2013 request for Federal grants to State and local air quality agencies under sections 103 and 105 of the Clean Air Act, which is \$305.1 million. This represents an increase of \$65.8 million more than the fiscal year 2012 appropriated amount.

Thank you for this opportunity to testify on this important issue and for your consideration of the funding needs of State and local air quality programs as they work to improve and protect public health.

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#### PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF FOREST SERVICE RETIREES

Mr. Chairman and members of the subcommittee, the National Association of Forest Service Retirees (NAFSR) respectfully submits the following statement for the record to the Subcommittee on the Interior, Environment, and Related Agencies regarding the fiscal year 2013 budget for the United States Forest Service (USFS). I am Hank Kashdan, Legislative Director for NAFSR. I retired from USFS in December 2010 having served as Associate Chief immediately prior to retirement. Let me first express NAFSR's gratitude for this opportunity to provide recommendations on the proposed budget for USFS. The NAFSR organization is a national, nonprofit organization of former USFS employees and associates. Members of the Association possess a unique body of knowledge, expertise and experience in the management of the National Forests, other public lands, forestry research, State and private forestry assistance, agency history, laws and regulations, and international forestry. Members of NAFSR are devoted to contributing to understanding and resolving natural resource issues through education, independent and cooperative analysis, and periodic review and critiques of agency policies and programs.

This statement will address four areas of the administration's proposed budget and programs for the USFS:

- the Wildland Fire Management Program;
- the Agency's Focus on Restoration;
- State and Private Forestry and Redesign; and
- Potential Administrative Reforms to be Implemented by the Department of Agriculture.

Before addressing the specific areas noted above, NAFSR would first like to express its appreciation to the subcommittee for its clear commitment to preserving the core programs of USFS during some difficult budgetary times. In our opinion, the final enacted budget for fiscal year 2012 clearly indicates the Congress's appreciation of the importance of the USFS mission in managing the America's precious natural resources. As the budgetary pressure continues to affect the discretionary funding in the Federal budget, we are confident that with your support, the USFS will continue its ability to effectively steward the Nation's forests and grasslands and maintain a Forest and Rangeland Research program that is among the best in the world.

#### WILDLAND FIRE MANAGEMENT

The administration proposes to fund wildfire suppression costs at the 10-year average and proposes a slight decrease in fire preparedness while targeting \$24 million for "modernizing the firefighting large airtanker fleet." NAFSR feels it important to raise several concerns regarding this budget proposal. First pertaining to

wildfire suppression; while we concur that it is appropriate to fund wildfire suppression at the 10-year average, it is important to note the strong potential to exceed this amount during the fire season. The last three wildfire seasons have involved lower than normal large fires and significantly reduced expenditures. As a result under provisions of the FLAME Act, unexpended funds would normally have remained available for use in a season where expenditures exceeded available funds. However due to significant budgetary pressure, the Congress elected to use these unobligated funds for other purposes, thus resulting in funds only being available to the level of the 10-year average. While USFS's attention to appropriate wildfire suppression response can be credited with some of the reduced wildfire suppression costs, it is clear that Mother Nature has been the primary contributor. These lower than normal wildfire seasons should not be expected to continue. The prospect of suppression costs exceeding available funding raises the very significant concern about a return to the "wildfire suppression transfers" that so detrimentally affected the agency's mission during wildfire seasons in the fiscal years of 2000 through 2005. As USFS ramps up its effort to restore unhealthy and wildfire prone ecosystems, a return to fire transfers of the past is a serious issue that can be disruptive to the critical work of the agency. This was pointed out by the Government Accountability Office in its report entitled "Funding Transfers Cause Project Cancellations and Delays, Strained Relationships, and Management Disruptions, GAO-04-612, June 2, 2004." In these challenging budgetary times, NAFSR can only assume that should fire transfers occur, the prospect of immediate action to provide supplemental funding will be unlikely. This eventuality is one of the primary reasons FLAME was enacted, and which would not be redeemed if the coming season, or that of fiscal year 2013 is severe. NAFSR urges the subcommittee to prepare for a bad season through some form of advance emergency suppression provision in the fiscal year 2013 budget.

The President's budget for wildfire preparedness reflects a \$2.9 million decrease and specifically targets \$24 million for modernizing the large airtanker fleet. The agency's budget overview indicates there will be a decreased preparedness staffing level of 438 full-time equivalents based on this budget request. NAFSR urges the subcommittee to provide funding to retain a level wildfire preparedness staffing level. It has been continually demonstrated that the most effective way to control suppression costs is to be successful upon initial attack. Any decrease in staffing levels jeopardizes such ability to successfully suppress a wildfire at the time of initial attack. A single wildfire could cost as much as \$100 million to suppress. Thus the agency needs to be aggressive in suppressing all wildfires at the point of initial attack as this will help contain costs; costs that can be turned into landscape restoration actions which are investments that will cut the costs to the Federal budget and impacted communities.

In regards to the targeted funding for large airtankers, NAFSR concurs that any viable option for providing new airframes will cost more. However, NAFSR strongly discourages the subcommittee from authorizing any USFS purchase of C-130 aircraft (an option in the recently released airtanker strategy) at a cost of close to \$80 million each. With the airtanker industry clearly able to provide suitable airframes if USFS can expand its contracting authorities, there is no reasonable rationale to use large sums of taxpayer money to purchase aircraft. This situation has become critical. The continuing loss of airtankers and medium retardant helicopters is making more perilous the ability with cooperators to effectively achieve initial wildfire attack response requirements. In fiscal year 2000 there were 43 available airtankers. Only 11 are available for the 2012 fire season. Adequate Federal airtanker capability is essential to keep a balance of local, State and Federal airtankers available to meet fire response time standards that are critical to protecting natural resources, watershed values, communities, public safety, and infrastructure. We encourage the subcommittee to continue to explore enhanced contracting authorities that will enable private industry to meet the large airtanker needs.

#### UNITED STATES FOREST SERVICE RESTORATION FOCUS

The President's budget reflects a strong focus on restoration programs to restore ecosystems to healthy and resilient conditions. NAFSR concurs with this focus and recognizes that such efforts will improve the economy of local communities and over the long term reduce the vulnerability to catastrophic wildfire events. Key components of the restoration focus involve community collaboration, full funding of the Collaborative Forest Landscape Restoration Program (CFLRP), and achieving permanent authority for Stewardship Contracting. In this regard NAFSR is fully supportive of the President's budget. However, we note that the President's budget

again reflects a request to consolidate restoration activities under an Integrated Resource Restoration (IRR) budget line item. While NAFSR agrees this line item has potential to improve overall agency performance, and reflects a better integration of the broad range of agency programs, from the an accountability standpoint, “the jury is still out.” NAFSR is very appreciative that the Congress authorized a pilot program to test the IRR concept in three regions, and recommends that further consolidations of budget line items not be enacted until the agency can demonstrate improved efficiency and performance over the life of the pilot. Although the budget reflects a reduction of \$12.1 million in restoration related programs, NAFSR does support the budget overall in light of the challenging budgetary outlook in fiscal year 2013. In order to offset this reduction NAFSR recommends full funding of the CFLRP as requested in the budget. NAFSR further recommends continued support for implementing permanent authority for Stewardship Contracting. This contracting authority is a core element of community collaboration and is quickly becoming the tool of choice for USFS land managers in achieving desired restoration objectives.

#### STATE AND PRIVATE FORESTRY AND REDESIGN

Efforts to significantly improve forest and grassland restoration objectives must be accomplished in concert with USFS State and Private Forestry Program. NAFSR notes an overall decrease in State and private funding of \$2.1 million, and recommends that such a reduction not occur at the expense of International Forestry and Forest Inventory and Analysis. Rather, NAFSR recommends that the proposed funding level for the Forest Legacy Program be reduced to levels that will restore Forest Inventory and Analysis and International Forestry to the fiscal year 2012 level.

The President’s budget for the State and Private Program includes a proposal to combine several budget line items for Federal Lands Forest Health and Cooperative Lands Forest Health, as well as the establishment of a Landscape Scale Restoration budget line item which consolidates six previously separate programs funded under Wildland Fire and State and Private. NAFSR supports these consolidations. Although NAFSR expressed concern for a similar consolidation under the National Forest System account, in the case of State and Private, we are supportive. This budget proposal is a result of extensive collaboration with partners over several years which has led to the “State and Private Redesign.” The reality of the State and Private Program’s budget is that the individual programs have small amount of funds (compared to other agency line items) that achieve efficiency through leveraging with partners. NAFSR supports the consolidated line item as a way of stretching these funds over the widest possible restoration focus in cooperation with State and local partners.

#### POTENTIAL ADMINISTRATIVE REFORMS TO BE IMPLEMENTED BY THE DEPARTMENT OF AGRICULTURE

The NAFSR organization consists of retired employees who reside across the Nation and who maintain extensive contact with the organization and partners at all levels. Many of our members are raising concerns about the prospect of future administrative consolidations that might be implemented by the Department of Agriculture (USDA). While the agency has recovered for the most part from the impacts of major efficiency efforts that resulted in consolidated services for information technology, human resources, and financial management, it appears USFS is likely to be forced through another set of reforms as USDA undertakes significant efforts to improve efficiency. While NAFSR is supportive of any effort to enhance efficiency and stretch funding to accomplish the agency’s mission, we do have concerns that the USDA efforts, if not done incrementally and with full recognition of prior consolidation missteps, will once again result in chaotic impacts and expense. NAFSR notes that the President’s budget for USFS involves an increased assessment of approximately \$7.6 million in “Central Cost” and “Green Book” programs which currently total more than \$200 million in assessments. While NAFSR understands that USFS must pay its “fair share” of total USDA operating costs, these increased assessments do not tend to imply that efficiencies will readily occur and that despite efforts to implement reforms, costs over the long term will continue to rise. NAFSR strongly encourages the subcommittee to work with its Agriculture Appropriations counterparts to assure that future USDA efficiency reforms have a strong potential to result in improved service to the Nation, and that such reforms are implemented incrementally based on well established benchmarks for accountability.



## CONCLUSION

Mr. Chairman and members of the subcommittee, this concludes NAFSR's statement for the record. We close by once again expressing our sincere appreciation for your commitment to supporting the mission of USFS and for your support of a program of work that assures quality natural resource stewardship will continue into the future. We are ready to assist the subcommittee at any time.

## PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF STATE ENERGY OFFICIALS

Mr. Chairman, Ranking Member and members of the subcommittee, I am David Terry, Executive Director of the National Association of State Energy Officials (NASEO). NASEO represents the energy offices in the States, territories and the District of Columbia. NASEO is submitting this testimony in support of funding for the ENERGY STAR program (within the Climate Protection Division of the Office of Air and Radiation) at the U.S. Environmental Protection Agency (EPA). NASEO supports funding of at least \$55 million, including specific report language directing that the funds be utilized only for the ENERGY STAR program. The ENERGY STAR program is successful, voluntary and cost effective. With energy prices increasingly volatile, ENERGY STAR can help consumers quickly.

The ENERGY STAR program is focused on voluntary efforts that reduce the use of energy, promotes energy efficiency and renewable energy, and works with States, local governments, and business to achieve these goals in a cooperative manner. NASEO has worked very closely with EPA and more than 40 States are ENERGY STAR Partners. In 2005, EPA and NASEO announced a State Partnership program, which has many State members. With very limited funding, EPA's ENERGY STAR program works closely with the State energy offices to give consumers and businesses the opportunity to make better energy decisions, without regulation or mandates.

ENERGY STAR focuses on energy efficient products as well as buildings. For example, in 2008, 550 million ENERGY STAR products were purchased. The ENERGY STAR label is recognized across the United States. It makes the work of the State energy offices much easier, by working with the public on easily recognized products, services and targets. In order to obtain the ENERGY STAR label a product has to meet established guidelines. ENERGY STAR's voluntary partnership programs include ENERGY STAR Buildings, ENERGY STAR Homes, ENERGY STAR Small Business and ENERGY STAR Labeled Products. The program operates by encouraging consumers and working closely with State and local governments, to purchase these products and services. Marketplace barriers are also eradicated through education. State energy offices are working with EPA to promote ENERGY STAR products, ENERGY STAR for new construction, ENERGY STAR for public housing, etc.

In addition to the State partners, the program has more than 14,000 voluntary partners including more than 2,000 manufacturers using the label, more than 1,000 retail partners, more than 5,000 builder partners, 4,500 businesses, 550 utilities and thousands of energy service providers. The Home Performance with ENERGY STAR activity allows us to focus on whole-house improvements, not simply a single product or service. This is extremely beneficial to homeowners. We are also working closely with EPA in the implementation of the ENERGY STAR Challenge, which is encouraging businesses and institutions to reduce energy use by 10 percent or more, usually through very simple actions. We are working with the building owners to identify the level of energy use and compare that to a national metric, establish goals and work with them to make the specified improvements. Again, this is being done without mandates.

The State energy offices are very encouraged with progress made at EPA and in our States to promote programs to make schools more energy efficient, in addition to an expanding ENERGY STAR business partners program. We hope this expansion will continue. EPA has been expanding the technical assistance work with the State energy offices in such areas as benchmark training (how to rate the performance of buildings), setting an energy target and training in such areas as financing options for building improvements and building upgrade strategies.

The State energy offices are working cooperatively with our peers in the State environmental agencies and State public utilities commissions to ensure that programs, regulations, projects and policies are developed recognizing both energy and environmental concerns. We have worked closely with this program at EPA to address these issues. The level of cooperation from the agency has been extraordinary and we encourage these continued efforts.

## CONCLUSION

The ENERGY STAR program saves consumers billions of dollars every year. The payback is enormous. NASEO supports robust program funding in fiscal year 2013. Funding for the ENERGY STAR program is justified. NASEO endorses these activities and the State energy offices are working very closely with EPA to cooperatively implement a variety of critical national programs without mandates.

## PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF STATE FORESTERS

The National Association of State Foresters (NASF) appreciates the opportunity to submit written public testimony to the Senate Appropriations Subcommittee on the Interior, Environment, and Related Agencies regarding our fiscal year 2013 appropriations recommendations. Our priorities center on appropriations for the USDA Forest Service (USFS) State and Private Forestry (S&PF) programs. State Foresters fully appreciate the difficult choices that come with spending decisions. However, the commitment to the American people must also include making smart investments in programs that provide significant benefits to the health of our economy and our environment. We therefore recommend that fiscal year 2013 appropriations for S&PF be held at \$262 million, representing similar funding levels enacted in fiscal year 2012.

State Foresters deliver technical and financial assistance, along with forest health, water and wildfire protection for more than two-thirds of the Nation's forests. The USFS S&PF mission area provides vital support for delivering these services alongside other socioeconomic and environmental health benefits in both rural and urban areas. The comprehensive process for delivering such services is articulated in each of the State Forest Action Plans as authorized in the 2008 farm bill. S&PF programs provide a significant return on the Federal investment by leveraging the boots-on-the-ground and financial resources of State agencies to deliver assistance to forest landowners, tribes and communities. As State and Federal governments face extremely tight fiscal conditions, State Foresters, in partnership with the S&PF mission area of USFS, are best positioned to maximize the effectiveness of the limited resources available to respond to priority forest issues and focus efforts in those areas where they are needed most.

## RESPONDING TO PRIORITY FOREST ISSUES, TRENDS AND THREATS

Management activities are underway to implement the State Forest Action Plans and respond to the following trends, issues, and priorities:

*Forest Pests and Invasive Plants*

Among the greatest threats identified in the Forest Action Plans are exotic forest pests and invasive species. The growing number of damaging pests is often a result of the introduction and spread by way of wooden shipping materials, movement of firewood and through various types of recreation. A new pest is introduced every 2 to 3 years. These pests have the potential to displace native trees, shrubs and other vegetation types in forests. USFS estimates that hundreds of native and non-native insects and diseases damage the Nation's forests each year. In 2009, approximately 12 million acres suffered mortality from insects and diseases.<sup>1</sup> These losses impact the availability of clean and abundant water, wildlife habitat, clean air, and other environmental services that may be lost or impacted due to insect and disease infestation. Further, extensive areas of high insect or disease mortality can set the stage for large-scale, catastrophic wildfire.

In response, the Cooperative Forest Health Management program provides technical and financial assistance to States and territories to maintain healthy, productive forest ecosystems on non-Federal forest lands. Funding for the Program supports activities related to prevention, suppression, and eradication of insects, diseases, and plants as well as conducting forest health monitoring through pest surveys. The Program helped combat native and invasive pests on more than 766,000 acres of Cooperative lands in fiscal year 2011.<sup>2</sup>

NASF supports the proposed consolidation of the Forest Health Program under State and Private Forestry and urges funding the Forest Health—Cooperative Lands Program at the current fiscal year 2012 enacted level of \$49 million. Any fur-

<sup>1</sup> Man, Gary. 2010. Major Forest Insect and Disease Conditions in the United States: 2009 Update. Last accessed on March, 7, 2012 at: [http://www.fs.fed.us/foresthealth/publications/ConditionsReport\\_09\\_final.pdf](http://www.fs.fed.us/foresthealth/publications/ConditionsReport_09_final.pdf)

<sup>2</sup> USDA Forest Service Fiscal Year 2013 President's Budget Justification. Last accessed February 21, 2012 at <http://www.fs.fed.us/aboutus/budget/2013/fy2013-justification.pdf>.

ther cuts to this program beyond those made in fiscal year 2012 will necessitate deeper reductions in support for communities already facing outbreaks and expose more of the Nation's forests and trees to the devastating and costly effects of exotic and invasive pests and pathogens. This request is supported by a strong diversity of organizations in the forestry, conservation, and environmental community.<sup>3</sup>

#### *Fuel Loads and Wildland Fire*

More people in fire-prone landscapes, high fuel loads, drought and unhealthy landscapes are among the factors that have led State Foresters to identify wildland fire as a significant priority issue in their Forest Action Plans. These factors have created a wildland fire situation that has become increasingly expensive and complex and, in many cases, threatens human life and property. In 2011, more than 74,000 wildland fires burned more than 8.7 million acres.<sup>4</sup> In the wake of these larger fires, the number of structures destroyed also surpassed the annual average with more than 5,200 structures, including nearly 3,500 residences.<sup>1</sup> Of the 66,700 communities across the country currently at risk of wildland fire, only 21 percent are prepared for wildland fire.<sup>5</sup> NASF and many other organizations in the forestry, conservation and environmental community agrees that the Forest Service State Fire Assistance (SFA) Program is essential in addressing the threat of wildland fire on non-Federal lands.<sup>6</sup>

SFA is the fundamental Federal mechanism that assists States and local fire departments in developing preparedness and response capabilities for wildland fire management on non-Federal lands. This program helps train and equip first responders who can quickly and efficiently respond to wildland fires. By directing resources to actions that help reduce the number of large wildland fires—including prevention education, preparedness activities and fuels mitigation—the SFA program directly addresses concerns over rising wildland fire suppression costs, while also reducing wildland fire risks. In fiscal year 2011, SFA directly funded hazardous fuel treatments on nearly 202,000 acres and provided assistance to 14,724 communities as they prepare for (and mitigate the risk of) wildland fire.<sup>2</sup> NASF supports funding for the program at no less current enacted levels of \$86 million and endorses the proposal to consolidate SFA into one line item.

#### *Working Forest Landscapes*

Working forest landscapes are a key part of the rural landscape and provide an estimated 900,000 jobs, in addition to clean water, wood products and other essential services to millions of Americans. For instance, 80 percent of renewable biomass energy comes from wood, 53 percent of all freshwater in the United States originates on forest land and more than \$200 billion in sales of consumer products and services are provided through the Nation's forests each year.<sup>7</sup> Working forests are necessary to help the forest products industry recover and (re)employ nearly 300,000 full-time jobs that have been lost over the past 5 years as a result of the economic downturn.<sup>8</sup>

Private forests make up two-thirds of all the forestland in the United States and support an average of eight jobs per 1,000 acres.<sup>9</sup> The ability of working forests to continue providing jobs, renewable energy, clean and abundant water and other important services is in jeopardy as private forests are lost to development. The Forest Service estimates that 57 million acres of private forests in the United States are at risk of conversion to urban development over the next two decades. The Forest Stewardship Program, Forest Legacy Program and other programs within USDA are key tools identified in the Forest Action Plans to keep working forests intact.

The Forest Stewardship Program (FSP) is the most extensive family forest-owner assistance program in the country. Planning assistance is delivered in cooperation with State forestry agencies primarily through the development of Forest Stewardship Plans. The program provides information to private landowners to help them manage their land for wildlife, recreation, aesthetics, timber production, and many

<sup>3</sup> Letter of support posted at [www.stateforesters.org](http://www.stateforesters.org).

<sup>4</sup> National Interagency Fire Center, *Historical Wildland Fire Summaries*, pg. 9. Last accessed February 1, 2012 at [http://www.predictiveservices.nifc.gov/intelligence/2011\\_statsum/intro\\_summary.pdf](http://www.predictiveservices.nifc.gov/intelligence/2011_statsum/intro_summary.pdf).

<sup>5</sup> National Association of State Foresters, *Communities at Risk Report FY2011*. Last accessed February 1, 2012 at <http://www.stateforesters.org/files/2011-NASF-finalCAR-report-FY11.pdf>.

<sup>6</sup> Letter of support posted at [www.stateforesters.org](http://www.stateforesters.org).

<sup>7</sup> Society of American Foresters. *The State of America's Forests*. 2007.

<sup>8</sup> Guldin, R.W. and W. B. Smith. *Forest Sector Reeling During Economic Downturn*. 2012. Last accessed online at: [http://www.nxtbook.com/nxtbooks/saf/forestrysource\\_201201/index.php?startid=1](http://www.nxtbook.com/nxtbooks/saf/forestrysource_201201/index.php?startid=1).

<sup>9</sup> Forest2Market. *The Economic Impact of Privately-Owned Forests*. 2009.

other purposes. The technical assistance provided through the FSP is a gateway to other effective USDA, State and private sector programs designed to help keep working forests intact. For instance, the FSP enables landowners to participate in USDA programs including the Forest Legacy Program and Environmental Quality Incentives Program. NASF recommends maintaining current funding at \$29 million for the Forest Stewardship Program in fiscal year 2013. This program (and funding recommendation) enjoys support from landowners in every corner of the country.<sup>10</sup>

#### *Urban and Community Forest Management Challenges*

Urban forests provide environmental, social and economic benefits to the more than 84 percent of Americans who live in metropolitan areas. Forest Action Plans identified a number of benefits associated with urban forests including energy savings, improved air quality, neighborhood stability, aesthetic values, reduced noise, and improved quality of life for communities across the country. At the same time, the plans reported a number of threats to urban and community forests including fire in the wildland urban interface (WUI), urbanization and development, invasive plants and insects, diseases and others.

Since its expansion under the Cooperative Forestry Assistance Act of 1990 (CFAA), USFS's Urban & Community Forestry (U&CF) program has provided technical and financial assistance to promote stewardship of urban forests in communities of all sizes across the country. The program is delivered in close partnership with State Foresters and leverages existing local efforts that have helped thousands of communities and towns manage, maintain, and improve their tree cover and green spaces. In fiscal year 2011, the U&CF program delivered technical, financial, educational, and research assistance to 7,172 communities in all 50 States, the District of Columbia, U.S. territories and affiliated Pacific Island nations.<sup>11</sup> The program reached nearly 195 million Americans (i.e., more than 60 percent of the U.S. population) and leveraged an additional \$30 million in State and local support. NASF and the broad urban forestry community support an appropriation of \$31 million in fiscal year 2013 for the Urban and Community Forestry Program.<sup>12</sup>

#### LANDSCAPE-SCALE RESTORATION AND RESPONSE TO FISCAL YEAR 2012 MANAGER'S STATEMENT

Members of NASF recognize the value of competitively allocating a percentage of CFAA funds to encourage innovative approaches to addressing national, regional and State-specific priorities consistent with each State's Forest Action Plan. NASF also recognizes that the ability to provide State Foresters flexibility, with appropriate accountability, to reapply a portion of their allocations is necessary to address changing forest conditions and priorities. To that end, NASF supports the proposed Landscape Scale Restoration (LSR) line item with the understanding expressed in the fiscal year 2013 budget Justification that the current competitive process would be "formalized" and that options for potentially establishing "funding flexibility" (per the fiscal year 2012 Interior, Environment, and Related Agencies Appropriations Managers Statement) would not be eliminated.

NASF greatly appreciates (and requests) the continued support from the subcommittee to further explore options for providing State Foresters the ability to apply Federal funds in the highest-priority areas including, but not limited to, through the new LSR line item. Our recommended funding level for the LSR line item is contingent upon further discussions with the subcommittee and with the administration to better understand the budget relationships between the new line item, other CFAA programs and funding flexibility. NASF remains committed to working with the administration, including the USDA Forest Service, the Congress and other non-Federal partners to further define how Forest Action Plans can best inform and enhance Federal budget formulation and funding allocation decisions for CFAA programs.

#### IMPORTANCE OF FOREST INVENTORY DATA IN MONITORING FOREST ISSUES

The Forest Inventory and Analysis (FIA) program, managed by Forest Service Research, is the Nation's only comprehensive forest inventory system for assessing the health and sustainability of the Nation's forests across all ownerships. FIA provides essential data related to forest species composition, forest growth rates, and forest health data and delivers baseline inventory estimates used in State Forest Action

<sup>10</sup> Letter of support posted at [www.stateforesters.org](http://www.stateforesters.org).

<sup>11</sup> USDA Forest Service Fiscal Year 2013 President's Budget Justification. Last accessed February 21, 2012 at <http://www.fs.fed.us/aboutus/budget/2013/fy2013-justification.pdf>.

<sup>12</sup> Letter of support posted at [www.stateforesters.org](http://www.stateforesters.org).

Plans. The Program provides unbiased information that serves as the basis for monitoring trends in wildlife habitat, wildfire risk, insect and disease threats, predicting spread of invasive species and for responding to priorities identified in the Forest Action Plans.

We urge the Congress to support the FIA program in fiscal year 2013 at no less than current funding levels of \$69 million and provide direction to the Forest Service to look for the most efficient way(s) to deliver the program including contracting with partners, most notably State forestry agencies, who can accomplish necessary field work at lower cost. With efficient delivery, current funding levels can contribute towards the original goals of providing a fully annualized inventory in all States and provide policy makers, forest managers, private investors, and others with the information they need to make sound decisions regarding the Nation's forests.

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PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

On behalf of the National Congress of American Indians (NCAI), thank you for the opportunity to testify on tribal programs in the fiscal year 2013 budget under the Interior, Environment, and Related Agencies appropriations bill. This testimony will address programs in the Department of the Interior, Environmental Protection Agency, and Indian Health Service. Full funding of the Federal Government's trust, treaty and statutory obligations to tribes remains a bipartisan goal for Indian Country.

In preparation for the President's budget, some agencies have consulted with tribes about programs in the budget. Recommendations from Indian Country that were included in the President's fiscal year 2013 proposal include increases for contract support costs, some natural resource and environmental protection programs, public safety initiatives, and contract health services. While the administration's budget proposal maintains support for many critical programs, some cuts proposed represent significant setbacks to progress in Indian Country, such as for education construction. NCAI looks forward to working with this subcommittee to ensure that the Federal programs that fulfill the trust responsibilities to tribes receive bipartisan support in the appropriations process.

Indian Country recognizes the state of the economy, the pressures on Government at all levels, and the related challenges for job seekers. Tribes take the responsibility to manage Federal funds as seriously as we do the Federal trust responsibility to provide them, and we propose the following general recommendations for the fiscal year 2013 budget.

—Continue to promote the successful and efficient initiatives in Indian Country that work, such as Self-Determination programs. Critical to implementing these policies are the Bureau of Indian Affairs (BIA) funding streams for Tribal Priority Allocations, Contract Support Costs at BIA and the Indian Health Service (IHS), and Tribal Grant Support Costs for tribal schools.

—Tribes urge the Congress to support legislation that will fully restore the Secretary of the Interior's authority to take land into trust for tribes (Carcieri).

NCAI has compiled recommendations on many specific programs and agencies that affect Indian Country, but, in general, NCAI urges the Congress to at least hold Indian programs harmless in the fiscal year 2013 appropriations process and exempted from across-the-board rescissions.

*Public Safety and Justice*

Although they have taken various forms, the public safety problems that plague tribal communities are not new. They are the result of decades of gross underfunding for tribal criminal justice systems, a painfully complex jurisdictional scheme, and a centuries-old failure by the Federal Government to fulfill its public safety obligations on American Indian and Alaska Native lands.

NCAI supports the Department of the Interior's Protecting Indian Country Initiative and the Priority Goal to reduce violent crime in Indian communities. Last year, the Department of the Interior launched the Safe Indian Communities Initiative, a 2-year program that included targeted community policing on four reservations, and the program has achieved successful and encouraging results. Since its inception, there has been a 35-percent overall decrease in violent crime across the four tribal communities. With an initial target of reducing violent crime by at least 5 percent, the initiative far exceeded this goal, achieving a 68-percent decrease in violent crime at the Mescalero Reservation in New Mexico, a 40-percent reduction at Rocky Boy in Montana, and a 27-percent reduction in violent crime at Standing Rock in North

and South Dakota. The successful program is now being expanded to two additional reservations:

- the Rosebud Sioux Reservation in South Dakota; and
- the San Carlos Apache Reservation in Arizona.

Indian Country would like to see it expanded even further—to reach even more tribes—and we would like to see the Congress appropriate adequate funding to ensure the Initiative’s continued success. This Initiative has been a proven success, and these are the types of efforts that can make a real difference on the ground level, provided there is funding available to pursue them.

#### *Indian Health Service*

The President’s budget request demonstrates the administration’s ongoing commitment to Indian Country and the recognition of the trust responsibility for providing healthcare in perpetuity to all American Indian and Alaska Native people. The increase of \$116 million in the Indian Health Service (IHS) budget request was a confirmation of that commitment. Tribal leaders annually, through the National IHS Tribal Budget Formulation Workgroup, provide IHS with tribal leader priorities for the upcoming fiscal year. We applaud the administration for including targeted funding increases that have long been a priority for the Workgroup, such as for Contract Health Services, staffing, and contract support costs.

While these increases are much needed, we must be clear that the IHS budget remains woefully short of providing full funding to the IHS system; and only full funding will ensure that parity is achieved in our healthcare system. Providing funding increases that addresses population growth and inflation so that current services can still be provided is vitally important.

Tribal leaders provided the Congress and the administration a blueprint to bring parity to Indian people. The Indian Health Care Improvement Act (IHCIA) includes programs and services designed to bring the IHS into the 21st century. However, authorization only creates the program, appropriations are needed to fulfill its promise. Currently, there are 23 unfunded provisions in the IHCIA.

#### *Education*

The fiscal year 2013 budget request for the Construction program is a reduction of \$17.7 million less than fiscal year 2012. The request cuts \$17.8 million, eliminating new school construction funding. Indian Affairs will focus on improving existing school facilities as part of the Department’s strategic approach to not fund new construction in fiscal year 2013. The total fiscal year 2013 request for Education Construction is \$52.9 million. NCAI urges funding for new school construction to be restored. All students in America deserve a safe, secure, and culturally appropriate environment in which to attend school. As cited in the draft No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee Report, numerous research studies have noted the link between inadequate facility conditions and poor performance by students and teachers. The report also underscored the fact that the quality of the school environment impacts student behavior, test scores, and teacher retention, among other issues. As of December 31, 2009, an estimated \$1.34 billion was needed to bring 64 schools ranked in “poor” condition, meaning in significant need of repair, up to “fair” condition. Continued inadequate support for school facilities will cause the unmet need for construction and repair funds to balloon. Equally disconcerting is that the fiscal year 2013 budget directives could result in the continued elimination of funding for replacement school and replacement facilities. Delaying the replacement and repair of existing facilities not only jeopardizes student and staff safety, but also increases the amount of school funds that must be diverted to emergency repairs and other facilities maintenance—accounts which are also extremely underfunded.

#### *Natural Resources*

The vitality and sustainability of natural resources is integral to the health of American Indian and Alaska Native peoples, communities, cultures, and economies. It also has demonstrable positive impacts on surrounding communities. The ecological practices tribal peoples have cultivated for millennia are inherently sustainable and practical.

#### *Environmental Protection Agency*

Although the Environmental Protection Agency’s (EPA) fiscal year 2013 budget decreased approximately \$105 million overall from fiscal year 2012, much of the tribal set asides received increased funding. Recognizing tribes and States as the primary implementers of environmental programs the EPA continued funding its State and Tribal Assistance Grants program, which accounts for 40 percent of the EPA’s budget request and is the largest percentage of the EPA’s budget request.

Tribes received an increase of approximately \$29 million more than fiscal year 2012 appropriations to the Tribal General Assistance Program. These additional funds will assist tribes in capacity building and promote protections for the environment and human health. NCAI strongly supports the increased proposed for the Tribal General Assistance Program.

*Bureau of Indian Affairs, Natural Resources*

Tribes have voiced support for increased funding for natural resources programs in the Bureau of Indian Affairs through the Tribal Interior Budget Council, which provides input to the Department of the Interior on tribal budget concerns. The President's fiscal year 2013 budget includes some of the recommendations for natural resources. Under trust land management, the fiscal year 2013 budget would provide increases in Trust Natural Resources of \$3.5 million for the Rights Protection Implementation program and \$2 million for the Tribal Management and Development program to support fishing, hunting, and gathering rights on and off reservations. The budget request would provide program increases of \$1 million for the Forestry program and \$500,000 for the Invasive Species program. An increase of \$800,000 supports greater BIA and tribal participation in the Landscape Conservation Cooperatives, for a total of \$1 million. NCAI urges the Congress to retain these proposed increases in the final fiscal year 2013 appropriations bill.

*Supporting Tribal Governments*

*Bureau of Indian Affairs*

The fiscal year 2013 President's budget includes \$2.5 billion in current appropriations for Indian Affairs, which is \$4.6 million or 0.2 percent less than the fiscal year 2012 enacted level. The budget proposes a total of \$897.4 million in Tribal Priority Allocations. Critical to implementing the Indian Self-Determination policy is the Bureau of Indian Affairs (BIA) funding streams for Tribal Priority Allocations, Contract Support Costs at BIA, and Tribal Grant Support Costs for tribal schools. NCAI supports the programmatic increases in Indian Affairs, which follow the recommendations from tribes. However, NCAI would note that the President's budget includes rather large reductions due to streamlining measures in the BIA. These reductions include \$19.7 million in streamlining measures and \$13.8 million in administrative savings. Although tribes appreciate that the administration is proposing increases to programs, NCAI would urge caution when cutting so deeply into BIA functions.

*Economic Development*

*Indian Guaranteed Loan Program*

The fiscal year 2013 proposed budget would provide \$5 million for the Indian Guaranteed Loan program, a reduction of \$2.1 million from the 2012 enacted level. The Department of the Interior's Office of Indian Energy and Economic Development (OIEED) Division of Capital Investment oversees the Indian Loan Guarantee Program that is the only Federal guarantee program that enables eligible borrowers to obtain conventional lender financing to develop Native businesses and eligible construction, while also enabling other companies to obtain supplemental surety bond guarantees. In the last several years, significant tightening of the credit markets made loans more difficult to obtain, reducing demand for loan guarantees. The revolving credit facility of the OIEED Loan Guarantee Program can greatly assist Native borrowers seeking guarantees for lines of credit for:

- working capital;
- payrolls for hiring new employees; and
- assurances sufficient for sureties to provide performance bonds to tribal- and other Native-owned contractors.

The OIEED's Loan Guarantee Program is the most appropriate and urgently needed source of financing for business, energy, and other economic development in Indian Country. With the promises of a broadband-enabled economy in Indian Country looming on the horizon, an expanded investment in the OIEED Loan Guarantee Program would enable operating businesses to build their technological capacity as well as to provide seed financing for new businesses to begin operations. NCAI encourages the Congress to provide funding for the Indian Guaranteed Loan Program at a level of at least \$10 million.

*Transportation*

NCAI urges an increase for the BIA roads maintenance program in fiscal year 2013, which services 29,000 miles of Indian Affairs-owned roads. As of 2011, the backlog in deferred maintenance was approximated to be \$285 million, yet the fund-

ing level for BIA roads maintenance has been at about \$25 million for the last 10 years.

#### *Conclusion*

We look forward to working with Members of Congress to continue to build upon our successes. Tribal leaders urge the Congress to uphold its solemn promises to tribes, even as policymakers seek to reduce the deficit through spending reductions and revenue generation. The obligations to tribal citizens funded in the Federal budget are the result of treaties negotiated and agreements made between tribes and the United States in exchange for land and resources, known as the trust responsibility. The fulfillment of this trust responsibility is a solemn historic and legal duty.

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#### PREPARED STATEMENT OF THE NATIONAL COOPERATORS' COALITION

#### *Summary*

The National Cooperators' Coalition (NCC) urges the Subcommittee on the Interior, Environment, and Related Agencies to increase the funding of the U.S. Geological Survey's Cooperative Fish and Wildlife Research Units (CFWRUs) by \$2.7 million more than the amount in the fiscal year 2010 continuing resolution to fill vacant scientist positions. At a time when Federal spending needs to be reduced, the CFWRUs are precisely the type of program that should receive greater support because they successfully leverage \$3 for every \$1 of Federal funds appropriated for the program. With typically just three Federal scientists, each of the 38 CFWRUs is lean and highly productive and uses partnerships to avoid the need for Federal spending on administrative personnel, building space and much of the operating expenses. This cost-effective program, however, is in jeopardy unless funds are provided to replace its retiring scientists.

The NCC also recognizes the efforts of several States that want to establish new unit capacity. Contingent on full funding of the base CFWRU program, it is vital to these efforts that an additional \$2.5 million be appropriated for the new capacity which will add units in Nevada, New Jersey and North Dakota and complete the wildlife mission at existing units in Hawaii and California.

#### *Continue To Build on This Subcommittee's Efforts*

We greatly appreciate your leadership in adding funding in fiscal years 2008, 2009, and 2010 for the CFWRU research and training partnership, which for more than 75 years has brought together State fish and wildlife agencies, State universities, and Federal agencies around a local, applied research agenda. As a result, to provide the capacity in the CFWRU program that existed a decade ago, the fiscal year 2012 USGS appropriation now needs just \$2.7 million more than the fiscal year 2010 enacted level.

Each of the CFWRUs in 38 States is a true Federal-State-university-private partnership among the U.S. Geological Survey, a State natural resource agency, a host university, and the Wildlife Management Institute. The CFWRUs build on these partner contributions to leverage more than \$3 for every \$1 appropriated to the program by the Congress. The CFWRUs have established a record of educating new natural resource professionals who are management-oriented, well-versed in science, grounded in State and Federal agency experience, and able to assist private landowners and other members of the public. Restoration of funding support would ensure that the Interior Department provides the Federal scientist staffing agreed to with CFWRU partners so that the return on the continuing investment in the program by those partners is realized and fully leveraged. At a time when Federal spending needs to be reduced, the role of the CFWRU program in facilitating solutions to natural resources management challenges and training the fish and wildlife managers of tomorrow should be expanded rather than compromised by funding shortfalls that result in the absence of scientist leaders.

State and Federal natural resources agencies are facing unprecedented challenges posed by energy development needs, invasive species, infectious diseases, wildfire, and increased demand for limited water resources. These agencies also face the challenge of replacing an extraordinary number of natural resource professionals who are retiring. Finding workable solutions to these challenges requires the kind of approaches to research emphasized by the CFWRUs, which rely on leveraging Federal dollars through collaborative, interdisciplinary efforts to help resolve emerging issues at scales that transcend individual State boundaries.

With appropriation of \$22 million for the CFWRUs for fiscal year 2012, a sound foundation will exist on which new capacity should be built. With appropriation of



an additional \$2.5 million will add CFWRUs in Nevada, New Jersey and North Dakota and complete the wildlife mission at existing CFWRUs in Hawaii and California. Rutgers University, University of Nevada—Reno, North Dakota State University-The University of North Dakota, University of Hawaii—Hilo and Humboldt State University bring a wealth of research, education and innovative technology to address contemporary conservation issues at regional and national scales. The respective State agency partners bring an extensive history of successful fish and wildlife management skills and resources that complement those existing at the universities. The State agency and university partners are well equipped to collaborate with CFWRUs to help resolve natural resources management challenges that transcend State boundaries.

We urge you to make greater use of the Cooperative Fish and Wildlife Research Units and to expand this program in five States. The program's efficient and cost-effective research and training partnership brings together State fish and wildlife agencies, State universities, and Federal agencies around a local, applied research agenda. With your assistance, this program can make the best use of limited Federal funds to become even more effective in using science and collaboration to address the natural resources challenges facing the Interior Department, other Federal, State, local agencies, and this country's citizens.

Thank you for consideration of our request.

The National Cooperators' Coalition is an alliance of non-Federal CFWRU program cooperators and other supporters. Its members include State fish and wildlife agencies, universities, and nongovernmental organizations. The mission of the NCC is to build a stronger and more coordinated base of support to serve research, education, and technical assistance needs of the non-Federal CFWRU program cooperators.

#### SPONSORS

University of Arkansas	New Mexico State University
University of Arizona	North Carolina State University
Arizona Game and Fish Department	North Carolina Wildlife Resources Commission
Humboldt State University	Oklahoma Department of Wildlife Conservation
Colorado State University	Oklahoma State University
Colorado Division of Wildlife	Oregon State University
University of Florida	Pennsylvania Game Commission
Florida Fish and Wildlife Conservation Commission	Pennsylvania Fish and Boat Commission
University of Georgia	Clemson University
Georgia Department of Natural Resources	Rutgers University
University of Hawaii	South Dakota Department of Game, Fish and Parks
University of Idaho	South Dakota State University
Idaho Department of Fish and Game	Tennessee Wildlife Resources Agency
Indiana Department of Natural Resources	Texas Parks and Wildlife Department
Purdue University	Texas Tech University
Iowa State University	Utah State University
Iowa Department of Natural Resources	Virginia Tech University
Louisiana State University	Vermont Fish and Wildlife Department
Maine Department Inland Fisheries and Wildlife	Wisconsin Dept. Natural Resources
University of Maryland Eastern Shore	University of Wisconsin—Madison
University of Minnesota	Wyoming Game and Fish Department
Minnesota Department Natural Resources	University of Wyoming
University of Missouri	Ducks Unlimited, Inc.
Missouri Department of Conservation	Association of Fish and Wildlife Agencies
University of Montana	Izaak Walton League of America
Montana State University	Midwest Association of Fish and Wildlife Agencies
Montana Fish, Wildlife and Parks	Western Association of Fish and Wildlife Agencies
University of Nebraska	National Association of University Fish and Wildlife Programs
Nebraska Game and Parks Commission	North American Grouse Partnership
University of Nevada, Reno	The Wildlife Society
New Mexico Department of Game and Fish	Wildlife Management Institute

PREPARED STATEMENT OF THE NATIONAL CONFERENCE OF STATE HISTORIC  
PRESERVATION OFFICERS

*Fiscal Year 2013 Request*

- \$46.925 million for State Historic Preservation Offices (SHPOs); and
- \$10 million for a Historic Preservation Grant Program to be run through the SHPOs.

Funded through withdrawals from the Historic Preservation Fund (16 U.S.C. 470h) U.S. Department of the Interior's National Park Service Historic Preservation Fund (HPF).<sup>1</sup>

*Preservation = ROI = Federal-State Partnership*

In 1966, the Congress, recognizing the importance of our heritage, enacted the National Historic Preservation Act (NHPA 16 U.S.C. 470), which established historic preservation as a Federal Government priority. Instead of using Federal employees to carry out the Act, the Department of the Interior and the Advisory Council on Historic Preservation opted to partner with the States and use SHPOs to:

- locate and record historic resources;
  - nominate significant historic resources to the National Register of Historic Places;
  - foster historic preservation programs at the local government level and promote the creation of preservation ordinances;
  - provide funds for preservation activities;
  - comment on Federal preservation tax projects;
  - review all Federal projects for their impact on historic properties; and
  - provide technical assistance to Federal agencies, State and local governments, and the private sector.
- And, States contribute to the Federal Government half the operating cost.

*Preservation = ROI = Job Creation*

Historic preservation creates jobs. Whether it is through the historic tax credit program, preservation grants, or other rehabilitation avenues, preservation creates skilled, principally local, jobs. The following are excellent examples of how historic preservation creates jobs and job training:

- In 2011, while slowly climbing out of a national recession, there were nearly 1,000 new historic tax credit projects started, averaging 55 jobs per project. The private investment in the approved and completed projects in 2011 totaled \$4.02 billion.<sup>2</sup>
- When compared to new construction, \$1 million spent to rehabilitate a building will create 5–9 more construction jobs and 4.7 new jobs will be created elsewhere in the community.<sup>3</sup>
- In California \$1 million of rehabilitation creates five more jobs than manufacturing \$1 million worth of electronic equipment. In Oklahoma \$1 million of rehabilitation creates 29 more jobs than pumping \$1 million worth of oil.<sup>4</sup>

*Preservation = ROI = Economic Development*

From Providence, Rhode Island to Anchorage, Alaska historic preservation plays a key role in creating, maintaining, and growing these communities while preserving their historical significance. The Federal Rehabilitation Tax Credit program is an important driver in economic development. The program benefits communities by:

- Increasing the value of the rehabilitated property and returning vacant or underutilized structures to the tax rolls.
- Encouraging protection of landmarks through the promotion, recognition, and designation of historic structures, and acting as a catalyst for further community renewal.
- Upgrading downtowns and neighborhoods and often increasing the amount of available housing within the community.

In 2011, still in the midst of a recession, the Federal rehabilitation tax credit spurred \$4.02 billion in private investment, created more than 55,400 skilled, local jobs and nearly 7,500 moderate- and low-income housing units. All of which brings in both short and long-term economic opportunities for the community.

<sup>1</sup>The NCSHPO also supports the Tribal Historic Preservation Officer's fiscal year 2013 request of \$9.7 million.

<sup>2</sup>"Federal Tax Incentives for Rehabilitating Historic Buildings—Statistical Report and Analysis for Fiscal Year 2011" National Park Service.

<sup>3</sup>*The Economics of Rehabilitation*, Donovan Rypkema.

<sup>4</sup>*The Economics of Historic Preservation*, Rypkema 1998:13.

According to the Major of Dubuque, Iowa, Roy D. Buol, “The City of Dubuque views historic preservation as a key component of sustainability with its economic, environmental, and social/cultural benefits. Preservation enhances the vibrancy of neighborhoods and our community, instilling pride and value through increased property values, as well as enhanced quality of life, sense of place and neighborhood pride. Preservation translates into economic prosperity through creation of new jobs, retention of existing jobs especially in construction trades, stimulation of private investment, tourism and business growth, and financial investment in property improvements.”

Heritage tourism also creates jobs, new businesses, builds community pride and can improve quality of life. SHPOs are essential, ground level partners in identifying historic places and providing research for tourism interpretation. According to the Department of Commerce’s “2010 Cultural Heritage Traveler” report of activities that international visitors participate in, touring America’s non-National Park historical places ranks third, behind only shopping and dining. Visiting America’s non-National Park Historical Places, Cultural Heritage Sites, and America’s Small towns all rank above visiting National Parks—where the bulk of Federal money is spent.

Activity participation while in the United States	2009 (percentage)	2010 (percentage)	Percentage change
Shopping .....	90	90	0.3
Dining in restaurants .....	86	86	.....
Visit historical places .....	68	68	0.2
Sightseeing in cities .....	60	59	-0.9
Art gallery/museum .....	41	41	-0.1
Cultural heritage sites .....	40	41	0.7
Visit small towns .....	36	37	1.5
Amusement/Theme parks .....	32	34	2.1
Visit National Parks .....	34	34	0.2
Concert/Play/Musical .....	30	29	-0.3

Department of Commerce, Office of Travel and Tourism Industries “2010 Cultural Heritage Traveler”.

*Preservation = Return on Investment = America’s Heritage*

Preservation honors the significant places of American history at the local, State and national levels through creating historic districts and listing resources in National and State Historic Registers. State Historic Preservation Officers, through the authority of the National Historic Preservation Act are there to assist, support, and encourage communities with their efforts. National Register recognition by the Secretary confirms citizens’ belief in the significance of their community. That recognition, in turn, builds community pride and stable, livable communities such as Deadwood, South Dakota and Knoxville, Tennessee. Further, this neighborhood improvement comes from individual, private investment, not from Federal programs.

The National Historic Preservation program is one of assistance, not acquisition. The Federal Government does not own, manage, or maintain responsibility for the historic assets in the National Historic Preservation program. Instead, the program, through the SHPOs, provides individuals, communities, and local and State governments the tools they need to preserve and utilize their historic heritage for the betterment of their community and the Nation.

*Preservation = Return on Investment = Money Well Spent*

Federal funding for SHPOs is money well spent. Under the administration’s Program Assessment Rating Tool, management of Historic Preservation Programs received a score of 89 percent, indicating exemplary performance of mandated activities. Reinforcing this finding is the December 2007 National Academy of Public Administration (NAPA) report “Back to the Future: A Review of the National Historic Preservation Program”, and the 2009 National Parks Second Century Report, which called for fully funding the Historic Preservation Fund.

NAPA, a nonprofit, independent coalition of top management and organizational leaders, found that the National Historic Preservation Program “stands as a successful example of effective Federal-State partnership and is working to realize the Congress’s original vision to a great extent. However, the Panel concluded “that a stronger Federal leadership role, greater resources, and enhanced management are

needed to build upon the existing, successful framework to achieve the full potential of the NHPA on behalf of the American people.”<sup>5</sup>

*2011 State Historic Preservation Offices’ Accomplishments*

SHPOs used their HPF allocations well in 2011. While virtually every State continues to experience staffing and operation reductions, SHPOs are still charged with implementing the requirements of the NHPA to the fullest extent. Highlights of 2011 historic preservation accomplishments include:

- Reviewing 140,000 Federal undertakings within 30 days.
- Leveraging more than \$4.02 billion of private investment in the rehabilitation of commercial historic properties under the Federal Rehabilitation Tax Credit (FRTC) program.
- An estimated 55,458 jobs created by the FRTC program in 2011.
- 7,470 low- and moderate-income housing units created through the FRTC.
- Approximately 20.5 million acres surveyed for the presence and absence of cultural resources and more than 610,700 properties evaluated for their historical significance.
- 1,061 new listings in the National Register of Historic Places.
- 104,700 National Register eligibility opinions.
- 37 new communities became Certified Local Governments (CLGs).
- Under local law, CLG’s newly designated 57,000 properties, and 66,300 properties took part in local preservation review, programs, and incentives.

*Conclusion*

On behalf of all 57 SHPOs, I’d like to thank you Chairman Reed, Ranking Member Murkowski, and members of the Senate Appropriations Subcommittee on the Interior, Environment and Related Agencies for the opportunity to submit testimony.

Historic preservation recognizes that what was common and ordinary in the past is often rare and precious today, and what is common and ordinary today may be extraordinary 50, 100, or 500 years from now. I would like to thank the committee for their commitment to historic preservation. The Federal Government plays an invaluable role in preserving our Nation’s history and through our partnership, SHPOs stand committed to identify, protect, and maintain our Nation’s historic heritage. Thank you.

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PREPARED STATEMENT OF THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES  
LOCAL 1957

I am writing on behalf of the National Federation of Federal Employees (NFFE) Local 1957, the bargaining unit for the National Minerals Information Center (NMIC), USGS, Reston, Virginia. The President’s proposed fiscal year 2013 budget for the USGS includes a \$1.2 million cut (8 percent) to the NMIC’s current funding level of \$14.8 million, and \$3.96 million (8 percent) cut from \$49.2 million for the entire Mineral Resource Program (MRP), of which we are a part. This is on top of the enacted fiscal year 2012 MRP budget cut of \$2.94 million, of which \$588,000 is expected to be allocated to the National Minerals Information Center. We have three things to ask of you.

First: Reject the proposed fiscal year 2013 budget cuts to the USGS National Minerals Information Center and, at a minimum, set the fiscal year 2013 at the fiscal year 1996 funding level of \$16 million.

The proposed budget cut would render NMIC ineffectual and the USGS non-compliant with its congressional mandate by severely limiting NMIC’s international information function. Without international data, NMIC’s ability to meet its core mission—to collect, report, and analyze data on the supply of nonfuel minerals critical to the Nation’s economic and defense needs—would be severely and irreparably compromised. This is because of the global nature of the minerals industry. The U.S. import dependence for most strategic and critical nonfuel minerals and metals exceeds 75 percent, which is greater than the country’s dependence on foreign oil. In 2011, NMIC found that U.S. import reliance was more than 50 percent for 43 minerals critical to national security and the U.S. economy. Of those, the import reliance was 100 percent for 19 minerals.

With limitations to NMIC’s international function, the USGS, therefore, could not fulfill its congressional mandate to assure there is an adequate and dependable supply of mineral materials for national defense, as established by The Defense Production Act of 1950, as amended (1980 and 1992).

<sup>5</sup>NAPA, “Back to the Future: A Review of the National Historic Preservation Programs” December 2007, p. 29.

NMIC would lose an estimated 10 FTEs on top of the 11 incurred in fiscal year 2012, which would require a reduction in force. This would result in the loss of existing expertise and the inability to attract new hires for succession planning. Commodity and country report coverage would also be significantly reduced. NMIC is relied upon as an objective source of nonfuel minerals information and expertise by Federal, State, and local governments, as well as by private, academic, and non-governmental organizations. NMIC produces more than 800 reports per year covering nonfuel minerals, including Mineral Commodity Summaries for the congressional offices. In 2011, our Web site had about 14.5 million hits and more than 9.7 million publication downloads.

Second: Add \$7.7 million to NMIC’s fiscal year 2012 funding level for a total of \$22.5 million. We would not ask for added funding in a time of such record deficits if we did not sincerely believe it was necessary. NMIC is unique to the Federal Government—it is the only comprehensive source of nonfuel mineral analysis to the Nation. In fiscal year 1996, the Congress recognized this fact when it transferred the NMIC function to the USGS from the former U.S. Bureau of Mines with specific responsibility for analyses of domestic and foreign mineral supplies. Since then, NMIC has endured a continually shrinking budget both in current and real terms (1996 dollars). NMIC’s budget has declined by 36 percent in real dollars to \$10.3 million through fiscal year 2012. The proposed fiscal year 2013 budget would result in a 41 percent reduction in NMIC funding from that of fiscal year 1996 to \$9.5 million in real dollars (Figures 1 and 2).

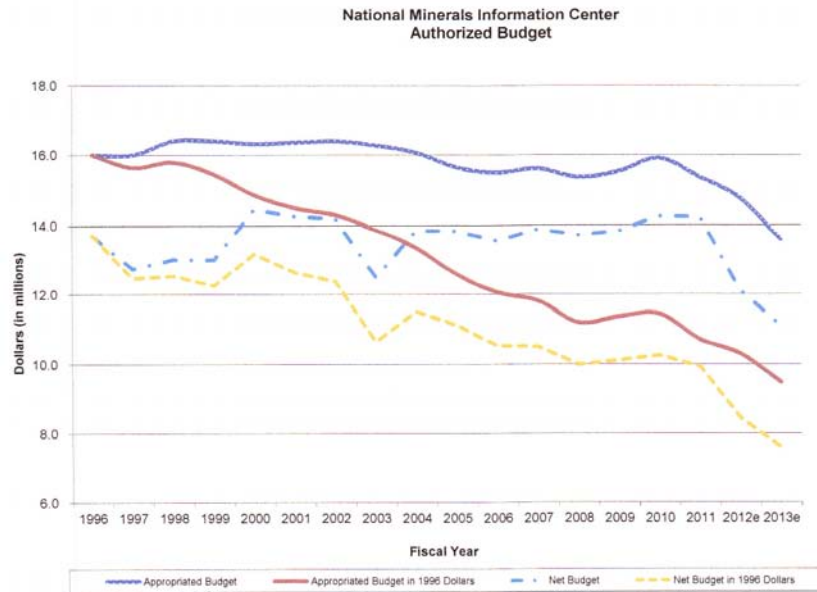


FIGURE 1.

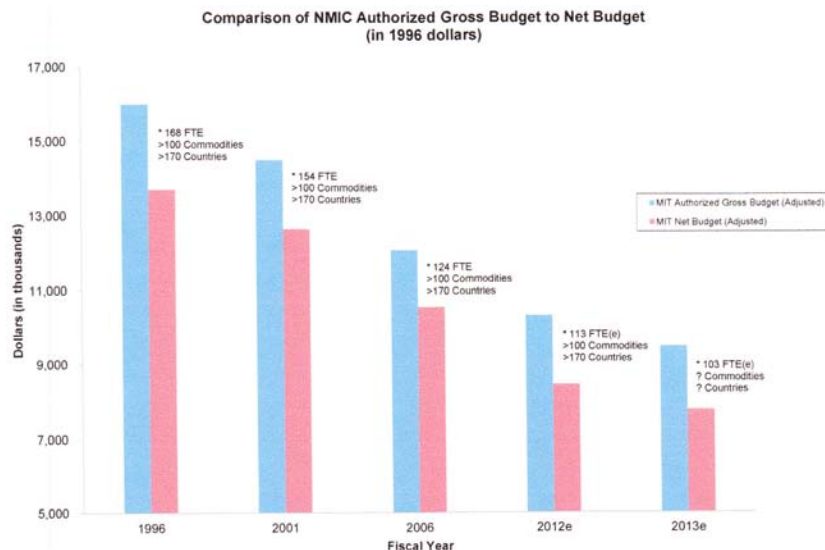


FIGURE 2.

Compounding the problem, NMIC has had to absorb mandated increases in salaries and cost of living adjustments. Not surprisingly, filled FTE positions have fallen—by 33 percent (55 positions) from fiscal year 1996 to fiscal year 2012. Quite frankly, NMIC is now at the point that even flat levels of funding will prevent the group from fully accomplishing its mission. Additional funding would allow NMIC to make much needed improvements, such as increasing the voluntary reporting of mineral production and consumption by U.S. companies; upgrading its data management system; and expanding data collection and analysis further down the supply chain.

Third: Support Realignment of NMIC within the Federal Government so NMIC can be more autonomous, adaptable, and stable. NMIC's budget has been arbitrarily maintained at roughly 30 percent of the USGS MRP budget since fiscal year 1996. This is despite increasing requests for further collaboration by NMIC customers and recommendations by the National Research Council in 2008 in the report, "Minerals, Critical Minerals, and the U.S. Economy," as well as the 2011 report by the American Physical Society and Materials Research Society entitled, "Energy Critical Elements: Securing Materials for Emerging Technologies." The 2008 report recommended that "the Federal Government should continue to carry out the necessary function of collecting, disseminating, and analyzing mineral data and information. The USGS Minerals Information Team [now National Minerals Information Center] . . . should have greater authority and autonomy than at present. It also should have sufficient resources to carry out its mandate . . ."

NMIC has never been well supported by the USGS. In addition to the proposed fiscal year 2013 budget cuts, NMIC and MRP budgets were proposed to be reduced in fiscal year 2004–2009. Prior Congresses strongly rejected those attempts. For example, the 2006 congressional joint committee managers wrote, "[we] strongly disagree with the administration's proposed reductions to the mineral assessment program and believe it irresponsible for the Administration to decrease or eliminate funding for what is inherently a Federal responsibility." (See Box 1 for our rebuttal to several of the principles used to prioritize the fiscal year 2013 budget.)

NMIC realignment would greatly enhance its position as the leading Government source of nonfuel minerals information and analyses. See Box 2 for additional rationale and options.

Thank you for your consideration of these issues that affect both our Union's and the Nation's interests.

BOX 1: REBUTTAL TO FISCAL YEAR 2013 USGS BUDGET FORMULATION

The USGS budget justification for fiscal year 2013 states that the 2013 budget “builds on the core historical mission of the USGS”. NMIC and the MRP were one of only several USGS programs slated for reduction in fiscal year 2013—this at a time when the USGS would receive greater than a 3-percent increase in funding to \$1.1 billion.

Some of the principles used to prioritize the fiscal year 2013 USGS budget formulation include:

- Maintaining programs that are unique to the USGS and conducted on behalf of the Nation;
- Retaining programs that are legislatively mandated; and
- Aligning targeted increases with emerging science priorities that are of national and global significance.

Principle 1 is met. NMIC is the only group within the Federal Government that provides comprehensive nonfuel mineral analyses for the Nation.

Principle 2 is met. The NMIC function is mandated by Defense Production Act of 1950, as amended; various sections under title 30 of the U.S. Code (U.S.C.)—Mineral Lands and Mining; and section 98 of 50 U.S.C.—Strategic and Critical Materials Stock Piling Act of 1946, as amended.

Principle 3 is met. The increasing need for more and more minerals information by NMIC is well documented. This has been recognized by the National Research Council in its 2008 report, “Minerals, Critical Minerals, and the U.S. Economy”, and the 2011 report by the American Physical Society and Materials Research Society entitled, “Energy Critical Elements: Securing Materials for Emerging Technologies”. Further, the Congress introduced seven bills in 2011 alone regarding the need for additional studies by the USGS on the availability and use of rare earth elements (REE) and other critical mineral materials.

BOX 2: NMIC REALIGNMENT RATIONALE AND OPTIONS

NMIC is artificially located within a sub-regional reporting structure within the USGS. Such a reporting structure is contrary to NMIC’s assessment of mineral materials availability for the United States within national and international contexts. This forces some NMIC resources to be diverted on unrelated activities that could be put to better use for the USGS, such as improving the voluntary reporting of mineral production and consumption by U.S. companies; upgrading the data management system; and expanding data collection further down the supply chain.

NMIC’s research is fundamentally different from other programs within the USGS. NMIC’s research necessarily requires strong economic and social-science expertise that is quite different from traditional USGS scientific investigations. The mainstay of NMIC information comes from regional, commodity, and minerals industry analysts with multidisciplinary backgrounds (chemists, economists, engineers, geologists, etc.).

NMIC’s mission is fundamentally different from most other USGS programs. NMIC’s mission requires quick turnaround, high-volume data gathering, analysis, and dissemination, unlike the research and assessment component of the MRP and many other USGS programs, which engage in long-term, project-oriented, fundamental scientific studies.

Options for realignment include:

- Reporting directly to the Office of Director, USGS. NMIC would have greater flexibility to enable USGS management to respond to mineral issues of national and international significance and in seeking cross-disciplinary solutions to these issues.
- Reporting directly to the Office of Secretary, Department of the Interior. This would be similar to how the Energy Information Administration is organized under the Department of Energy.
- Transfer to some other Federal agency.

## PREPARED STATEMENT OF THE NATIONAL FISH AND WILDLIFE FOUNDATION

Mr. Chairman and members of the subcommittee, thank you for the opportunity to submit testimony regarding fiscal year 2013 funding for the National Fish and Wildlife Foundation (NFWF). NFWF's fiscal year 2013 appropriations request will be matched dollar-for-dollar with non-Federal funds to conserve fish, wildlife and their habitats through local partnerships.

We believe that NFWF is a sound investment in a time of constrained budgets because of our proven track record and statutory requirement to leverage Federal funding with private contributions to maximize conservation benefit. We appreciate the subcommittee's past support and respectfully request your approval of funding at the following levels:

- \$7.525 million through the U.S. Fish and Wildlife Service's (FWS) Resource Management General Administration appropriation;
- \$3 million through the Bureau of Land Management's (BLM) Management of Lands and Resources appropriation; and
- \$3 million through the United States Forest Service's (USFS) National Forest System appropriation.

Since its inception, NFWF has leveraged nearly \$576 million in Federal funds into \$2 billion in on-the-ground and in-the-water conservation with less than 5-percent aggregate overhead to the Federal Government and fewer than 100 staff nationwide.

NFWF was established by the Congress in 1984 to catalyze private investments to conserve fish, wildlife and their habitats. NFWF is required by law to match each federally appropriated dollar with a minimum of one non-Federal dollar. We consistently exceed this requirement by leveraging Federal funds at a 3:1 average ratio while building consensus and emphasizing accountability, measurable results, and sustainable conservation outcomes.

The goal of NFWF is to ensure abundant wildlife species in order to allow the economic health of our Nation to continue. The key elements of our approach include:

- leverage;
- efficiency;
- partnerships;
- transparency; and
- measurable outcomes.

A positive example of this approach is our ongoing response to the 2010 Deep-water Horizon oil spill. As you know, NFWF took immediate action following the oil spill to help protect the species most at risk. NFWF's longstanding relationships with Federal and State agencies, scientists, and on-the-ground conservation organizations were invaluable in assessing local wildlife needs and shaping effective responses. In the first phase of its gulf response, NFWF invested in 22 projects which are now delivering results in Louisiana, Mississippi, Alabama, Florida, and Texas. This first phase of projects was financed using \$8.8 million from the Recovered Oil Fund for Wildlife, established by BP with proceeds from the sale of oil recovered from the spill site, as well as a \$2.25 million commitment from Walmart. Since then, NFWF has invested an additional \$14.1 million from the Recovered Oil Fund for Wildlife and other sources—\$22.9 million total—to bolster populations of species affected by the spill in advance of formal restoration efforts. These investments have helped to pilot cost-effective conservation approaches and build capacity in the region to sustain conservation outcomes. With our Federal and private partners, more than 500,000 acres of coastal of freshwater wetland habitat was established to benefit a variety of migratory birds. Other investments have increased the number of sea turtle hatchlings by more than 100,000 and are ensuring the survival of an additional 800–1,000 adult and juvenile sea turtles annually.

## NATIONAL FISH AND WILDLIFE FOUNDATION PARTNERSHIPS

With the subcommittee's support, fiscal year 2013 funds will support our long-standing partnerships and new initiatives with FWS, BLM, and USFS. Some of our priority initiatives for fiscal year 2013 are described below.

*Longleaf Pine Ecosystem.*—Building on nearly a decade of investment to protect and restore vanishing longleaf pine forests in the southeastern United States, NFWF established the Longleaf Stewardship Fund in 2011. This landmark public-private partnership will award approximately \$3 million in fiscal year 2012 with support through FWS, USFS, USDA's Natural Resources Conservation Service, Department of Defense, and Southern Company. With the combined financial and technical resources of the public-private partnership, the expanded program will support accelerated restoration of the longleaf pine ecosystem and implementation of the Range-Wide Conservation Plan for Longleaf Pine. NFWF is working with partners



to establish specific measurable conservation goals that can be tracked over time. These goals will support the recovery of important keystone species of the longleaf pine ecosystem including red cockaded woodpecker, gopher tortoise and Northern bobwhite quail and advance specific habitat restoration goals outlined in the Range-Wide Plan.

*Chesapeake Bay, Great Lakes, and Long Island Sound.*—Watershed health plays an important role in fish and wildlife conservation and has been a feature of NFWF's grantmaking since establishing our partnership with the Environmental Protection Agency (EPA) in 1998. In the last decade, NFWF has formed strategic public-private partnerships to restore and protect fish and wildlife habitat while improving water quality in the Chesapeake Bay, Great Lakes, and Long Island Sound. Federal partners in the programs include EPA, Department of the Interior agencies, USFS, USDA's Natural Resources Conservation Service, NOAA, and others. NFWF leverages various Federal funds for these partnerships but, more importantly, has attracted private contributions from corporations and other private foundations. Through these partnerships, Federal agencies are able to leverage resources with NFWF's corporate sponsors to increase the impact any one of them could have alone. NFWF's watershed grant programs continued positive results in 2011 with priority project requests far exceeding available funds.

#### JOBS AND ECONOMIC BENEFITS FROM CONSERVATION INVESTMENTS

In 2011, NFWF commissioned a report by Southwick Associates that revealed that investments in natural resource conservation have a strong positive impact on local jobs and economies. The report examines existing data on the economic value of natural resource conservation, outdoor recreation and historic preservation. It calculates the total U.S. economic impact of these three areas as \$1.06 trillion. This includes 9.4 million jobs and \$107 billion in Federal, State, and local tax revenues.

#### NATIONAL FISH AND WILDLIFE FOUNDATION REAUTHORIZATION

The National Fish and Wildlife Foundation Reauthorization Act (S. 1494) was introduced in August 2011 with strong bipartisan support. S. 1494 renews NFWF's direct appropriations authorization level of \$30 million for an additional 5 years. The \$30 million authorization includes \$20 million annually through the Department of the Interior; \$5 million annually through USDA; and \$5 million annually through the Department of Commerce. S. 1494 affirms the original purposes of NFWF and strengthens NFWF's ability to raise private dollars, work with Federal agencies more effectively, reduce bureaucratic burdens, and maximize conservation outcomes. Importantly, S. 1494 will ensure NFWF's ability to save money for the Federal Government through efficient grant administration, effective collaboration, and significant leverage through private sector contributions.

S. 1494 is sponsored by Chairwoman Boxer and includes the following co-sponsors:

- Baucus (D-MT);
- Bingaman (D-NM);
- Cardin (D-MD);
- Cochran (R-MS);
- Collins (R-ME);
- Murkowski (R-AK);
- Roberts (R-KS);
- Snowe (R-ME);
- Tester (D-MT);
- Thune (R-SD);
- Udall (D-NM); and
- Whitehouse (D-RI).

A legislative hearing by the Senate Committee on Environment and Public Works was held on April, 24 2012. A companion bill in the House of Representatives is pending.

#### CONCLUSION

For nearly three decades, NFWF has been at the forefront of national conservation activity. With our partners, NFWF has contributed to some of the Nation's most important conservation programs, invested millions in worthy and successful projects, and spearheaded programs to conserve our Nation's most treasured natural resources. We have a successful model of coordinating and leveraging Federal funds and attracting support from the private sector to address the most significant threats to fish and wildlife populations and their habitats. NFWF currently has

partnerships with 14 Federal agencies and more than 50 corporations and private foundations.

Meaningful and measurable outcomes, evaluation, and accountability are NFWF's building blocks to ensure maximum conservation impact. We are working directly with the Federal agencies and our other partners to maximize results and produce sustainable conservation outcomes. To that end, the Foundation is incorporating monitoring and evaluation into our programs to measure progress, promote adaptive management, demonstrate results, and continuously learn from project investments. We look forward to building on our partnerships with FWS, BLM, and USFS in fiscal year 2013 and appreciate the subcommittee's continued support of these collaborative efforts.

#### BACKGROUND ON THE NATIONAL FISH AND WILDLIFE FOUNDATION

As of fiscal year 2011, the National Fish and Wildlife Foundation has awarded more than 11,600 grants to national and community-based organizations through successful partnerships with the Department of the Interior agencies, USDA's USFS and Natural Resources Conservation Service, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and others. This collaborative model brings together multiple Federal agencies with State, tribal, and local governments and private organizations to implement coordinated conservation strategies in all 50 States.

We work directly with Federal and State agencies and our other partners to measure progress, promote adaptive management, demonstrate results, and continuously learn from project investments. NFWF's grant-making involves a thorough internal and external review process. Peer reviews involve Federal and State agencies, affected industry, nonprofit organizations, and academics. Grants are reviewed by the NFWF's science and evaluation team before being recommended to the Board of Directors for approval. By law, congressional offices are notified 30 days in advance of any grant that will be given out in their district or State that includes more than \$10,000 in Federal funds.

Mr. Chairman, we greatly appreciate your continued support and hope the subcommittee will approve funding for National Fish and Wildlife Foundation in fiscal year 2013.

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#### PREPARED STATEMENT OF THE NATIONAL GROUND WATER ASSOCIATION

The National Ground Water Association (NGWA) requests that \$10 million be included in the U.S. Geological Survey's (USGS) Groundwater Resources Program account to begin implementation of a national groundwater monitoring network. NGWA is the world's largest association of groundwater professionals, representing public and private sector engineers, scientists, water well contractors, manufacturers, and suppliers of groundwater-related products and services.

Water is one of the most critical natural resources to human, ecosystem and economic survival. In the United States, 78 percent of community water systems, nearly all of rural America's private household wells; and 42 percent of agricultural irrigation water are supplied by groundwater. While the Nation's people, food supply, economy and ecosystems depend on groundwater, no systematic nationwide monitoring network is in place to measure what is currently available and how groundwater levels and quality may be changing over time. As with any valuable natural resource, our groundwater reserves must be monitored to assist in planning and minimizing potential impacts from shortages or supply disruptions. Just as one cannot effectively oversee the Nation's economy without key data; one cannot adequately address the Nation's food, energy, economic, and drinking water security without understanding the extent, availability and sustainability of the critical commodity—groundwater.

In the face of current and anticipated water supply shortages, public and private sector water professionals have put out the call over the years for increased ground-

water monitoring and the dissemination of the resulting data to the Nation.<sup>1</sup> And the need to take action continues to this day.<sup>2 3</sup>

The Congress responded to these requests for enhanced groundwater monitoring by authorizing a national groundwater monitoring network with passage of Public Law 111–11 (Omnibus Public Land Management Act) in 2009. In 2010, six States<sup>4</sup> voluntarily pilot tested concepts for a national groundwater monitoring network as developed by the Federal Advisory Committee on Water Information’s (ACWI) Subcommittee on Ground Water (SOGW). If this effort moves forward, consistent, comparable nationwide data would become accessible through a web portal for Federal, State, and local government, and private sector users. In these tight fiscal times, the proposed network would build on existing State and Federal investments, maximizing their usefulness and leveraging current dollars to build toward systematic nationwide monitoring of the groundwater resource.

The administration’s fiscal year 2013 USGS budget request allocates \$2.5 million under the heading National Ground Water Monitoring Network. But the USGS budget justification suggests spreading these funds over three different programs:

- the National Ground Water Monitoring Network;
- a groundwater climate response network; and
- a brackish aquifer assessment.

Apart from the other two programs referenced, as part of the fiscal year 2013 Ground Water Resources Program, we ask the subcommittee to allocate \$10 million exclusively for the National Ground Water Monitoring Network to do the following:

- Provide grants to regional, State, and tribal governments to cost share increased expenses to upgrade monitoring networks for the 50 States to meet the standards necessary to understand the Nation’s groundwater resources. The shared funding arrangements should be modeled after highly successful cooperative programs (e.g., STATEMAP) that already exist between USGS and the States; and
- Support the additional work necessary for USGS to manage a national groundwater monitoring network and provide national data access through an Internet web portal.

The redirection of an appropriation of \$10 million for groundwater monitoring requested here is small in comparison to the entirety of the Department of the Interior’s appropriations. But the \$10 million appropriation is vital when we understand that for a small investment we can begin finally to put in place adequate monitoring of the hidden resource that provides nearly 40 percent of the Nation’s drinking water supply. Thank you for your consideration of this request.

The National Ground Water Association is a not-for-profit professional society and trade association for the groundwater industry. NGWA is the largest organization of groundwater professionals in the world. Our members from all 50 States and 72 countries include some of the leading public and private sector groundwater scientists, engineers, water well contractors, manufacturers, and suppliers of groundwater related products and services. NGWA’s vision is to be the leading community of groundwater professionals that promotes the responsible development, use, and management of groundwater resources.

<sup>1</sup>U.S. Government Accountability Office. *Freshwater Supply: States’ Views of How Federal Agencies Could Help Them Meet the Challenges of Expected Shortages*. (GAO–03–514). July 2003. Page 1.

<sup>2</sup>White House Council on Environmental Quality. *Progress Report of the Interagency Climate Change Adaptation Task Force: Recommended Actions in Support of a National Climate Change Adaptation Strategy*. October 5, 2010. Page 11.

<sup>3</sup>U.S. Government Accountability Office. *Energy-Water Nexus: A Better and Coordinated Understanding of Water Resources Could Help Mitigate the Impacts of Potential Oil Shale Development*. (GAO–11–35). October 2010. Page 39.

<sup>4</sup>The six pilot States were:

- Illinois;
- Indiana;
- Minnesota;
- Montana;
- New Jersey; and
- Texas.

Additionally, Idaho, North Carolina, South Carolina, Washington, and Wyoming volunteered as pilots but were not included given limited oversight resources.

## PREPARED STATEMENT OF THE NATIONAL HUMANITIES ALLIANCE

## FUNDING OVERVIEW

For fiscal year 2013 the National Humanities Alliance strongly urges the subcommittee to provide no less than \$154.3 million in funding for the National Endowment for the Humanities (NEH), the same amount requested by the administration. This represents an \$8.2 million increase more than the final fiscal year 2012 appropriation (\$146 million). The NEH budget has suffered a significant funding reduction over the last 2 years—more than \$21 million (13.2 percent) between fiscal year 2010 and fiscal year 2012, almost entirely in program funds. In addition, the agency is still trying to recover from cuts totaling nearly 40 percent that were made in the mid-1990s.

At its nominal funding peak in fiscal year 1994, NEH's total budget was equivalent to \$271.5 million in 2012 inflation-adjusted dollars. At its peak in real dollars in fiscal year 1979, the agency's appropriation equaled \$455.8 million in current dollars—three times the fiscal year 2012 level.

## IMPACT OF THE PRESIDENT'S BUDGET

*Program Funds.*—At the level proposed by the administration, the fiscal year 2013 NEH budget would nearly equal its fiscal year 2011 level (\$154.7 million). However, the proposed increase would still restore only \$5 million in program funds, which are proposed at \$124 million in fiscal year 2013, compared to \$118.6 million enacted for fiscal year 2012 (still far less than the \$140 million enacted for fiscal year 2010). The remaining \$3 million of the proposed increase for fiscal year 2013 would be set aside for administration to help cover anticipated relocation costs associated with the pending redevelopment of the Old Post Office.

*Competitive Grants.*—Within the President's request, funding for NEH competitive grants would increase by \$2.6 million, from \$68.8 million in fiscal year 2012 to \$71.4 million in fiscal year 2013. This includes small increments for each of the NEH's core program divisions and offices:

- Research;
- Education;
- Preservation and access;
- Challenge grants;
- Digital humanities; and
- Public programs.

We are pleased to see these increases, as we have been especially concerned about the long-term erosion of funding suffered by competitive grants programs, which stand at only 40 percent of their value (in real dollars) in fiscal year 1994.

Although modest, the increments proposed by the President would have a significant impact. For example, at the proposed fiscal year 2013 level, the NEH Research Division could make 24 more awards than in fiscal year 2012. This means that an additional 22 individual scholars could receive fellowships, and two more collaborative research projects could receive continuing support. This kind of support is vital for humanities faculty. It enables recipients to devote themselves to intensive, systematic research—the kind of research needed to produce new understandings of American and world history and literature. NEH's continuing support can enable a long-term project to continue, leveraging additional institutional support, and providing unique research opportunities for participating graduate and undergraduate students. Similarly, the NEH Education Research Division could enable 265 additional teachers to revitalize their knowledge of the humanities through participation in summer workshops; approximately 33,000 high school students would benefit from this valuable professional development for teachers.

## NATIONAL NEEDS

The NEH founding legislation articulates the imperative of Federal support for the humanities: "An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future." At a time when globalization has connected the world's societies and economies, and when America plays a central role in political developments in every continent, the wisdom of this statement is more evident than ever. We cannot afford to abandon the study of America's and the world's languages and literatures, religions and governments, traditions and innovations. Without the knowledge that the humanities provide, we cannot understand our own past or the present condition of the world.

We do our humanities work well in the United States. American higher education remains the best in the world—a beacon for students across the liberal arts disciplines and an inspiration for the teaching and modeling of creative and critical thinking. The research funded by the NEH is essential to maintaining that standing, which enables American universities to attract students from every continent eager for the value of an American liberal education.

This is not, however, an argument for complacency; it is not a defense of the status quo. The same technological forces that are transforming the physical, biological, and social sciences are transforming the humanities as well. Humanists are using the new resources of the digital age to reformulate age-old questions about human experience and find new answers for them; to explore new ways of making the humanities accessible and relevant. The NEH has played a leading role in supporting this work, not only financially but through such initiatives as its acclaimed “EDSITEment” Web site, which effectively spreads the word about the superb digital resources that NEH grants have made available to teachers.

The NEH’s impact extends well beyond our classrooms and research institutes. The humanities are a lifelong enterprise and a public resource. America’s museums, libraries, and other cultural institutions play a central role in humanities education. Partly thanks to the NEH, they now offer a range of digital resources that have already transformed the way in which the general public discovers and experiences the past and the world of culture. Like universities, these institutions can do more—especially if the NEH, which has played a vital role in mobilizing new digital techniques and designing more creative approaches to the integration of educational and cultural institutions, can continue to support these efforts.

#### THE NATIONAL ENDOWMENT FOR THE HUMANITIES ROLE

The NEH is the lead Federal agency with the mission to create, preserve, and disseminate knowledge in the humanities—knowledge that is essential to healthy public culture in a democratic society. Each year, NEH awards hundreds of competitive, peer-reviewed grants to a broad range of nonprofit educational organizations and institutions, and to individual scholars, throughout the country. Grantees include 2- and 4-year colleges, universities, research institutes, museums, historical societies, libraries, archives, scholarly associations, K–12 schools, television/film/radio producers, and more. These grants help support educational advancement; professional development; and institutional activities for thousands of students, teachers, faculty, and others engaged in the humanities in communities across the United States every year. By enhancing the work of our cultural institutions, colleges, and universities, they create jobs because such institutions attract tourists and students from abroad. The American economy, as much as its public culture, benefits from high-quality work in the humanities.

The NEH stands at the center of much of this work. The reputation of the NEH’s peer review process helps its grantees attract significant non-Federal funding for humanities projects nationwide. NEH funded projects attract and benefit from further support provided by corporations and foundations. These funders view NEH peer review as a certification of quality.

But the support that the NEH can provide for such projects today does not meet the needs of our Nation’s best work in the humanities. The demand for humanities project support far exceeds available funding, rendering NEH grants extremely competitive. In fiscal year 2011, NEH received 5,710 grant proposals representing \$552.6 million in requested funds, but could fund only 905 (15.8 percent) of these applications. This figure is strikingly low when compared to recent rates as high as 32 percent reported by grant-making agencies like the National Science Foundation.

Underfunding is pervasive. There is too little money for digital humanities projects, which often represent the cutting edge in teaching and research, and for the public film, radio, television and digital media projects that reach a national public; for professional development for teachers who need (and want) to learn how to use new media in humanities education; for preserving great collections, many of them fragile and in need of conservation, as State support dwindles; for challenge grants to help institutions build their own capacities and offer the kind of leverage that attracts new donors and builds habits of philanthropy; and for the individual fellowships and collaborative research projects that promote new understandings of the past and the present. Without stronger support, enterprises from university research to public education will lose capacity, and as they do our ability to deal with the complexities of the world will dwindle.

## CONCLUSION

The National Humanities Alliance is grateful for the opportunity to submit testimony on behalf of funding for the National Endowment for the Humanities.

This subcommittee stands as steward to many of our Nation's greatest shared cultural and natural resources, and we recognize that you face especially difficult and complex choices in crafting the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. We are also deeply grateful for the strong support that the subcommittee has demonstrated for the NEH over the years. We hope that you will continue to consider the NEH as a vital investment in the Nation's global competitiveness, the strength and vitality of our civic institutions, the preservation and understanding of our diverse cultural heritage, and the lives of our citizens. Thank you for the opportunity to be heard.

The National Humanities Alliance was founded in 1981 to advance public support for the humanities. With 104 organizational and institutional members, the Alliance encompasses a broad range of humanities-related disciplines and institutions, and is the only organization that represents the humanities community as a whole. Its members, and the thousands of teachers, scholars, humanities organizations and institutions they represent, use NEH grants to maintain a strong system of academic research, education and public programs in the humanities.

## PREPARED STATEMENT OF THE NATIONAL INSTITUTES FOR WATER RESOURCES

Mr. Chairman, I am Jeff Allen, Director of the South Carolina Water Resources Center at Clemson University's Strom Thurmond Institute. My statement is submitted on behalf of the National Institutes for Water Resources (NIWR), the organization that collectively represents the State water resources research institutes. My statement is in support of restoration of funding for the Water Resources Research Act programs as part of the fiscal year 2013 U.S. Geological Survey's budget.

The Water Resources Research Act (42 U.S.C. 10301 et seq.) establishes a Federal, State, and university partnership in water resources research, education, and information transfer and dissemination. There are 54 Water Resources Research Institutes located at the land grant universities of the 50 States, as well as in the District of Columbia, the Virgin Islands, Puerto Rico, and Guam. The Act authorized a State-based network of institutes dedicated to solving problems of water supply and water quality in partnership with universities, local governments, and the public. It is the only federally mandated research network that focuses on applied water resources research, education, training and outreach. These institutes provide a direct, vital link between Federal water interests and public needs with the academic expertise located within the States' research universities. It is a mechanism for ensuring State, regional, and national coordination of water resources research, the education of future water professionals, and the transfer of results and outcomes to State and Federal water professionals. The Act's significant matching requirements ensure that States invest in water research and training.

The Water Resources Research Act authorizes the two grant components. The first component is the base grant program which is allocated among the institutes. Institutes are required to match each Federal dollar with two non-Federal dollars. Federal funds cannot be used to pay indirect costs at the universities. This is the strictest match requirement of any Federal research program. Each Institute uses these funds to leverage research and/or student training through a statewide competitive grants process. In fiscal year 2012, each Institute received \$92,335, equaling a total appropriation for the base component of \$5.2 million. NIWR respectfully requests the subcommittee provide \$7 million in fiscal year 2013 for competitive water supply research seed grants, technology transfer, professional education, and outreach to the water-user community by the Institutes, approximately \$125,000 per institute.

The second grant component is a national competitive grants program that has the objective of supporting research on water resources problems that are regional or national in nature. In 2011 this competition received 40 applications, which underwent rigorous peer review from a national panel. This panel selected five projects from Alabama, Colorado, Illinois, Kansas and New Jersey for funding. The selection is as competitive and as rigorously peer-reviewed as other Federal research programs. The NIWR respectfully recommends the subcommittee provide \$1.5 million in fiscal year 2013 to support the national competitive research grants program.

I would like to share with you some personal stories from the South Carolina Water Resources Center. First, let me talk about research quality and impact. Our Center awards approximately 2 grants per year, generally to researchers in the university community of South Carolina. While numerous water institutes across the

country provide matching funds to investigators through other State appropriations, that is not the case in South Carolina. So, researchers who apply to the South Carolina research competition must provide their own match at the 2:1 required rate. It is always refreshing that they value the research so much that they find the matching funds. We have funded research projects across a range of water issues, from land use change effects on streams to assessing stream conditions based upon fish health to the development of remote sensing wireless monitoring technologies. In fact, one of our projects helped build remote sensors for stream buoys that jump-started a multi-million dollar stream-monitoring network on the Savannah River. It is a technology, which we think could be used around the country and even around the world to monitor stream health without requiring extensive fieldwork.

The South Carolina Water Resources Center also co-sponsors a biennial conference for water professionals, managers, educators and researchers. Other water institutes hold similar meetings in their States. We are proud to say that for our relatively small State, we had an attendance of more than 300 water professionals in 2010 and expect at least as many this fall in 2012. Conference participants come from the State agencies to water organizations to private consultants to college and university researchers. This is the one time each year that the entire water resources community comes together under one roof. The feedback is continually positive with participants telling us it is critical to keep these types of meetings ongoing.

The Water Resources Research Act holds all of this together as a network. The Act places the Institutes at land-grant universities, where in coordination with their Extension services, they specialize in identifying problems within their States, developing solutions to those problems, and engaging with the public to implement those solutions. One of the Institute program's greatest strengths is that the research funded by each Institute is tailored to that State's needs, based on priorities set by consultation with an advisory panel. I would like to cite several examples of research conducted by institutes across the country.

The Rhode Island Water Resources Center has an outreach program for water resource professionals and nonprofessionals targeted equally through the combination of an established conference for industry professionals and a summer camp for high school students. The primary objectives of the conference and the camp are the same; to advance awareness and knowledge of the importance of clean water in Rhode Island and to discuss and provide insight into the various factors affecting the State's ability to obtain clean water for multiple uses.

The Alaska Department of Transportation & Public Facilities lacks sufficient hydrologic information to obtain permits for construction of transportation corridors to important resource-rich areas of the State. The Alaska Water and Environmental Research Center is conducting a series of modeling and measuring projects providing ADOT&PF with the data required to design and permit roads and bridges on the North Slope and elsewhere.

The Montana Water Center has developed the Montana Watercourse, a statewide program for schools and citizens, providing water information, resources, tools and education. Among the projects sponsored as part of the Watercourse are:

- a series of water-rights trainings for conservation district supervisors;
- recruiting and training student interns from Montana's tribal colleges for a cutting-edge water-informatics research project that assembles streaming sensor data for visualization and modeling; and
- water information sharing with audiences throughout the State, including individuals, watershed groups, conservation districts, cities, and counties.

In a study of forest management and water yields, in collaboration with several nonprofit agencies, researchers supported by the California Institute for Water Resources will undertake a three-part, multi-year, multi-disciplinary project to research and assess issues related to climate change, vegetation manipulation and the forest water cycle in the Sierra Nevada Mountains. The Sierras harbor globally distinctive forest resources that deliver hydropower and water supply to downstream users in California and elsewhere.

Mississippi relies heavily on agricultural commodity production as a source of revenue and jobs. And rice, one of Mississippi's top commodities and exports, relies heavily on water for germination and growth. Demand for water use from irrigated crop production has put enormous pressure on Mississippi Delta's groundwater supply. Research sponsored by the Mississippi Water Resources Research Institute has shown that intermittent irrigation can reduce the amount of water needed to grow a successful rice crop by up to 50 percent, compared with the conventional method of continuous flooding. Researchers designed a rain gauge that helps farmers tell from a distance how wet their fields are, and is now developing ways to remotely and automatically shut off water pumps to save rice producers time and money. The goal is to maximize the use of rainfall, relying on precious groundwater reserves

only during dry spells. Data generated by this research also indicates savings of millions of dollars in production fuel costs for Mississippi's farmers.

The Louisiana Water Resources Research Institute advised the State of Louisiana on the environmental impact of the BP oil spill on coastal wetlands. The LWRRRI is coordinating research and damage assessment for the ecologically important coastal headland "Fourchon Beach" and adjacent marshes that remain heavily impacted by the spill. This research has resulted in changes in the response techniques for these unique environments and a better understanding of how to respond to future spills. In addition, it has helped organize scientific conferences and symposia related to the BP spill and researchers have presented more than 20 invited presentations on spill response and impacts around the United States.

The University of Wisconsin Institute of Water Resources funded a number of projects dealing with groundwater protection. Projects include the development of a new remote-sensing method to detect infiltration areas for the replenishment of the groundwater that feeds aquifers across the State and the development of new management tools to help rural water managers implement groundwater protection measures more effectively. In addition, the Institute also supported the development of new molecular techniques to detect and measure pathogens and viruses such as E. coli in groundwater. Currently, the occurrence of such pathogens in groundwater are not well documented.

We often tout the value of the network of institutes supported by the Water Resources Research Act program and their ability to work together to serve the public on regional water issues.

In May 2011, the Water Resources Research Institutes in Colorado, Idaho, Montana, Oregon, and Washington collaborated on a conference on exempt wells. The most common water-use exception is the exemption of certain water uses from many States' water rights management processes in the West. The goal of the conference was to identify the critical issues associated with the management and impacts of exempt domestic wells and to stimulate new ideas to solve the conflicts that have arisen between traditional water rights holders and water users that rely on exempt wells.

The short supply in the Western States and fears that there will not be enough water for all projected future demands, is creating strained relationships between those in the agricultural, urban and environmental sectors. The Institutes in Arizona and Colorado are working together to improve the relationship between these groups by facilitating discussions about creative ways they can share water and contribute to viable solutions. The institutes' efforts have already been successful in generating action at the State level and through industry groups that have initiated roundtable discussions, retreats and tours among water industry leaders.

Several Water Resources Research Institutes in the Southeast are helping water utilities reduce water usage because of research supported by the North Carolina Water Resources Research Institute. Researchers collected water data from utilities in Georgia, South Carolina and North Carolina and then developed five case studies for use in workshops and presentations. Using the results of the research, utilities have been able to conserve water without sacrificing revenue by adjusting their rate structures, billing, customer communication and conservation programming.

For more than 4 decades the Water Resources Research Institutes have provided research results and impacts to our Nation, and proved successful at bringing new water professionals into the work force. NIWR recommends the subcommittee provide \$8.8 million to the USGS for the Water Resources Research Institute Program for fiscal year 2013. This includes \$7 million for institutional grants, \$1.5 million for national competitive grants, and \$300,000 for USGS administration.

The water institute directors recognize the fiscal challenges facing the Nation and the Congress, but NIWR strongly supports the USGS Coalition request that the Congress appropriate at least \$1.2 billion for the USGS in fiscal year 2013, a level that will support critical USGS programs that improve the Nation's environment, health, safety, quality of life, and future economic growth.

On behalf of all the Institute directors, I thank you for your continuing support of the Water Resources Research Act program.

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PREPARED STATEMENT OF THE NATIONAL PARKS CONSERVATION ASSOCIATION

Mr. Chairman, Ranking Member Murkowski, and members of the subcommittee, I am Tom Kiernan, president of the National Parks Conservation Association (NPCA). I appreciate the opportunity to testify on behalf of our more than 600,000 members and supporters from every State and congressional district to provide our views regarding appropriations for the National Park System for the upcoming fiscal



year. Since 1919, NPCA has been the leading, independent, private voice in support of promoting, protecting and enhancing America's national parks for people from all walks of life to learn from, be inspired by and enjoy—now and on into the future.

We respect that it will be a challenge again for you to sort out and balance competing, often conflicting demands for limited Federal resources; we understand the difficult task you face. I commend each of you for your commitment and for your fortitude in going forward even with the specter of an unprecedented sequestration looming over all our heads. I particularly want to compliment the members of this subcommittee for working so hard last year to keep out of your bill any policy riders that could harm national parks. We were deeply grateful that we did not have to fight that battle in this chamber.

I am here to argue that during these times especially, investing in the national parks should be an American priority. Providing adequate funding for the national parks is more than simply another expenditure; it is an investment in our Nation's future with tangible returns that are particularly significant now as we continue to try to recover from this long economic downturn.

We've noted before that for every Federal dollar spent on the national parks, at least \$4 are generated in economic value to the public at large. Adequately funded national parks create jobs, sustainable businesses and vibrant communities. The national parks are reliable economic engines: visitors to the National Park System contributed more than \$31 billion to local economies and supported 258,000 jobs in 2010, an increase of \$689 million and 11,500 jobs more than 2009, according to recently published data by the park service and Michigan State University. The same data showed that visitors to Yellowstone spent \$334 million, supporting almost 5,000 jobs, and City of Rocks supported 85 jobs through \$6.3 million in visitor spending. These are just two illustrative examples of the economic impact of park units on local communities.

According to a 2011 study from the McKinsey Global Institute commissioned by the Interior Department, the national parks make up 60 percent (\$33 billion) of Interior's overall contribution to the economy due to outdoor recreation. The study also determined that for every two people employed by the national parks, another job was created in local economies. In one example, Glacier National Park led to 18,000 local jobs, accounting for 25 percent of the jobs in the restaurant sector, and 50 percent of jobs in the lodging sector.

But people won't come to the parks if their experience isn't enjoyable or if it's marred by parks in poor condition and lacking necessary staff.

In January, NPCA, the National Park Hospitality Association, and the National Parks Foundation, in collaboration with the National Park Service, convened an unprecedented event called America's Summit on National Parks. The gathering, which included hundreds of diverse community, education, economic, business, tourism, healthcare, conservation, youth, and political leaders, reinforced the strong support for national parks among a wide cross-section of the American public. The non-partisan nature of support for national parks was evident there, and at the subsequent White House Conference on Conservation. Summit participants agreed on a set of principles to guide national park-related policies, opportunities and funding as we prepare for the 2016 centennial. The principles—which include a focus on funding—quickly garnered endorsements from nearly 100 businesses, philanthropic, conservation, tourism and recreation groups, and many more continue to sign on. Efforts launched at the summit continue. We all look forward to working with you to help ensure the Federal Government does its part to perpetuate the American story and values through the national parks.

This February, President Obama signed an Executive order to promote tourism in the United States, and at the time Secretary Salazar noted that, "By investing in our parks and promoting them to visitors, especially internationally, we can have the dual benefit of an improved National Park System and a stronger economy that produces more jobs." Unfortunately, the administration's fiscal year 2013 budget request for the National Park Service is just not consistent with their lofty and ambitious pronouncements. We ask you to find a way to do better.

With an overall request for the National Park Service that is essentially flat, the administration would increase funding for specific, targeted activities under park service operations by \$13.5 million. These include some additional money for the administration's priorities, but mostly funding for a lot of things that really just have to be paid for, such as the Presidential Inauguration. The problem is that under the administration's budget, these worthwhile things would come at the expense of base park operations—the very account that keeps the parks open and functioning and keeps rangers on the job. We were disappointed that the administration simultaneously claimed to provide funding for fixed costs while cutting budgets at the park level by nearly \$22 million; we respectfully ask your subcommittee to find the funds

to prevent this staff cut at a time when we are seeking to enhance the tourism economy and keep parks protected. The damage these cuts would do to the gains and improvements made as a result of this subcommittee's laudable efforts are not theoretical. This cut would result in the loss of more than 200 FTE, which depending on how those cuts are apportioned, could eliminate as many as 600 seasonal ranger positions. It makes no sense to market our national parks to international visitors while cutting the funding necessary for the parks to serve those very visitors when they arrive.

National parks are among the most visited locations in America. According to Forbes, 8 of the top 25 U.S. travel destinations are national parks. If the administration is serious about promoting tourism as a boon to the economy, funding for the national parks—and especially base park operations—should really be increased rather than kept flat or reduced. What kind of impression will it make on visitors if the parks are allowed to return to the days of missing rangers, shuttered visitor centers, dirty restrooms, deteriorating resources, dangerous roads and trails, and reduced interpretive and educational programs? Not a very good one, I suspect. At the very least, we are hopeful the subcommittee will improve on the administration's request and provide more adequate and realistic funding for base park operations and fixed costs.

NPCA fully supports helping the National Park Service understand, prepare for, and respond to climate-driven changes unfolding in national parks throughout the country. Planning in advance for things such as increasing wildfires, invasive species, and coastal flooding is needed.

We're also worried about the continuing trend of reductions in the national parks construction account and the impact that will have on the continually growing deferred maintenance backlog.

Last fall, NPCA released a report entitled "Made in America: Investing in National Parks for our Heritage and Our Economy", which highlighted the jeopardy in which continual, incremental cuts place our national parks, the heritage they protect, and the experiences they provide. Over the last 2 years, NPS discretionary funding has been reduced 6 percent; operations funding has been reduced \$25 million; and construction has been cut by 35 percent, or \$84 million, contributing to a 66-percent decline in that account since fiscal year 2002 in today's dollars. Total discretionary funding for the National Park Service is more than \$400 million—or 14 percent—less than fiscal year 2002 in today's dollars.

The construction cut is proposed despite a maintenance backlog of more than \$3 billion for the most critical systems, and a total deferred maintenance backlog of more than \$11 billion. The backlog is attributable to chronic funding deficiencies in several categories, including operations, transportation, and construction. These deficiencies have forced park managers to make choices between what needs to be done and what absolutely must be done immediately to keep facilities up and running and visitors safe and satisfied for the time being. The longer needed repairs and maintenance to facilities is put off, the more expensive and difficult they become. The National Park Service needs almost \$700 million annually just to keep up with the backlog, yet receives just half that. We realize deferring projects is one mechanism to minimize cuts to other accounts in an austere climate, but we fear we are getting to the point where there is nothing left in that account, and that is compounding the problem and the long-term threat to our national heritage.

We are pleased that the administration recognizes the need to continue to fund the Land and Water Conservation Fund (LWCF), so that critical lands like the State lands in Grand Teton National Park can be protected. It's important to recognize that there are so many LWCF needs that continue to go unfunded, with a backlog of more than \$2 billion for NPS acquisitions. There are currently more than 2.6 million acres of private inholdings in national parks, and when there are willing sellers, there is broad public support for acquisition because people want to see public access for recreation and intact parks that don't suffer from incompatible development.

Removing privately owned inholdings and completing parks actually makes their administration and resource management more efficient and cost effective, thereby freeing up money for other needs. Purchasing inholdings from willing sellers can help facilitate better invasive species control and water quality, reduce fire risks, remove obstacles to recreation and wildlife management, and facilitate conservation of historic resources. At the moment, with real estate prices at rock bottom, there are many good deals to be had from willing sellers. We are hopeful the President's LWCF request will accommodate what is necessary to carry out the purchase and exchange of Wyoming State lands to benefit Grand Teton National Park and other timely needs. We appreciate this subcommittee's bipartisan understanding of the value of the program and your effort to modestly restore some funding for the pro-

gram in fiscal year 2012. We hope we can work with you to continue support in fiscal year 2013.

It seems as if there's always a good deal of talk on Capitol Hill about what the American people want, expect and deserve. Phrases such as those are thrown about fairly readily on both sides of the Capital on both sides of the aisle. The views of the American people about their national parks are pretty clear. Their love affair with the national parks spans time, region, economic status, and political persuasion. As reflected in a recent Harris poll, national parks are among the most popular roles for the Federal Government. The National Park Service is arguably the most popular Federal agency and the park ranger may be the most recognizable and appreciated Federal public servant. Statistics show that support for national parks has remained strong and even increased with the recent downturn in the economy. A 2010 poll found that 9 out of 10 Americans have visited a national park and 6 out of 10 did so within the past 2 years. Despite concerns about the economy and the Federal deficit, 88 percent of Americans say it is either extremely important or quite important to protect and support the national parks. And with the National Park Service centennial in mind, 85 percent of voters surveyed favor giving national parks enough funding so they are fully restored and ready to serve the public for the next 100 years.

By taking care of our national parks, this subcommittee can show that the Congress can still do some things well. Despite a political scene that is so divisive and dysfunctional at so many levels, Americans from all walks of life and political persuasions cherish our national parks and want them protected. This subcommittee can make a statement that it understands that, and that the Congress is still capable of hearing them. And at the same time, it can make an investment in local economies and help recapture the U.S. share of the tourism market by ensuring parks are well protected and maintained and visitors have a safe and inspiring experience.

As the milestone 100th anniversary approaches, the parks will be more and more at the forefront of people's minds, and more and more Americans will be drawn to visit a national park or park unit. We hope they will be proud of what they find and take pride in their experience and heritage. Whether this happens or not is, in no small measure, a function of the actions this subcommittee and your colleagues in the Congress undertake.

Again, thank you for the opportunity to testify.

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#### PREPARED STATEMENT OF THE NATIONAL RECREATION AND PARK ASSOCIATION

Thank you Chairman Reed, Ranking Member Murkowski, and other honorable members of the subcommittee for this opportunity to submit written testimony on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill and, specifically, the Land and Water Conservation Fund (LWCF).

The National Recreation and Park Association (NRPA) is a nonprofit organization working to advance parks, recreation and environmental conservation efforts nationwide. Our members touch the lives of every American in every community every day. Through our network of approximately 20,000 citizen and professional members we represent park and recreation departments in cities, counties, townships, special park districts, and regional park authorities, along with citizens concerned with ensuring close-to-home access to parks and recreation opportunities exist in their communities.

In fiscal year 2012, you provided \$322.9 million for LWCF, with \$45 million of that amount allocated to the State Assistance Program. You also specified that zero State Assistance dollars were to be used for the Department of the Interior's (DOI) proposed competitive grant program. We thank you for investing in conservation through the LWCF, and especially thank you for investing in States and local communities through the State Assistance Program and for protecting the integrity of that program.

As this subcommittee works to craft the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill, NRPA makes three requests. First, we ask that you provide ample funding for the LWCF; second we ask that you choose to invest in local communities by allocating 40 percent of total LWCF appropriations to the State Assistance Program; and third we ask that you, once again, deny the DOI the ability to deprive States and local communities of funding by specifying that zero State Assistance dollars are to be used for the DOI's proposed competitive grant program.

We recognize that you face difficult decisions relative to fiscal year 2013. However, the LWCF is budget neutral, having been authorized with a dedicated funding

source of oil and gas leasing revenues. More than \$6 billion a year is provided through these leases, and the funding provided to the LWCF is a minuscule fraction of this amount. Zeroing out the LWCF would negatively impact our country, especially at the State and local levels. There is a common misconception that LWCF is merely a Federal land acquisition program. Nothing could be further from the truth, as the LWCF State Assistance Program provides dollar-for-dollar matching grants to States and local communities for the construction of outdoor recreation projects. The land purchased with LWCF State Assistance funding remains the property of the State or local government, and the facilities developed through the LWCF remain publicly accessible in perpetuity.

The LWCF State Assistance Program ensures that local communities, such as Blackfoot, Idaho, have places where adults and children can go to recreate and enjoy the outdoors. It is a means by which this committee can provide investment to local communities, and for fiscal year 2013, we are asking this committee to make the investment by allocating a minimum of 40 percent of total LWCF appropriations to the State Assistance Program. Current law requires that a minimum of 40 percent of LWCF appropriations be provided to the Federal land acquisition program, and we are merely asking for you to invest in local communities by allocating the same percentage amount to the State Assistance Program. Evidence of the impact of such an allocation is clear when you consider that in fiscal year 2012 California received approximately \$3.6 million through the State Assistance Program. Had 40 percent of LWCF appropriations been allocated to the State Assistance Program, the State would have received more than \$11 million. Rhode Island received \$426,000 in fiscal year 2012, but would have received more than \$1.3 million with a 40-percent allocation.

There are many viable reasons for such an allocation. One seemingly simple reason is access. Not everyone in America has access to our amazing National Park System, but everyone does have access to local outdoor spaces and recreational facilities provided through their State and local community. Additionally, accessibility to physical activity through outdoor recreation is crucial to reaping the benefits of healthy lifestyles and reducing healthcare epidemics such as childhood obesity.

Close-to-home public parks and recreation are available to every age, ethnicity, gender, and socio-economic class in every community, both urban and rural, of every State. Is there any other program that so effectively treats all individuals so equally? This is made possible because LWCF funding has always been allocated by formula through the State Assistance Program, whereby a portion of funds are equally allocated among all States and territories and the remainder is allocated based on population. This ensures that 100 percent of the State Assistance funding is equitably distributed throughout the Nation. This formula currently does not favor one congressional district or party affiliation over the other, or projects that can gain the most national visibility. That would radically change under the DOI's proposal whereby more than one-third of the State Assistance's funding would be used for a DOI-administered competitive grants program. The DOI proposal would effectively decrease the amount of funding provided to each State as only a small number of projects would likely be funded. For example, Ohio would have lost approximately \$950,000 in fiscal year 2012 LWCF funding under the DOI proposal. Additionally, more rural States, such as Alaska or Wyoming, would have to expect a loss of funding as only urban projects of national significance could compete for the grants. The distribution formula used for the past 47 years has yielded equitable results as 98 percent of America's counties have received State Assistance funds. In fiscal year 2012, this subcommittee ensured equal allocation among the States by specifically directing that zero dollars were to be spent on a competitive grant program in the fiscal year 2012 appropriations bill. NRPA supports repeating that language in fiscal year 2013 and rejecting any ongoing or future efforts by DOI to do otherwise. Absent directive language, the DOI has authority to implement its program.

*Land and Water Conservation Fund State Assistance: Addressing National Issues on the Local Level*

Few programs can address so many national priorities as effectively as the LWCF State Assistance Program does, with so few dollars and without negatively impacting the Federal budget.

The National Park Service documented in a March 2011 report that the \$40 million appropriated to LWCF State Assistance in 2010 made a direct impact on park and recreation facilities in or near 221 local communities, helped communities make 5,905 new acres available for outdoor recreation use and enjoyment, and helped "encourage active participation to strengthen the health and vitality of the citizens of the United States pursuant to the original intent of the Act." While the LWCF State Assistance program annual benefits hundreds of local communities, local commu-

nities are in need of more recreational resources. As documented by the National Park Service, our country faces more than \$18 billion in unmet need for outdoor recreational resources.

*Land and Water Conservation Fund State Assistance Stimulates Jobs and Local Economies*

According to a study by Southwick in October 2011, the economic impacts of outdoor recreation, natural resource conservation, and historic preservation activities in the United States contributed a minimum of \$1.06 trillion to the economy, created a \$107 billion return on investment to Federal, State and local governments through tax revenue, and supported 9.4 million jobs. The National Association of State Park Directors reports that America's State park system contributes \$20 billion to local and State economies. Impressively, this section of the economy continues to grow even during the ongoing economic recession, and thus has enormous potential to immediately create new jobs. For example, the Outdoor Industry Association reported in October 2011 that the outdoor recreation industry grew at a rate of 4.1 percent in 2010 and 5.9 percent in 2011. As more people are using the outdoors, more jobs are being created, and nowhere is outdoor recreation more prevalent than State and local outdoor recreation areas.

Virtually every community in New York has acquired and/or developed outdoor recreational facilities with the help of the LWCF State Assistance Program. As a result, the New York active outdoor recreation economy supports 130,000 jobs across New York, generates nearly \$800 million in annual State tax revenue, and produces \$11.3 billion annually in retail sales and services.

Arizonans also recreate close-to-home in local parks and venues. Parks like the De Anza Trail help the Arizona active outdoor recreation economy support 82,000 jobs across Arizona, generate nearly \$350 million in annual State tax revenue, and produce almost \$5 billion annually in retail sales and services.

Without the continued support of this subcommittee for the Nation's treasured State and local parks and recreation sites, the Congress would effectively contribute to State and local unemployment rates and deeper budget deficits.

*Public Health*

The LWCF State Assistance Program plays a critical role in advancing parks and recreation that directly contributes to fighting our Nation's obesity and Type 2 diabetes epidemics. Several medical studies have shown that there is a strong correlation between proximity to recreational facilities and parks and increased participation in physical activity. It is estimated that obesity costs the United States Government about \$344 billion in medical-related expenses by 2018, accounting for approximately 21 percent of healthcare spending. The CDC currently estimates 65 percent of adults and 16 percent of children are overweight or obese, and even small improvements in the lifestyles of Americans would yield marked health improvements and contribute substantially to decreasing the Nation's rising healthcare costs. In fact, CDC notes that the creation of or enhanced access to places for physical activity led to a 25.6-percent increase in the percentage of people exercising on 3 or more days per week. Investing in programs such as the LWCF State Assistance Program would provide a significant return on investment through the reduction in healthcare costs by ensuring access to places for physical activity.

*Environmental Benefits*

The LWCF State Assistance Program not only meets important national goals and delivers tangible health and economic benefits to everyone; it also significantly contributes to protecting the environment and promoting environmental stewardship. LWCF State Assistance projects have a historical record of contributing to reduced and delayed stormwater runoff volumes, enhanced groundwater recharge, stormwater pollutant reductions, reduced sewer overflow events, increased carbon sequestration, urban heat island mitigation and reduced energy demands, resulting in improved air quality, increased wildlife habitat, and increased land values on the local level.

For example, LWCF State Assistance funding allowed the Rhode Island Department of Environmental Management to complete the construction of a new beach facility at Salty Brine State Beach in Narragansett, Rhode Island. One of Rhode Island's most popular beaches, the new fully accessible facility is LEED Certified to the Silver Standard. According to DEM Director W. Michael Sullivan, the new bathhouse will generate more energy than it will use, making it the first State facility that is self-sufficient.

In Clark County, Washington, LWCF funding enabled the Salmon Creek Greenspace to acquire uplands and riparian wetlands at the confluence of Salmon Creek and Morgan Creek will provide new trail access for hiking, walking and trail

running. The 64-acre acquisition protects critical open space within the City of Battle Ground.

In Juneau, Alaska, LWCF State Assistance funding was used to construct a ski lift, lodge, warming hut, trails, and maintenance buildings at the Eaglecrest Recreation Area.

Mr. Chairman and members of the subcommittee, local parks and recreation agencies are not merely community amenities; they are essential services necessary for the economic and environmental vitality, as well as physical wellness, of communities throughout this country. LWCF's State Assistance Program has proven itself invaluable to improving State and local economies, while simultaneously reducing long-term healthcare costs through increased access to physical activity. This subcommittee and the Congress have the rare opportunity to achieve national goals without increasing spending or adding to the deficit, and can do so by adopting three simple recommendations: do not zero out the LWCF; allocate a minimum of 40 percent of LWCF funding to the State Assistance Program; and prohibit any diversion of formula funds to a DOI competitive grant program.

Thank you for the opportunity to present testimony.

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PREPARED STATEMENT OF THE NATIONAL TRIBAL CONTRACT SUPPORT COST  
COALITION

My name is Lloyd Miller and I am a partner in the law firm of Sonosky, Chambers, Sachse, Endreson & Perry, LLP, of Washington, DC. I appear here today as counsel to the National Tribal Contract Support Cost Coalition, comprised of 20 tribes and tribal organizations situated in 11 States and collectively operating contracts to administer more than \$400 million in Indian Health Service (IHS) and Bureau of Indian Affairs (BIA) facilities and services on behalf of more than 250 Native American tribes.<sup>1</sup> Thank you for the opportunity to appear once again to discuss the legal duty and urgent need to fully fund the "contract support costs" that are owed these and other tribes performing contracts and compacts on behalf of the United States pursuant to the Indian Self-Determination Act—specifically \$571 million for IHS contract support cost requirements and \$228 million for BIA contract support cost requirements.

No single enactment has had a more profound effect on more tribal communities than has the Indian Self-Determination Act (ISDA). In just three decades tribes and inter-tribal organizations have taken over control of vast portions of the BIA and IHS, including Federal governmental functions in the areas of healthcare, education, law enforcement, and land and natural resource protection. Today, not a single tribe in the United States is without at least one self-determination contract with each agency, and collectively the tribes administer more than \$2.82 billion in essential Federal governmental functions, employing an estimated 35,000 people.

In the IHS Aberdeen area, more than 20 percent of the IHS budget is under contract to the tribes. In Alaska, 100 percent of the IHS budget and most of the BIA budget has been contracted over to the tribes. From the Navajo Nation to the Pacific Northwest to California, tribes in 35 States have demanded their self-determination rights and secured control over IHS and BIA programs.

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<sup>1</sup>The NTCSCC is comprised of the:

- Alaska Native Tribal Health Consortium (Alaska);
- Arctic Slope Native Association (Alaska);
- Central Council of the Tlingit & Haida Indian Tribes (Alaska); Cherokee Nation (Oklahoma);
- Chippewa Cree Tribe of the Rocky Boy's Reservation (Montana);
- Choctaw Nation (Oklahoma);
- Confederated Salish and Kootenai Tribes (Montana);
- Copper River Native Association (Alaska);
- Forest County Potawatomi Community (Wisconsin);
- Kodiak Area Native Association (Alaska);
- Little River Band of Ottawa Indians (Michigan);
- Pueblo of Zuni (New Mexico);
- Riverside-San Bernardino County Indian Health (California);
- Shoshone Bannock Tribes (Idaho);
- Shoshone-Paiute Tribes (Idaho and Nevada);
- SouthEast Alaska Regional Health Consortium (Alaska);
- Spirit Lake Tribe (North Dakota);
- Tanana Chiefs Conference (Alaska);
- Yukon-Kuskokwim Health Corporation (Alaska); and
- the Northwest Portland Area Indian Health Board (43 tribes in Idaho, Oregon, and Washington).

The ISDA employs a contracting mechanism to carry out its goal of transferring essential governmental functions from Federal agency administration to tribal government administration. To carry out that goal and meet contract requirements, the act requires that IHS and the BIA fully reimburse every tribal contractor for the “contract support costs” that are necessary to carry out the contracted Federal activities. (Cost-reimbursable Government contracts similarly require reimbursement of “general and administrative” costs.) Full payment of fixed contract support costs is essential: without it, offsetting program reductions must be made, vacancies cannot be filled, and services are reduced, all to make up for the shortfall. In short, a contract support cost shortfall is equivalent to a program cut.<sup>2</sup>

For years the administration failed to request full funding for its contract support cost obligations, and the resulting shortfalls grew. The first major effort to address this deficiency in the past 10 years occurred in fiscal year 2010, when the Congress enacted a \$116 million increase to narrow the IHS contract support cost shortfall by about one-half, and a \$19 million increase to address BIA contract support cost shortfalls. The IHS increase, alone, will eventually restore 2,820 health sector jobs in Indian country.

Today IHS refuses to disclose its shortfall projections for fiscal year 2012 and fiscal year 2013. Based upon our own projections, we believe the shortfall this year will be approximately \$60 million, and that the shortfall in fiscal year 2013 will approach \$99 million. Our calculations and assumptions are attached to my testimony. (Unfortunately, IHS’s failure to disclose data for the past 2 years means our projections are subject to change.) Unless remedied, we foresee a \$99 million cut in tribally contracted programs next year—not IHS-administered programs, but tribally administered health programs alone—to cover the shortfall that will be left unaddressed.

In this context, IHS’s request for a \$5 million increase is shocking, all the more so given this subcommittee’s instruction to IHS last year that the agency must prioritize fully funding these contracts before requesting other discretionary increases. In contrast, the BIA has responded to Indian Country, and it has heeded this subcommittee’s instruction, by requesting \$228 million—an amount the BIA says will fully fund all contract support cost requirements.

It is not acceptable for the agency to prioritize discretionary increases over its contract obligations. It is not acceptable to seek deficit reduction by cutting contract payments. It is not acceptable to treat tribal contractors differently from other contractors. And it is not acceptable to single out tribally administered health programs for grave cuts in essential governmental services, while the agency seeks enhancements to the rest of its budget. The Congress 24 years ago warned that the agencies “must cease the practice of requiring tribal contractors to take indirect costs from the direct program costs, which results in decreased amounts of funds for services”, S. Rep. No. 100–274, at 9 (1987). At long last this practice must stop.

Last year we detailed for the subcommittee the extraordinary impact that addressing CSC shortfalls has on job creation across Indian country. Just as the shortfall costs jobs, eliminating the shortfall restores jobs. Addressing the IHS shortfall in contract payments is therefore not just a matter of legal obligation and sound policy; it is good economics at a time of terrible unemployment.

The National Tribal Contract Support Cost Coalition recommends the following:

- The Coalition recommends that in fiscal year 2013:
  - the IHS contract support cost line be increased to \$571 million; and that
  - the BIA’s request to increase its contract support cost line to \$228 million be accepted.
- The Coalition recommends that the Committee adopt language requiring IHS and BIA to promptly disclose each year all available contract support cost data—precisely as both agencies have historically done up until the past year. Language to address this issue accompanies my testimony. The agencies are suddenly claiming that, because CSC data is eventually wrapped up inside a formal Report to Congress, the otherwise disclosable data cannot be disclosed until the Report is fully cleared through each Department and through OMB. That is a sure way to keep the data secret and under wraps for years—witness

<sup>2</sup>Contract support costs are the necessary costs of operating a Federal program under contract. When the BIA and IHS operate these programs, the agencies are supported by their own bureaucracies and other Federal agencies (i.e., the Department of Justice, the General Services Administration, and the Office of Personnel Management ) to provide personnel and financial management systems, legal resources, procurement systems and the like. Tribal contractors require similar resources, as well as resources to meet mandatory Federal requirements such as annual audits. They cover those requirements with contract support costs. Most fixed contract support costs are set by Government-issued indirect cost rates, with the rates issued based upon certified independent audits and adjusted based upon post-year audits.

the fact that only this month, March 2012, did IHS submit its Report detailing 2009 data, 3 years too late. Without data there is no way for tribes, or the Congress, to see how these tribal funds are being managed.

Such secrecy does not accompany any other agency funds, and only leads one to speculate that the agencies have something to hide. Indeed, last year's multiple IHS errors in projections that were furnished to the Congress suggest that the agencies want to hide both their own errors and the magnitude of the shortfalls. This is unacceptable, and it should not require costly Freedom of Information Act lawsuits every year for tribes and the Congress to learn what is going on inside the agencies with appropriated funds.

This is a major issue. Today tribes have been denied all access to 2011 data about how last year's appropriation—all of which belongs to the tribes—was spent. They are also being told that they will not see how the 2012 funds, which the Congress appropriated in December, will be spent this year—not until formal reports are sent to the Congress years from now. They are being denied access to the critical information that would permit them to see if systemic errors are being made—a particularly acute problem given the wholesale loss of all CSC expertise within the agency. They are even being told that tribes, themselves, favor this secrecy—notwithstanding that section 106(c) of the Indian Self-Determination Act mandates Tribe-by-Tribe disclosure, and notwithstanding that such diverse entities as the Great Plains Tribal Chairman's Health Board, the Northwest Portland Area Indian Health Board, the IHS Contract Support Cost Work Group (all attached), as well as this 11 State, 20 tribe, coalition, all have demanded disclosure.

- The Coalition recommends that the subcommittee once again require both agencies to consistently project and budget the additional CSC requirements associated with new contracts and program expansions (on average, 13.5 cents for each new IHS program dollar, and 10.4 cents for each new BIA program dollar). The IHS did this in its fiscal year 2012 budget, but ceased doing it in the fiscal year 2013 budget. This is the first time in some 25 years that IHS has not disclosed in its budget justification its projection of CSC requirements for the coming year. The Congress cannot do its work without this information.
- Finally, the Coalition recommends that the subcommittee reconcile the different language used in the IHS and BIA portions of the bill, and that the subcommittee eliminate the old "section 314" language (a useless vestige after the *Cherokee v. Leavitt* case). Variations in language only raise unnecessary questions as to the subcommittee's intent. Suggested language accompanied our testimony to the subcommittee last year.

Thank you again for the opportunity to offer these recommendations.



INDIAN HEALTH SERVICE CONTRACT SUPPORT COST PROJECTIONS FISCAL YEARS 2011, 2012, 2013, AND 2014—FEBRUARY 15, 2012

	Amount			
<b>FISCAL YEAR 2011</b>				
Fiscal year 2010 CSC need (from fiscal year 2010 CSC data collected from Tribes)	\$520,715,103 <sup>1</sup>			
Tribal shares available for CSC (from fiscal year 2010 CSC data)	\$32,683,845			
IDC on unpaid DCSC in fiscal year 2010 (calculated from fiscal year 2010 CSC data)	\$1,756,818			
Base CSC funding (fiscal year 2010 appropriation)	\$398,490,000			
Inflation for fiscal year 2011 at 1.5 percent	\$5,977,350			
Estimated new and expanded programs (ISD) in fiscal year 2011				
CSC for program increases in the fiscal year 2010 omnibus budget				
Total funding required in fiscal year 2011	\$495,765,425			
Base funding (fiscal year 2010 omnibus budget)	\$398,490,478			
Additional CSC needed in fiscal year 2011	\$97,274,947			
Projected average CSC level of need funded (percentage)	80.38			
<b>FISCAL YEAR 2012</b>				
Total funding required in fiscal year 2010	\$495,765,425			
Inflation (DCSC at medical inflation (3.6 percent)/IDC at regular inflation (1.5 percent))	\$8,069,432			
Estimated new and expanded programs (ISD) in fiscal year 2012	\$10,000,000			
CSC for program increases in the fiscal year 2012 enacted budget	\$20,330,612 <sup>2</sup>			
Total CSC funding required in fiscal year 2012	\$534,165,469			
Adjustment for additional tribal shares and IDC on DCSC shortfall	\$26,352			
Base funding (fiscal year 2012 enacted budget)	\$471,437,000			
Additional CSC needed in fiscal year 2012	\$62,754,822			
Projected average CSC level of need funded (percentage)	88.25			
<b>FISCAL YEAR 2013</b>				
Total funding required in fiscal year 2012	\$534,191,822			
Inflation (DCSC at medical inflation (3.6 percent)/IDC at regular inflation (1.5 percent))	\$9,546,599			
Estimated new and expanded programs (ISD) in fiscal year 2013	\$10,000,000			
<b>FISCAL YEAR 2011</b>				
2011 program increases				
Services		54 percent	25 percent	
Facilities				
Staffing of new facilities				
TOTAL				
<b>FISCAL YEAR 2012</b>				
2012 program increases				
Services	\$64,361,881	60 percent	25 percent	\$9,654,282
Facilities	6,712,000			1,006,800
Staffing of new facilities	62,950,119			9,669,530
TOTAL	134,024,000			20,330,612
	\$38,426,396—Increase in CSC need over previous fiscal year			
	\$72,946,522—Increase in CSC funding available over previous fiscal year			
<b>FISCAL YEAR 2013</b>				
2012 program increases				
Services	62,998,000	60 percent	25 percent	9,449,700
Facilities	2,259,000			338,850
Staffing of new facilities	49,236,000			12,309,000

INDIAN HEALTH SERVICE CONTRACT SUPPORT COST PROJECTIONS FISCAL YEARS 2011, 2012, 2013, AND 2014—FEBRUARY 15, 2012—Continued

	Amount			
CSC for program increases in the proposed fiscal year 2013 budget request .....	3 22,097,550	TOTAL .....	114,493,000	22,097,550
Total CSC funding required in fiscal year 2013 .....	\$575,835,971	\$41,670,897—Increase in CSC need over previous fiscal year .....		
Adjustment for additional tribal shares and IDC on DCSC shortfall .....	\$26,748	\$5,009,000—Increase in CSC funding available over previous fiscal year .....		
Base funding (President's fiscal year 2013 budget) .....	\$476,446,000			
Additional CSC needed in fiscal year 2013 .....	\$99,416,719			
Projected average CSC level of need funded (percent) .....	82.74			
FISCAL YEAR 2014				
Total funding required in fiscal year 2013 .....	\$575,862,719	2014 program increases .....	60 percent	25 percent
Inflation (DCSC at medical inflation (3.6 percent)/IDC at regular inflation (1.5 percent)) .....	\$9,648,032	Services .....		
Estimated new and expanded programs (ISD) in fiscal year 2014 .....	\$10,000,000	Facilities .....		
CSC for program increases in the proposed fiscal year 2014 budget request (average of previous 2 years) .....	4 21,214,081	Staffing of new facilities .....		
Total CSC funding required in fiscal year 2014 .....	616,724,831	TOTAL .....		
Adjustment for additional tribal shares and IDC on DCSC shortfall .....	\$27,149	\$40,889,261—Increase in CSC need over previous fiscal year .....		
Base funding (President's fiscal year 2013 budget) .....	\$476,446,000	\$0—Increase in CSC funding available over previous fiscal year .....		
Additional CSC needed in fiscal year 2014 .....	140,305,980			
Projected average CSC level of need funded (percentage) .....	77.25			

<sup>1</sup> Taken from fiscal year 2010 contract support cost shortfall data collected from tribes.

<sup>2</sup> CSC associated with the portion of the fiscal year 2012 appropriation increases that are to be included in Self-Determination awards. (60 percent of the increase, times 25 percent for CSC).

<sup>3</sup> CSC associated with the fiscal year 2013 proposed budget increases that are anticipated to be included in Self-Determination awards. (60 percent of the increase, times 25 percent for CSC).

<sup>4</sup> CSC associated with the fiscal year 2014 budget increases that are anticipated to be included in Self-Determination contracts and compacts. (Average of previous 2 years).

<sup>5</sup> This amount does not include any CSC based on program increases anticipated in the proposed budget.

	Amount	Inflation <sup>1</sup>	ISD fund
Total CSC funding required in fiscal year 2015 .....	<sup>2</sup> \$634,087,019	\$12,335,040	\$5,000,000
Total CSC funding required in fiscal year 2016 .....	<sup>2</sup> \$651,768,760	\$12,681,740	\$5,000,000
Total CSC funding required in fiscal year 2017 .....	<sup>2</sup> \$669,804,135	\$13,035,375	\$5,000,000

<sup>1</sup> Inflation is computed at 2 percent of the prior fiscal year's total requirement.  
<sup>2</sup> This amount does not include any CSC based on program increases anticipated in the proposed budget.

INDIAN HEALTH SERVICE—DETAIL OF CHANGE

Program enacted request	Fiscal year—		Difference 2012 over 2011	Fiscal year 2013 request	Difference 2013 over 2012
	2011 enacted	2012 enacted			
<b>Services:</b>					
Hospitals and health clinics .....	\$1,762,865	\$1,810,966	\$48,101	\$1,849,310	\$38,344
Dental services .....	152,634	159,440	6,806	166,297	6,857
Mental health .....	72,786	75,589	2,803	78,131	2,542
Alcohol and substance abuse .....	194,409	194,297	(112)	195,378	1,081
Contract Health Services .....	779,927	843,575	63,648	897,562	53,987
<b>Total, Clinical Services .....</b>	<b>2,962,621</b>	<b>3,083,867</b>	<b>121,246</b>	<b>3,186,678</b>	<b>102,811</b>
Public health nursing .....	63,943	66,632	2,689	69,868	3,236
Health education .....	16,649	17,057	408	17,450	393
Community Health Representatives .....	61,505	61,407	(98)	61,531	124
Immunization AK .....	1,930	1,927	.....	1,927	.....
<b>Total, Preventive Health .....</b>	<b>144,027</b>	<b>147,023</b>	<b>2,996</b>	<b>150,776</b>	<b>3,753</b>
Urban health .....	43,053	42,984	(69)	42,988	4
Indian Health Professions .....	40,661	40,596	(65)	40,598	2
Tribal Management Grants .....	2,581	2,577	.....	2,577	.....
Direct operations .....	68,583	71,653	3,070	72,867	1,214
Self-Governance .....	6,054	6,044	(10)	6,044	.....
Contract Support Costs .....	397,693	471,437	73,744	476,446	5,009
<b>Total, Other Services .....</b>	<b>558,625</b>	<b>635,291</b>	<b>76,666</b>	<b>641,520</b>	<b>6,229</b>
<b>TOTAL, SERVICES .....</b>	<b>3,665,273</b>	<b>3,866,181</b>	<b>200,908</b>	<b>3,978,974</b>	<b>112,793</b>
<b>Facilities:</b>					
Maintenance and improvement .....	53,807	53,721	(86)	55,470	1,749
Sanitation facilities construction .....	95,665	79,582	(16,083)	79,582	.....
Healthcare facilities construction .....	39,156	85,048	45,892	81,489	(3,559)
Facilities and environmental health support .....	192,701	199,413	6,712	204,379	4,966
Equipment .....	22,618	22,582	(36)	22,582	—
<b>TOTAL, FACILITIES .....</b>	<b>403,947</b>	<b>440,346</b>	<b>36,399</b>	<b>443,502</b>	<b>3,156</b>
<b>TOTAL, BUDGET AUTHORITY .....</b>	<b>4,069,220</b>	<b>4,306,527</b>	<b>237,307</b>	<b>4,422,476</b>	<b>115,949</b>

From DHHS/IHS Fiscal Year 2013 Justification of Estimates for Appropriation Committees.

	Amount
The fiscal year 2012 staffing packages total was \$62,950,119	
Carl Albert .....	\$2,487,000
Lake Co HC .....	1,088,000
Elbowoods .....	7,315,000
Cheyenne River HC .....	24,272,000
Absentee Shawnee HC .....	8,981,000
Vinita HC .....	8,665,000
Undesignated (place holder two joint venture facilities) .....	9,843,000
<b>Total .....</b>	<b>62,651,000</b>

	Amount
The fiscal year 2013 staffing was estimated at \$49,236,000	
Ardmore, Oklahoma .....	8,948,000
Vinita, Oklahoma .....	2,792,000
Tishomingo, Oklahoma .....	5,341,000
Wasilla, Alaska .....	13,462,000
Fairbanks, Alaska .....	8,074,000
Nome, Alaska .....	10,619,000
Total .....	49,236,000

Notwithstanding any other provision of law, the Bureau of Indian Affairs and the Indian Health Service shall, on or before April 1 of each fiscal year, circulate to every tribal and tribal organization engaged in contracting or compacting under Public Law 93-638, as amended, data from the preceding year showing:

- for each tribe and tribal organization, nationally, and by area and region, the total amounts of funds provided for the direct costs of contracted or compacted programs, and the total amounts of funds provided for the contract support costs associated with such programs;
- for each tribe and tribal organization, nationally, and by Area and Region, any deficiency (or surplus) in funds needed to provide required contract support costs;
- the indirect cost rate and type of rate that has been negotiated with the appropriate Secretary for each tribe and tribal organization;
- the direct cost base and type of base from which the indirect cost rate is determined for each tribe and tribal organization;
- the indirect cost pool amounts and the types of costs included in the indirect cost pool; and
- for the current fiscal year, each agency's calculation of the estimated national contract support cost requirement for all tribes and tribal organizations, based upon the President's most recent budget submitted to the Congress.

#### PREPARED STATEMENT OF THE NATIONAL TRIBAL ENVIRONMENTAL COUNCIL

On behalf of the National Tribal Environmental Council (NTEC) and our 187 member tribes, we thank you for the opportunity to provide fiscal year 2013 funding recommendations for the Department of the Interior and other agencies under the purview of this subcommittee.

Founded in 1991, NTEC works with federally recognized tribes to protect tribal environments. NTEC's mission is to support Indian tribes and Alaska Natives in protecting, regulating, and managing their environmental resources according to their own priorities and values.

Despite having some of the most pristine habitat in the United States, tribes have been historically underfunded for wildlife and natural resource management and conservation. There are 565 federally recognized American Indian tribes and more than 300 reservations in the United States. Tribes manage 95 million acres of land, 11 million acres more than the National Park Service (NPS). Tribal lands contain more than 997,000 acres of lakes, 13,000 miles of rivers, and 18 million acres of forested lands. Tribal lands provide vital habitat for more than 525 federally listed plants and animals, many of which are both ecologically and culturally significant to tribes.

#### BUREAU OF INDIAN AFFAIRS

##### *Interior Department Cooperative Landscape Conservation Initiative*

##### *Increase the Bureau of Indian Affairs' Allocation of the Department of the Interior's Climate Change Adaptation Initiative to \$8.75 Million*

DOI began the Cooperative Landscape Conservation Initiative in 2009, an undertaking that Indian tribes support. The administration's fiscal year 2013 budget request for the initiative is \$175 million. The \$136 million for the initiative in fiscal year 2011 did not include any funding for tribes.

In fact, BIA repurposed \$419,000 of its own funds for tribal participation in the DOI Cooperative Landscape Conservation Initiative. Out of the \$175 million for the Initiative in fiscal year 2012, BIA was only allocated \$200,000. As such, tribes were accorded a mere .001 percent of the funding. Moreover, given the past failures to allocate new funding to BIA for this program, it is doubtful this funding will appear

and likely that BIA will once again be compelled to repurpose its own funds. The lack of funding for tribes is highly inequitable, especially considering the disproportionate effect of climate change on tribes and their homelands. Sovereign Indian tribes deserve a broader seat at the table in the Climate Change Adaptation Initiative and a more equitable share of the funding.

Tribal lands comprise 4 percent of the U.S. land base, but represent a higher percentage if compared to the Federal lands involved in the initiative. Tribal lands comprise 95 million acres which, divided by the total 587 million acres of Federal land, equal 16 percent. Tribal lands include 11 million acres more than NPS, yet the administration proposed nearly 50 times more funding for NPS in fiscal year 2012.

[In millions]

Agency	Acres
Bureau of Land Management .....	258
Fish and Wildlife Service .....	150
Bureau of Indian Affairs/Tribes .....	95
National Park Service .....	84
<b>Total .....</b>	<b>587</b>

Given that tribal natural resources have been historically underfunded and there is no Federal program or funding that specifically supports tribal climate adaptation efforts, we request that the allocation to tribes via the BIA should be increased to \$8.75 million, or 5 percent of DOI's Cooperative Landscape Conservation Initiative, for tribes to address and adapt to the impacts of climate change. This funding level was justified in a report submitted to the House Interior, Environment, and Related Agencies Appropriations Subcommittee in May 2011.<sup>1</sup> To achieve this equitable increase for tribes, the money provided to the various Interior agencies for the Initiative must be reallocated. We request that you include language in the bill directing the Secretary to set aside these funds for tribes.

#### *Trust Natural Resources Program*

##### *Provide \$170.521 Million for Bureau of Indian Affairs Trust Natural Resources Program*

The BIA Trust Natural Resources (TNR) Program represents the largest amount of base, Federal funding for tribal natural resource management. In 1999, the BIA reported that tribes had more than \$356 million of unmet annual needs for natural resource management.<sup>2</sup> Despite some annual increases since then, the BIA and tribes have lagged significantly behind in funding compared to other Interior agencies. For example, the fiscal year 2013 budget requests increases of \$34.5 million for USGS and \$28 million for BLM, yet the request for BIA is a decrease of \$110 million. Moreover, in roughly the last decade the BIA budget has grown only 8 percent compared to an average of more than 23 percent for other Interior agencies (FWS: 30 percent; NPS: 28 percent; USGS: 19 percent; BLM: 13 percent). Because BIA spending on natural resources in the last 11 years has been relatively flat compared to inflation and BIA's budget has been historically inadequate to meet the natural resource needs of Indian tribes, their needs have multiplied. The fiscal year 2013 request is \$13.51 million less than the fiscal year 2010 enacted level.

Due to the significant unmet annual needs for tribal natural resource management and the historic underfunding of tribal natural resource base programs, we believe it is vital to augment TNR base funding. We request that \$170.521 million be provided to the BIA TNR Program. We support allocating that amount to various TNR programs per the 2013 Indian Country budget request.<sup>3</sup>

<sup>1</sup> Tribal recommendations for the fiscal year 2012 Department of the Interior Climate Change Adaptation Initiative, transmitted on May 20, 2011, to Mike Simpson, Chairman, House Subcommittee on the Interior and Environment, [www.ncai.org/fileadmin/appropriations/Tribal\\_Recommendations\\_for\\_2012\\_DOI\\_Climate\\_Change\\_Adaptation\\_Initiative.pdf](http://www.ncai.org/fileadmin/appropriations/Tribal_Recommendations_for_2012_DOI_Climate_Change_Adaptation_Initiative.pdf).

<sup>2</sup> U.S. Department of the Interior, Bureau of Indian Affairs, *Report on Tribal Priority Allocations*, July 1999, 52.

<sup>3</sup> Available at: [http://www.ncai.org/fileadmin/FY2013/FY2013\\_Indian\\_Country\\_Budget\\_Request.pdf](http://www.ncai.org/fileadmin/FY2013/FY2013_Indian_Country_Budget_Request.pdf).

## U.S. FISH AND WILDLIFE SERVICE

*Tribal Wildlife Grants Program**Increase U.S. Fish and Wildlife Service Tribal Wildlife Grants Funding to \$8 Million*

Unfortunately, tribes are not eligible for funding under Federal wildlife and fishery restoration programs such as the Federal Aid in Wildlife Restoration Act (Pittman-Robertson) or the Federal Aid in Sport Fish Restoration Act (Dingell-Johnson) that fund activities through an excise tax on hunting and fishing equipment. Although tribal members pay taxes that support this funding, they remain excluded from receiving the benefits and only States are allowed to access them.

In 2002, the Congress authorized FWS to provide funding to tribes under the Tribal Wildlife Grant (TWG) and Tribal Landowner Incentive Programs (TLIP). Tribal proposals for support often total more than \$30 million annually. In fiscal year 2009, FWS only funded 41 TWG proposals out of 101 submitted, awarding \$7 million to tribes with a meager average award of \$170,000. With 566 federally recognized tribes, competition is severe and tribes rarely receive sufficient funds to fully support important conservation efforts.

In fiscal year 2011, States received nearly \$1 billion from the Pittman-Robertson, Dingell-Johnson, and State Wildlife Grants programs. Thus, the \$7 million tribes received from the TWG program was only .007 percent of the amount States received. From 2002–2010, States received nearly 86 times more FWS funding than tribes for fish and wildlife conservation, or \$6.25 billion for States compared to \$72.2 million for tribes.<sup>4</sup> In fiscal year 2011 and 2012, tribes only received \$4.3 million from TWG in each year.

Since the inception of the TWG program in 2002, no more than \$7 million per year has been made available on a competitive basis to the Nation's 565 federally recognized tribes. At this low level of funding, very few tribes receive any TWG funding; those receiving TWG funding typically get very little; and no tribe receives sufficient funding to sustain long-term tribal wildlife and natural resource management efforts. We request that TWG Program funding be increased to \$8 million for fiscal year 2013.

## ENVIRONMENTAL PROTECTION AGENCY

*General Assistance Program**Increase Funding to \$75 Million for the Environmental Protection Agency General Assistance Program*

Since 1992, the EPA's Indian Environmental General Assistance Program (GAP) has served a critical need by providing funding to tribes to build capacity for environmental management. Unfortunately, GAP funding has not kept pace with the growth of tribal environmental programs over the years, forcing tribes to perform the increased duties of maturing programs with fewer resources. The average cost for tribes to sustain a basic environmental program was set at \$110,000 per tribe in 1999 and has not been adjusted for inflation since that time. fiscal year 2012 funding for GAP was slightly more than \$ 67.5 million. However, a \$175,000 per tribe distribution (totaling almost \$99 million) would be more equitable for tribes. We request that the EPA GAP Program be funded at \$75 million level to begin incrementally meeting the need of \$99 million.

*Multimedia Tribal Implementation Grants Program**Authorize and Appropriate \$20 Million for the Multimedia Tribal Implementation Grants Program*

The fiscal year 2012 EPA budget included a request for this new program to support on-the-ground implementation of environmental protection on tribal lands. This program would provide \$20 million (almost \$13 million less than the fiscal year 2011 request) for tribes to address their most pressing environmental needs. This program would allow tribes to move beyond the planning measures supported by GAP and begin implementing tribal environmental priorities. We request that the Multimedia Tribal Implementation Grants Program be funded at the \$20 million level.

<sup>4</sup>In this example, State funding includes the FWS Wildlife and Sport Fish Restoration Programs and State Wildlife Grants. Tribal funding includes the FWS Tribal Wildlife Grants and Tribal Landowner Incentive Program.

*Tribal Water Pollution Control, Clean Water Act Section 106**Provide a Tribal Allocation of 20 Percent*

Clean Water Act section 106 grants are critical to tribal efforts to control water pollution. Such efforts include water quality planning and assessments; developing and implementing water quality standards and total maximum daily loads; providing ground water and wetland protection; and engaging in nonpoint source control activities. Between 1998 and 2010, the number of eligible tribes to receive CWA section 106 funding increased from 141 to 257. The national CWA 106 allocation to tribes has remained flat and periodically decreased (e.g., 15.49 percent in 1998 to as low as 11.55 percent in 2005). Only 40 of 565 federally recognized tribes have EPA-approved water quality standards (WQS), yet the vast majority of States have them. Section 106 grants would enable tribes to bridge this gap. We request 20 percent of the national CWA section 106 allocation be made specifically available to tribes.

*Nonpoint Source Pollutant Control—Clean Water Act 319**Eliminate Caps on Tribal Funding for Nonpoint Source Pollution Control*

Clean Water Act section 319 provides tribes with grants to develop and implement polluted runoff control programs that address critical water quality concerns identified in the 106 program and other monitoring programs. Tribal needs for this funding exceed availability. We request that any caps on tribal funding for Nonpoint Source Pollution Control be eliminated to help close the vast inequity in funding.

## PREPARED STATEMENT OF THE NATIONAL TRUST FOR HISTORIC PRESERVATION

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to present the National Trust for Historic Preservation's recommendations for fiscal year 2013 appropriations. My name is Thomas J. Cassidy, Jr. and I am the Vice President of Government Relations and Policy. The National Trust is a privately funded nonprofit organization chartered by the Congress in 1949. We work to save America's historic places to enrich our future. With headquarters in Washington, DC, 12 field offices, 29 historic sites, and partner organizations in 50 States, territories, and the District of Columbia, the National Trust protects significant historic sites and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

The Nation faces a challenging fiscal environment. The National Trust recognizes there is a need for fiscal restraint and cost-effective Federal investments. However, we do not believe that preservation, conservation and recreation programs should suffer from disproportionate funding reductions. We look forward to working with you, Mr. Chairman, as you address the ongoing needs for investments to sustain our Nation's rich heritage of cultural and historic resources that also generate the economic vitality of communities throughout the Nation.

## HISTORIC PRESERVATION FUND

The Historic Preservation Fund (HPF) is the principal source of funding to implement the Nation's historic preservation programs. Like the Land and Water Conservation Fund, its dedicated revenues are generated from oil and gas development on the Continental Shelf.

The National Park Service distributes HPF grants that are matched by State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs). Inadequate HPF funding limits support for preservation activities such as survey, inventory, public education, and project review for the Federal Historic Rehabilitation Tax Credit (HTC), State and Tribal Historic Preservation Plans, and the National Register of Historic Places. The HTC is the most significant Federal investment in historic preservation. It has catalyzed the rehabilitation of more than 38,000 buildings throughout the Nation. Since its creation 30 years ago, the HTC has created 2 million jobs and leveraged nearly \$100 billion in private investment.

The President proposes level funding for the Historic Preservation Fund at the fiscal year 2012 enacted level of \$55.9 million. While we appreciate there is not a cut to this program, we recommend that the Committee provide a modest increase for this program reflecting ongoing demands for preservation services and the increasing number of tribes who qualify for HPF THPO funding.

We also look forward to working with the Committee to restore a program of competitive grant funding, such as formerly provided by Save America's Treasures, to provide matching grants to restore and preserve significant historic resources such as the Star Spangled Banner; the World Trade Center's Vesey Street Stairway;

Touro Synagogue in Providence, Rhode Island; and the Holy Assumption Orthodox Church in Kenai, Alaska.

NATIONAL PARK SERVICE: OPERATION OF THE NATIONAL PARK SYSTEM, CULTURAL RESOURCES STEWARDSHIP

Two-thirds of our National Parks were created to protect our most important historic and cultural resources. Over the past two decades, the National Park Service (NPS) has added more than 30 new parks, which are predominantly cultural and historical in value. However, funding for cultural resources stewardship has not receiving support commensurate with natural resources stewardship. During the fiscal year 2010 budget hearings, then Acting National Park Service Director Dan Wenk stated that NPS had been neglectful of cultural resources. A report of the National Academy of Public Administration (NAPA) found that during the fiscal year 1999–2006 period the NPS bolstered stewardship of natural resources by an additional \$77.5 million. However, during this same period, funding for park cultural programs decreased by 28 percent. Since the release of the NAPA report we have seen no significant effort by NPS to create funding parity between natural and cultural resources in the Park Base Operations Funding. And, although the fiscal year 2013 budget requests an increase in natural resources stewardship, there is a reduction proposed for cultural resources. We urge the Committee to at least restore the cultural resources stewardship account to its fiscal year 2012 enacted levels.

NATIONAL PARK SERVICE: FACILITY OPERATIONS AND MAINTENANCE

Of the nearly \$11 billion deferred maintenance needed for NPS, \$3 billion is for the 27,000 properties in National Park units listed on the National Register of Historic Places. According to a report issued by the National Academy of Public Administration, *Saving Our History: A Review of National Park Cultural Resource Program* (2008), more than 40 percent of historic buildings and structures in our national parks are in fair or poor condition. Without funding, the condition of these properties will continue to deteriorate and become more expensive to repair and preserve in the future. Therefore, we recommend that the Committee restore the proposed \$15 million cut from the repair, rehabilitation, and maintenance accounts and provide funding at the fiscal year 2012 enacted level. The National Trust is conducting fundraising efforts to address the gap—most recently and successfully at White Grass Dude Ranch in Grand Teton National Park—but private money must be matched by Federal money. Continued loss of Federal maintenance money will reduce the opportunity to raise private funds for the preservation of these important structures.

The administration is proposing a significant reduction in the line-item Construction account, most of which funds new construction. We are concerned, however, that the proposed reduction not adversely impact important rehabilitation of historic structures.

NATIONAL PARK SERVICE: LEASING HISTORIC STRUCTURES IN NATIONAL PARKS

We appreciate the Committee's inclusion of language in the fiscal year 2012 conference report recognizing that historic leases provide a cost-effective and innovative solution to mitigate the maintenance backlog of historic structures. We are working with the NPS and private partners to successfully implement such leases and bring private investment to rehabilitation expenses.

One promising new and cost-effective opportunity for the NPS to address the backlog of historic maintenance in the parks is through the recently signed MOU establishing "Historicorps," a new cooperative among NPS, the other Federal land agencies, and several NGOs, including the Student Conservation Association and The Corps Network.

NATIONAL PARK SERVICE: NATIONAL HERITAGE AREAS

We are disappointed that the administration has proposed a nearly 50-percent decrease in funding for the National Heritage Areas (NHAs). The proposed reduction, justified as "encouraging self-sufficiency," would severely impair the sustainability of the program and the individual NHAs that the Congress has established, including the John H. Chafee Blackstone River Valley National Heritage Area. A recent NPS study found "without funding to replace the NPS investment, few NHAs are expected to survive longer than a few years." NPS Northeast Region, *Report of Impacts and Operation Strategy for Sunsetting National Heritage Areas* (2012).

During these challenging economic times, every program that receives Federal funding needs to justify its worth and deliver substantial benefits to the American



public. NHAs more than meet this test. They are congressionally designated places where community driven partnerships advance heritage conservation and economic development. Heritage areas have a proven record of fostering job creation and advancing economic, cultural, historic, environmental, and community development through their leverage of each Federal dollar by \$5.50 of non-Federal investments. We urge the Committee to maintain funding for NHAs at the fiscal year 2012 enacted level.

#### BUREAU OF LAND MANAGEMENT: NATIONAL LANDSCAPE CONSERVATION SYSTEM

The Bureau of Land Management's (BLM) National Landscape Conservation System (National Conservation Lands) includes 27 million acres of congressionally and presidentially designated lands, including National Monuments, National Conservation Areas, Wilderness, Wilderness Study Areas, National Scenic and Historic Trails, and Wild and Scenic Rivers.

The National Conservation Lands protect some of our country's most significant historical and cultural resources, yet the BLM's ability to steward these resources is undermined by insufficient funding averaging \$59.6 million, or just \$2.20 per acre. The National Conservation Lands are just one-tenth of BLM managed lands but they host one-third of all BLM's visitors. This high visitation rate has resulted in increased needs to protect and steward historic and archaeological sites from looting and reckless off-road vehicle use. Without sufficient funding, the BLM also struggles to complete essential resource protection, such as signing trails, closing illegal and unnecessary routes, and inventorying and protecting cultural sites.

We support the administration's fiscal year 2013 request of \$69.549 million, a proposed increase of \$4.58 million more than the fiscal year 2012 enacted level, to prevent critical damage to the resources found in these areas, ensure proper management and provide for a quality visitor experience. This funding level would enable BLM to hire essential management and law enforcement staff, monitor and protect natural and cultural resources, close unauthorized routes that fragment fragile ecosystems, and undertake needed ecosystem and species restoration projects.

#### BUREAU OF LAND MANAGEMENT: CULTURAL RESOURCES MANAGEMENT

BLM oversees the largest, most diverse, and scientifically most important body of cultural resources of any Federal land managing agency, including 21 National Historical Landmarks, 5 World Heritage Sites, and more than 263,000 documented cultural properties. However, yet BLM receives the least amount of cultural resources money per acre of any Federal agency. In the 34 years since the enactment of the Federal Land Policy and Management Act (FLPMA) only 8 percent of the land managed by the BLM has been surveyed for cultural resources. Understanding the location and significance of cultural resources on BLM land creates greater certainty in decisionmaking about land uses including energy development, recreation, and resource protection. Proactive survey for cultural resources is also required under the National Historic Preservation Act. A long-term goal of surveying 20 percent of BLM land would be a significant step toward helping our Nation efficiently and cost effectively develop energy resources on our public lands. We strongly support the President's fiscal year 2013 request of \$17.325 million for Cultural Resources Management, an increase of \$1.22 million more than fiscal year 2012 enacted.

#### LAND AND WATER CONSERVATION FUND

The National Trust supports robust funding for the Land and Water Conservation Fund. Many of the Nation's most significant historic and cultural landscapes have been permanently protected through LWCF investments, including the Flight 93 National Memorial, Minidoka National Historic Site, Lewis and Clark National Historic Trail, Gettysburg National Military Park, Martin Luther King Jr. National Historic Site, Canyons of the Ancients National Monument, and Harpers Ferry National Historic Park. We strongly support the administration's fiscal year 2013 request for NPS Civil War Sesquicentennial Units and American Battlefield Protection Program Grants.

#### ADVISORY COUNCIL ON HISTORIC PRESERVATION

We are concerned that the administration proposes a 6.2-percent reduction for the operating budget of the Advisory Council on Historic Preservation (ACHP). Although the overall request for the ACHP is an increase more than fiscal year 2012 enacted, this is solely because of an increase of \$1.3 million included specifically for the agency's move from its headquarters in the Old Post Office.

The National Trust recommends a continuation of fiscal year 2012 enacted funding, plus the \$1.3 million for the required move requested by the President. In addition, we suggest the subcommittee include report language recommending the President appoint a full-time Chairman. Such a recommendation was made by the ACHP membership at its November 2011 meeting, as did a task force of historic preservation organizations, including the National Trust. We believe a full-time Chairman would enhance the effectiveness of the ACHP.

ENVIRONMENTAL PROTECTION AGENCY: OFFICE OF SUSTAINABLE COMMUNITIES

The National Trust supports the President's fiscal year 2013 request for funding EPA's Office of Sustainable Communities (OSC). OSC is helping America's communities become more sustainable by encouraging the renovation of historic buildings and the revitalization of older neighborhoods. Repurposing older buildings—particularly those that are vacant—reduces the need for construction of new buildings and the consumption of land, energy, materials, and financial resources that they require.

The fiscal year 2013 funding request would enable OSC to continue its technical assistance to tribal, state, regional and local governments and to remain a strong partner with the U.S. Department of Transportation and the U.S. Department of Housing and Urban Development in the Partnership for Sustainable Communities. It will also support such programs as Building Blocks for Sustainable Communities, Greening America's Capitals, Smart Growth Implementation Assistance, and Smart Growth Implementation Assistance for Coastal Communities. For example, in Concord, New Hampshire, OSC helped identify ways to support redevelopment of historic properties in the downtown core that comply with new energy-efficiency and green building standards while also conforming to historic preservation codes.

Thank you for the opportunity to present the National Trust's recommendations for the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill.

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PREPARED STATEMENT OF THE NATIONAL WILDLIFE FEDERATION

On behalf of the National Wildlife Federation (NWF), the Nation's largest conservation advocacy and education organization, and our more than 4 million members and supporters, we thank you for the opportunity to provide fiscal year 2013 funding recommendations for the Department of the Interior and other agencies under the jurisdiction of this subcommittee.

We understand the very difficult budget choices facing the subcommittee and the Nation as we move forward under the constraints of the Budget Control Act of 2011. That said, it is our belief that disproportionate cuts to conservation programs represent policy positions not consonant with the priorities and values of most Americans. These programs protect cherished lands and waters and conserve the natural resources that are vital to the Nation's continued economic vitality. Recent studies estimate that outdoor recreation, nature conservation, and historic preservation account for \$1.06 trillion in overall economic activity and support 9.4 million jobs each year. Outdoor recreation alone generates more than \$49 billion in annual Federal tax revenue.

NWF and its members remain concerned about proposed funding reductions to many of the Federal Government's core commitments and programs for conserving fish and wildlife, sustaining and restoring important ecosystems, and maintaining clean air and water. Perhaps of even greater concern are efforts to rewrite the Nation's landmark environmental laws through the use of policy riders on the appropriations bill. National Wildlife Federation urges the subcommittee to make the necessary investments in our essential conservation and environmental programs and commitments in the fiscal year 2013 appropriations bill, and to pass a bill free of such riders.

National Wildlife Federation is overall supportive of the President's fiscal year 2013 budget request, which we view as balancing fiscal responsibility with continued investments in essential conservation and environmental programs. Below, we offer recommendations for specific budget items and programs.

U.S. FISH AND WILDLIFE SERVICE

*State and Tribal Wildlife Grants*

The State and Tribal Wildlife Grants program is the Nation's core program for preventing wildlife from becoming endangered in every State. We are extremely concerned about the impact on the Nation's wildlife of the nearly 30-percent cut to this

program in the fiscal year 2012 appropriations bill, which included a significant reduction to the tribal component of the program. We urge the Congress to honor its commitment to this important effort and strongly recommend funding this program at its previous level of \$90 million, a \$28.7 million increase from the President's fiscal year 2013 request of \$61.3 million.

*Cooperative Landscape Conservation and Adaptive Science*

Safeguarding fish and wildlife resources from climate change is a major concern for the entire natural resource conservation community, and the Fish and Wildlife Service's Landscape Conservation Cooperatives represent an important means for leveraging Federal, State, and private resources to achieve effective conservation outcomes. We urge the Congress to meaningfully address the very real threats of climate change to our fish and wildlife and support the administration's request of \$33 million for cooperative landscape conservation and adaptive science.

*Cooperative Endangered Species Fund*

The Cooperative Endangered Species Fund provides essential assistance to States for the protection of endangered species on non-Federal lands. We strongly support the President's fiscal year 2013 request of \$60 million.

*National Wildlife Refuge System Operations and Maintenance*

The National Wildlife Refuge System is the largest system in the world dedicated to wildlife conservation. Simply maintaining the management capability to operate the Refuge System requires a \$15 million increase each year. NWF, in support of the Cooperative Alliance for Refuge Enhancement (CARE), strongly endorses the President's fiscal year 2013 funding request of \$495 million for Operations and Maintenance for the National Wildlife Refuge System. Should across-the-board sequestration cuts of 9–10 percent take effect in fiscal year 2013, the impacts to the Refuge System would be devastating and could force FWS to close or end major programs at more than 130 refuges.

U.S. GEOLOGICAL SURVEY

*Climate Science Centers*

The National Climate Change and Wildlife Science Center and associated regional Climate Science Centers are important for improving the scientific support required to successfully cope with the challenges of a changing climate. NWF is supportive of the administration's proposed \$26.2 million in funding for fiscal year 2013.

BUREAU OF INDIAN AFFAIRS

*Trust Natural Resources Program*

The BIA Trust Natural Resources (TNR) Program represents the largest amount of base, Federal funding for tribal natural resource management. Funding, however, has not kept pace over the decade with inflation or the increasing needs of tribes to manage natural resources. We are strongly supportive of the administration's fiscal year 2013 request of \$162.11 million, which is \$4.86 million more than in fiscal year 2012. Among these increases, we are particularly supportive of the \$800,000 in additional funding for tribal collaboration with DOI Landscape Conservation Cooperatives. Although we believe that tribal engagement in climate adaptation is still severely underfunded, we are supportive of the administration's fiscal year 2013 request of \$1 million for this activity.

BUREAU OF LAND MANAGEMENT

*National Landscape Conservation System*

The National Landscape Conservation System contains many of the most special places in the American West. Funding the Conservation Lands at the President's fiscal year 2013 funding request of \$69.5 million is needed to prevent critical damage to the resources found in these areas, ensure proper management, and provide for a quality visitor experience.

NEW ENERGY FRONTIER

The New Energy Frontier initiative provides resources for six bureaus across DOI for renewable energy planning, leasing, and permitting activities. The initiative presents an opportunity for the Nation to facilitate large-scale clean energy projects without compromising crucial wildlife interests and investments. NWF strongly supports the President's request of \$86.5 million for fiscal year 2013, an increase of \$15.2 million from fiscal year 2012 enacted.

## UNITED STATES FOREST SERVICE

*Urban and Community Forestry Program*

The Urban and Community Forestry program improves the forests where people live, work, and play. With urban tree canopies in decline, the program is critical to support carbon sequestration, energy conservation, stormwater management, and air quality, while also providing cooling benefits in urban areas. We support the President's fiscal year 2013 request of \$28 million for this program. We also support the request of \$4 million for the recently established Community Forest and Open Space Program.

*Landscape Scale Restoration*

The new Landscape Scale Restoration line item streamlines the budget while continuing USFS's landscape-scale restoration efforts to sustain and create jobs, restore ecosystem resilience, and enhance recreation infrastructure. This new line item formalizes the State and Private Forestry Redesign process, funding to State-level projects and allowing the engagement of multiple landowners across boundaries. We support the President's fiscal year 2013 budget request of \$18 million for this new line item.

## LAND AND WATER CONSERVATION FUND

The Land and Water Conservation Fund (LWCF) is the primary tool of the Federal Government for acquiring land valuable for wildlife habitat and open space. LWCF is authorized to receive \$900 million in revenue from offshore oil and gas drilling annually. Nonetheless, this program has been woefully underfunded over the years, with only a fraction of the dedicated revenues appropriated and available for use. National Wildlife Federation strongly endorses the President's fiscal year 2013 request of \$450 million for LWCF. In addition, we support current legislative efforts to provide robust and dedicated funding for LWCF outside of the budget process.

## ENVIRONMENTAL PROTECTION AGENCY

*Urban Waters Grant Program*

Most Americans now live in urban areas, but our urban waterways are imperiled from the effects of human development, including pollution from industrial point-source pollution and urban stormwater runoff. The Urban Waters Grant Program not only funds innovative approaches for water quality improvements that benefit aquatic ecosystems, but also revitalizes urban waterfronts, providing economic benefits and recreation value for residents. We support the President's fiscal year 2013 budget request of \$4.4 million for this program.

*Geographic Programs—Ecosystem Restoration Initiatives*

America's great waters are the lifeblood of our Nation. Sustained, consistent restoration funding is crucial for the successful implementation of multi-year, complex ecosystem restoration plans. As such, we are concerned that this important funding is reduced for the second year in a row. While NWF is fully supportive of the proposed increases for EPA's Chesapeake Bay Program Office (\$57.4 million requested), we are concerned about significant proposed funding decreases for several other regional efforts, and urge the Congress to restore funding to fiscal year 2010 levels for:

- Great Lakes Restoration Initiative (\$475 million vs. \$300 million);
- Long Island Sound (\$7 million vs. \$5.3 million); and
- Puget Sound Program (\$50 million vs. \$30 million).

*Environmental Protection Agency National Estuary Program*

The National Estuary Program (NEP) works to restore and protect nationally significant estuaries. Unlike traditional regulatory approaches to environmental protection, the NEP targets a broad range of issues and engages local communities in the process. The program focuses not just on improving water quality, but on maintaining the integrity of the whole system—its chemical, physical, and biological properties, as well as its economic, recreational, and aesthetic values. NWF is disappointed in the reduction in funding proposed for this program, and recommends \$30 million, a \$3 million increase from the fiscal year 2012 enacted level.

*Clean Water State Revolving Fund*

Since the 1970's, CWSRF projects have helped improve the quality of wastewater treatment in communities throughout the country. Yet the job is far from complete and the Nation faces trillions of dollars in funding needs to repair aging wastewater

treatment systems and keep our rivers and streams pollution free. To provide States with needed funding to upgrade aging sewer systems and to comply with the Clean Water Act, NWF urges the Congress to increase funding from the President's fiscal year 2013 request of \$1.46 billion to \$2 billion.

*Clean Water Act 319 Nonpoint Pollution Reduction Program*

When Congress recognized the need for greater Federal leadership in assisting with nonpoint source pollution reduction efforts, The Clean Water Act was amended to establish section 319. Continued funding for the Nonpoint Source Management Program will provide State and local nonpoint source remediation efforts with the funds that are crucial to the implementation of these projects. As such we recommend that the subcommittee increase program funding from the \$164.7 million requested by the President to the fiscal year 2012 enacted level of \$175 million.

*Air/Climate Programs*

NWF supports EPA's priority goal of improving the country's ability to measure and control greenhouse gas emissions, and we support the President's request of \$825.4 million for this activity, an increase of \$56.4 million more than fiscal year 2012 enacted. This funding will allow the agency to conduct statutorily mandated work on the National Ambient Air Quality Standards for criteria pollutants, including ozone. We also support the requested \$32.8 million increase more than the fiscal year 2012 enacted level for climate protection, allowing the Agency to support a full range of approaches for reducing GHGs and the risks they pose to human health and the environment.

*National Environmental Education Act Programs*

EPA's Office of Environmental Education implements highly successful, nationwide environmental education programs. We are grateful for the subcommittee's support of environmental education in previous years and recommend fiscal year 2012 baseline funding levels for NEEA at \$9.7 million in fiscal year 2013.

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PREPARED STATEMENT OF THE NATIONAL WILDLIFE REFUGE ASSOCIATION

Mr. Chairman and members of the subcommittee: On behalf of the National Wildlife Refuge Association (NWRA) and its membership comprised of current and former refuge professionals, Friends organization affiliates and concerned citizens, thank you for your strong support for the National Wildlife Refuge System (NWRS). The NWRA appreciates the opportunity to offer comments on the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill.

The meaningful funding increases in fiscal years 2008–2010 allowed the NWRS to emerge from years of chronic funding shortfalls. But unfortunately, those substantial gains are undermined by more than \$17 million in cuts to the NWRS's funding in fiscal years 2011 and 2012 that equate to a larger loss of more than \$41 million when annual increases in refuge fixed costs are factored in. Consequently, we support the President's fiscal year 2013 budget request of \$495 million because it will maintain existing management capabilities. Should across-the-board sequestration cuts of 9–10 percent take effect in fiscal year 2013, the impacts to the NWRS would be devastating and could force FWS to close or end major programs at more than 130 refuges.

We respectfully request the subcommittee support the following funding allocations for programs in the NWRS and the U.S. Fish and Wildlife Service (FWS):

- \$495 million for the Operations and Maintenance (O&M) accounts of the NWRS including \$23 million for Inventory and Monitoring; \$39 million for Refuge Law Enforcement; \$80 million for Visitors Services; \$3.8 million for Challenge Cost Share; \$2.5 million for Cooperative Recovery; and \$5 million for the Pacific Marine Monuments;
- \$57 million for FWS for Preparedness and Hazardous Fuels Reduction (under DOI);
- \$30 million for the National Wildlife Refuge Fund;
- \$700 million for the Land and Water Conservation Fund (LWCF), including \$150 million for the NWRS;
- \$33 million for Landscape Conservation Cooperatives (LCCs) in the FWS;
- \$37 million for the FWS construction account for large-scale refuge restoration projects, visitor facility enhancements, visitors centers and energy efficiency projects;
- \$60 million for the FWS's Partners for Fish and Wildlife Program;
- \$61.5 million for the State and Tribal Wildlife Grants Program;
- \$39.4 million for the North American Wetlands Conservation Fund;

- \$6.5 million for the Neotropical Migratory Bird Fund;
- \$8.4 million for Wildlife Without Borders; and
- \$7.5 million for the National Fish and Wildlife Foundation (NFWF) in the FWS's Resource Management General Administration appropriation.

*National Wildlife Refuge Funding—Operation and Maintenance and Construction*

The NWRA chairs the Cooperative Alliance for Refuge Enhancement (CARE), a diverse coalition of 22 sporting, conservation, and scientific organizations representing more than 15 million Americans that supports increased funding for the NWRS. After a century of chronic underfunding, increases in fiscal years 2008–2010 put the NWRS on a path to full funding. But cuts in fiscal years 2011 and 2012 totaling \$16.2 million (\$40.5 million decrease in real dollars) is reversing the gains made and puts damaging workforce downsizing plans on the table should an across-the-board sequestration cut of 10 percent occur in fiscal year 2013. Should that happen, CARE estimates that FWS will be forced to close or end major programs at more than 130 refuges, eliminate more than essential 200 wildlife management jobs, cut more than 35 visitor services jobs needed to mobilize the System's 40,000 volunteers and administer recreational programs, and cut law enforcement staff by more than 40 officers leaving a force of only 170 when 845 are needed.

These cuts are particularly harmful because the System is already having to respond to damages from natural disasters. From fiscal years 2005–2011, the NWRS sustained \$693 million in damages from natural disasters such as tornadoes, fires, hurricanes, flooding, a tsunami, and an earthquake. The damages in 2011 alone were almost \$200 million, approaching half of the System's operations and maintenance funds for the year. Of the \$693 million in damages, the Congress appropriated \$254 million in emergency supplemental funding and the remaining \$439 million has been added to the Refuge System's \$2.5 billion deferred maintenance backlog.

NWRA respectfully requests that the subcommittee provide \$495 million in fiscal year 2013 for Refuge System Operations and Maintenance (O&M), essentially level funding from fiscal year 2012. We estimate that refuges would need at least \$527 million in fiscal year 2013 to maintain management capabilities from fiscal year 2010; this request would only maintain status quo at current funding levels. The current Federal salary freeze still leaves Refuges needing at least \$8 million to absorb other fixed costs. CARE estimates that the Refuge System needs at least \$900 million in annual funding to properly administer its 150 million acres and remains committed to aiming for this goal.

Refuges have almost \$1 billion worth of construction needs, including the replacement of deteriorating structures that are becoming more expensive to maintain. We request \$37 million for the System's construction budget, including funds for large-scale habitat restoration and small-scale visitor facility enhancements. Funds for new visitor/administration centers, including those at the Potomac River Refuges near Washington, DC and the Sherburne NWR outside Minnesota's Twin Cities, will provide a net benefit in efficiencies and in economic impact. Refuges with a broad range of programs create more service industry jobs and more income for local communities.

*Supporting Prescribed Fire To Reduce Catastrophic Burns*

Fire as a wildlife habitat management tool is one of the most important items in the FWS tool chest but it is also perhaps the least understood. Unfortunately, the President has called for a 23-percent decrease to DOI's Hazardous Fuel Reduction program, which would have a negative impact on the FWS fire program. Prescribed burns reduce the occurrence of catastrophic fires and protect our most vulnerable communities and habitats. For instance, prescribed burns are used extensively in Florida where lightning strikes would normally cause fires annually or every couple of years. Consequently, when lightning caused a fire in the middle of the night at the Arthur R. Marshall Loxahatchee NWR in Palm Beach last year, the wildfire burned only 13 acres and extinguished itself despite record drought conditions. However, at the Alligator River NWR in North Carolina, a lack of resources to do the amount of prescribed burning needed led to a wildfire that burned more than 45,000 acres on the refuge and adjacent lands, burning deep into the soil, and cost almost \$15 million to contain. A combination of hydrology restoration and prescribed burns would have reduced the fire's intensity and containment costs. We urge maintaining current capabilities for FWS at \$57 million for fiscal year 2013 for Hazardous Fuel Reduction and Preparedness funding.

*Supporting Jobs, Economic Activity, and Leveraging American Volunteerism*

Refuges are economic engines and a good investment. According to a recent report by Southwick Associates, refuges generate more than \$32.3 billion in ecosystem

services and \$4.2 billion in economic activity, returning more than \$65 and \$8, respectively, for every \$1 appropriated by the Congress.

Refuges are job creators: more than 32,500 jobs—largely in the private sector—are attributed to refuge-related activities. And on a national level, each \$5 million invested in the NWRS's appropriations (salary and nonsalary) impacts an average of 83.2 jobs, \$13.6 million in total economic activity, \$5.4 million in job-related income and \$500,000 in tax revenue.

Refuges are vital places for the American people to connect with nature and get involved. Currently, refuge Friends and volunteers do approximately 20 percent of all work on refuges. In 2011, these 1.5 million hours equated to roughly 8 volunteers for every 1 Refuge System employee. Without staff to oversee volunteers, their commitment and passion is lost, as is their desperately needed contribution to the System. We request \$80 million for visitors services for the NWRS.

*Protecting the Public and Refuge Resources—National Wildlife Reserve System Law Enforcement*

In 2005, the International Association of Chiefs of Police (IACP) conducted a first of its kind analysis of law enforcement (LE) needs for a land management agency, focusing on the NWRS. They recommended a force of 845 full-time LE officers to adequately protect visitors and taxpayer resources; but the System has only a little more than one-quarter of that amount with 246 officers for the 150 million acre System. Further, since the report was completed in 2005, the System has grown by 50 million acres with the addition of the Pacific monuments by President Bush and visitation has grown by 15 percent from 37 million visitors in 2005 to more than 45 million in 2011.

*Using Science To Guide Adaptive Management*

The FWS and the Refuge System are developing landscape level strategies to address habitat changes due to shifting land use, increasing human population, the spread of invasive species and changing climates. We strongly support the FWS initiative to establish Landscape Conservation Cooperatives (LCCs) to bring the best science to help local, State and Federal agencies make the most educated management decisions. We recommend an allocation of \$33 million to fund LCCs in fiscal year 2013 and \$23 million for the System's Inventory and Monitoring program.

*Commitment to Refuge Communities—Refuge Revenue Sharing*

The NWRS uses net income derived from things like use permits and timber harvests to make payments to local counties or communities to offset lost property tax revenue, and relies on congressional appropriations to the Refuge Revenue Sharing program to compensate for the shortfall between revenues and obligations. Due to declining revenue and lack of appropriations, the Service has been paying less than 50 percent of its tax-offset obligations since 2001. This has a measurable impact on local communities that is felt even more starkly in difficult economic times—and it creates severe strain in relations between the Federal units and their local community, threatening the goodwill and partnerships that are keystones of successful conservation. NWRA requests \$30 million for the Refuge Revenue Sharing Program, which, in recognition of the President's proposal to zero out funding, is still only about half of what is needed. The NWRA also calls for a review of the Refuge Revenue Sharing Act of 1935 as amended, and consideration of conversion to a Payment-in-Lieu of Taxes (PILT) program to be consistent with other Federal land management agencies and to provide Refuge communities with more equitable payments.

*Partnerships and Strategic Growth*

We strongly support \$3.8 million in fiscal year 2013 for Challenge Cost Share (CCS). Partners are the key to successful conservation; no Federal or State agency can do it alone. Because of this, we support programs that leverage Federal dollars such as the CCS program. Partner organizations such as local volunteer "Friends" groups leverage these funds to give American taxpayers more bang for their buck for projects like trails, education, boardwalks and habitat restoration.

The Partners for Fish and Wildlife Program is another powerful tool for working with private landowners to collaboratively conserve refuge landscapes. The program consistently leverages Federal dollars for conservation, generating between \$4 and \$10 in conservation return for every \$1 appropriated, and has been key to the success of many iconic landscape conservation projects. If funded at its authorized level of \$75 million, the program would net at least \$300 million worth of additional conservation. NWRA requests an fiscal year 2013 appropriation of \$60 million for the Partners for Fish and Wildlife Program, a \$5 million increase to maintain current capabilities.

NWRA also calls upon the Congress to fund the Land and Water Conservation Fund (LWCF) at \$700 million. Created in 1965 and authorized at \$900 million per year (more than \$3 billion in today's dollars), the LWCF is our most important land and easement acquisition tool. With more than 8 million acres still unprotected within existing refuge boundaries, and the need to establish key wildlife corridors and connections between protected areas, the LWCF is more important than ever. NWRA strongly supports the new Collaborative Conservation requests of the Departments of the Interior and Agriculture, bringing together several Federal agencies around a common goal. NWRA supports the following projects and those advocated by refuge Friends organizations:

- Everglades Headwaters NWR & Conservation Area (Florida)—\$50 million;
- Bear Lake NWR (Idaho)—\$1.5 million
- Bear River Migratory Bird Refuge (Utah)—\$2.5 million;
- Blackwater NWR (Maryland)—\$2.5 million;
- Cache River NWR and White River NWR (Arkansas)—\$8 million;
- Cokeville Meadows NWR (Wyoming)—\$1.5 million
- Connecticut River—Silvio O. Conte NFWR (New Hampshire, Vermont, Massachusetts, Connecticut)—\$12 million;
- Flint Hills Legacy Conservation Area (Kansas)—\$5 million;
- Great Bay NWR (New Hampshire) and Rachel Carson NWR (Maine)—\$4 million
- Middle Rio Grande NWR (New Mexico)—\$1.5 million;
- Rocky Mountain Front Conservation Area (Montana)—\$19 million;
- Rhode Island NWR Complex (Rhode Island)—\$5 million;
- Southeast Louisiana Refuge Complex (Louisiana)—\$3 million;
- St. Marks NWR/Longleaf Pine (Florida)—\$33 million; and
- St. Vincent NWR (Florida)—\$1 million

The NWRA believes the NWRS can meet its responsibilities to the American people with collaboration and sufficient funding and we urge the Congress to help the FWS meet these obligations.

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#### PREPARED STATEMENT OF THE NATURAL SCIENCE COLLECTIONS ALLIANCE

The Natural Science Collections Alliance appreciates the opportunity to provide testimony in support of fiscal year 2013 appropriations for the Department of the Interior (DOI). We encourage Congress to provide the DOI Working Capital Fund with at least \$70.6 million in fiscal year 2013.

The Natural Science Collections Alliance is a nonprofit association that supports natural science collections, their human resources, the institutions that house them, and their research activities for the benefit of science and society. We are comprised of more than 100 institutions which are part of an international community of museums, botanical gardens, herbariums, universities, and other institutions that house natural science collections and utilize them in research, exhibitions, academic and informal science education, and outreach activities.

Scientific collections are a vital component of our Nation's research infrastructure. Whether held at a national museum, government-managed laboratory or archive, or in a university science department, these scientific resources contain genetic, tissue, organismal, and environmental samples that constitute a unique and irreplaceable library of the Earth's history. The specimens and their associated data drive cutting edge research on significant challenges facing modern society, such as improving human health, enhancing food security, and understanding and responding to environmental change. Collections also inspire novel interdisciplinary research that drives innovation and addresses some of the most fundamental questions related to biodiversity.

The institutions that care for scientific collections are important research centers that enable scientists to study the basic data of life, conduct modern biological, geological, and environmental research, and provide undergraduate and graduate students with hands-on training opportunities.

The Federal Interagency Working Group on Scientific Collections (IWGSC) was established by President Bush to evaluate the status of federally owned object-based scientific collections. In 2009, the IWGSC reported that, "scientific collections are essential to supporting agency missions and are thus vital to supporting the global research enterprise." In response, in 2010, the Office of Science and Technology Policy directed Federal agencies to budget for the proper care of collections. "Agencies should ensure that their collections' necessary costs are properly assessed and realistically projected in agency budgets, so that collections are not compromised."



We are pleased to see that DOI has included an increase of \$3.5 million in its budget request for the Cultural and Scientific Collections program. Interior is an important caretaker of museum collections; the Department has an estimated 146 million items, which is second in size only to the Smithsonian Institution. Although many of the department's collections are located in bureau facilities, artifacts and specimens are also housed by nongovernmental facilities, such as museums and universities.

The fiscal year 2013 budget request would implement a multi-year action plan to address recommendations made by the DOI Inspector General regarding Interior's accountability for its cultural and scientific specimens. In a December 2009 report, the Inspector General found that DOI has failed to properly accession, catalogue, or inventory museum collections, leaving artifacts "unavailable for research, education, or display and . . . subject to theft, deterioration, and damage." The proposed budget increase would support oversight and technical assistance for better care of collections, start a pilot project to identify and assess collections at non-Federal repositories, and study consolidation of bureau and non-bureau facilities housing collections.

We support the proposed DOI study of bureau and non-bureau facilities housing biological collections to determine the potential for economies of scale, improvements of oversight and accountability, and space reduction. Because excellent public and private facilities already exist in every State, we believe the study is likely to conclude that contracting with existing bio-repositories that have the experience and expertise to house and curate the collections and associated data will be the most efficient and cost-effective means by which Federal agencies can access the collections data required to accomplish agency missions. We applaud the increased recognition by DOI and other Federal departments of the immense importance of biological collections and the data they provide in support of the Nation's research enterprise that ultimately drives economic growth, improves human health, addresses energy needs, and enables sustainable management of our natural resources.

The National Park Service is also planning to continue its investments in collections. The proposed budget would support the third year of an initiative to eliminate the archival backlog at 165 parks and to address the recommendations made by the Interior Inspector General. In fiscal year 2013, the National Park Service plans to catalog an estimated 7.4 million additional museum objects through the Flexible Park Program.

#### CONCLUSION

Scientific collections are an important part of our Nation's research enterprise. Research specimens connect us to the past, are used to solve current societal problems, and are helping to predict future environmental changes. Continued investments in scientific collections are critical for our Nation's continued scientific leadership. Please support the budget request for the Department of the Interior's Capital Working Fund, which will support Interior's efforts to preserve scientific collections—a truly irreplaceable resource.

Thank you for your thoughtful consideration of this request.

#### PREPARED STATEMENT OF THE NEVADA DEPARTMENT OF WILDLIFE

To the Chair and members of the subcommittee, thank you for this opportunity to provide testimony on behalf of the Nevada Department of Wildlife (NDOW) regarding the importance of restoring and increasing appropriations in the fiscal year 2013 for State implementation of aquatic nuisance species (ANS) programs.

Aquatic invasive species are a growing national concern in the United States and pose serious economic and ecological threats to our national aquatic resources. At the State level, very limited opportunities exist for Federal and State partnerships to combat the threat associated with the invasion and spread of aquatic nuisance species. The invasion and spread of aquatic nuisance species continues to escalate at both the national and State level. Many of the newer aquatic invaders have the ability to adapt and withstand various environmental factors making them more prolific and a larger threat to our native aquatic life, ecosystems and water resources. The problem is not one that can be adequately managed or solved by individual States or agencies but will take the coordinated efforts of private entities and various Federal and State agencies.

Thus, NDOW urges the Congress to restore the fiscal year 2012 appropriation of \$1,075,000 to States with approved ANS plans and the additional \$3 million appropriation that was originally authorized by the National Aquatic Nuisance Plants and Animals Act (NANPCA) of 1990. These appropriations would provide grant

funds for State fish and wildlife agencies with approved aquatic nuisance species plans to implement their plans, as authorized by NANPCA, and as amended in the National Invasive Species Act of 1996 (NISA). The additional appropriations in fiscal year 2013 will provide much needed assistance for State fish and wildlife agencies with approved ANS plans to combat these invaders. Although NDOW currently does not have an approved ANS plan, it is currently under development and is expected to be completed in the next several months. Nevada's ANS Plan will be an extremely valuable component to NDOW's Aquatic Invasive Species Program; however, implementation of the plan, without Federal support, will effectively make the plan of little value in preventing the introduction and spread of aquatic invaders.

The threat of invasion and the spread of numerous prolific aquatic invasive species are placing our Nation's water resources and aquatic ecosystems at risk. The threat is real and States cannot be expected to effectively manage and eradicate ANS on their own; it will take the coordinated efforts of both State and Federal agencies to combat these invaders.

Thank you for the opportunity to present this testimony to the subcommittee. As you deliberate appropriate funding levels for ANS issues, please consider the important public policy implications that could entail.

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PREPARED STATEMENT OF THE NEZ PERCE TRIBAL EXECUTIVE COMMITTEE

Honorable Chairman and members of the subcommittee, as Chairman of the Nez Perce Tribal Executive Committee, I would like to thank you for the opportunity to provide testimony on behalf of the Nez Perce Tribe to this subcommittee as it evaluates and prioritizes the spending needs of the United States regarding the Indian Health Service (IHS); Bureau of Indian Affairs (BIA); Environmental Protection Agency (EPA); the United States Forest Service (USFS); and the Fish and Wildlife Service (FWS).

As with any government, the Nez Perce Tribe does a wide array of work and provides a multitude of services to the tribal membership as well as the community at large. The Nez Perce Tribe has a health clinic with a satellite office, a tribal police force with 16 officers, a social services department, a comprehensive natural resource program that does work in forestry, wildlife management, land services and land management, habitat restoration, air quality and smoke management, water quality and sewer service, and one of the largest fisheries departments of any tribe in the Nation working on recovery of listed species under the Endangered Species Act. The Nez Perce Tribe conducts its extensive governmental functions and obligations through a comprehensive administrative framework, which is necessary for a sovereign nation that oversees and protects the treaty rights of the Nez Perce People in addition to providing the day to day governmental services to its members and the surrounding communities. The Nez Perce Tribe has long been a proponent of self determination for tribes and believes its primary obligation is to protect the treaty-reserved rights of the Nez Perce Tribe and its members. All of the work of the tribe is guided by this principle. As a result, the tribe works extensively with many Federal agencies and proper funding for those agencies and their work with, for and through tribes is of vital importance.

*Indian Health Services*

The Nez Perce Tribe was pleased to see the President's budget provided for increased spending for IHS. The request for \$4.422 billion is an increase of \$115.9 million more than the fiscal year 2012 enacted level but more is needed. The tribe requests that IHS contract support costs be funded at \$571 million. The tribe's shortfall for fiscal year 2011 for CSC was \$859,860.54. Proper funding for the operations of the clinic is imperative. The Nez Perce Tribe currently operates one healthcare clinic on the Nez Perce Reservation, Nimiipuu Health, the main clinic in Lapwai, Idaho and a satellite facility 65 miles away in Kamiah, Idaho. Nimiipuu Health provided service to 3,870 patients in fiscal year 2011. These 3,870 patients represented 79,573 visits, which included pharmacy and laboratory visits in addition to medical provider visits. Our expenditure total for fiscal year 2011 was \$12,555,959. Our Contract Health Services (CHS) cost for outpatient services for fiscal year 2011 was \$3,674,368. In this fiscal year for the 4 months ended January 31, 2012, our expenditures totaled \$4,989,836. Annualized for the full 12 months this will result in a cost of \$14,969,508. Our CHS cost at the end of January was \$2,118,537. When annualized, this amount will result in a total expenditure of \$6,355,611. Our revenue from IHS for 2011 was \$10,082,221 and is projected for fiscal year 012 at \$9,873,494.

In 2011, the tribe expended \$2,626,164 of third-party billings collected in 2011. If expenditures continue as projected based on the first 4 months of fiscal year 2012, the tribe will have to collect in third-party billings \$5,096,014. This will require approximately 57 percent more collections in third-party revenue than is currently budgeted and anticipated in fiscal year 2012. The tribe has been in priority one status for our CHS patients for 9 months of fiscal year 2011 and for the first 4 months of fiscal year 2012. Even in this priority one status we are already 32 percent over-expended in fiscal year 2012 with six identified Contract Health Emergency cases being processed for reimbursement through the CHEF funds. Priority one cases include only those circumstances where loss of life or limb will occur without treatment. All other referrals for outside treatments are placed on a deferred services list. At the end of fiscal year 2011, our deferred list totaled \$516,817. At the beginning of fiscal year 2012, the patients on this deferred list were re-evaluated by the medical providers and either received treatment based on the condition reaching priority one status, remained on the deferred services list or denied services based on their condition at that time. Currently our deferred list totals \$209,998 after only 4 months of referrals. Any shortfall in funding creates a trickle-down effect in emergency and preventative patient care.

#### *Bureau of Indian Affairs*

For the fiscal year 2011 budget proposal, the BIA proposed several spending recommendations for improving trust land management that were supported by the tribe. The Nez Perce Tribe entered into an agreement with the United States in 2005 known as the Snake River Basin Water Rights Settlement Act of 2004 (title X of division J of Public Law 108-447, 118 Stat. 3431, et seq.). A component of the agreement was the transfer of approximately 11,000 acres of land from the BLM to the tribe. The lands were supposed to be surveyed as part of the transfer. Full funding for those surveys has not been made to this date. The fiscal year 2011 budget request called for \$695,000 for that fiscal year to begin that process. Although that amount would not cover the full cost of the surveys, it would allow the process to begin. The tribe supports a renewal of that appropriation request in the fiscal year 2013 budget that was not funded during the past several budget cycles.

In addition, it is important to note that under the terms of the Snake River Basin Act referenced in the previous paragraph, for fiscal year 2013, a payment shall be made to the Nez Perce Tribe in the amount of \$9 million. This is the last payment to the Nez Perce Tribe under the terms of the settlement. The waivers and terms of the agreement are not considered final and effective until the terms and conditions such as this payment are made and it is important that this payment be included in the fiscal year 2013 budget.

The tribe requests more emphasis be placed on funding for contract support costs through the BIA and that the BIA's request of \$228 million be funded fully. The Nez Perce Reservation covers 1,200 square miles and covers five counties and has a mixture of tribal and nontribal residents. Currently, the Nez Perce Tribe contributes \$600,000 per year to cover the shortfall in BIA funding for the tribe's law enforcement. This funding comes from cigarette taxes levied by the tribe.

The tribe also relies on the BIA for funding for its work related to endangered species and protection of the tribe's treaty resources including Chinook and steelhead salmon. The funding has also been used to supplement the research efforts of the tribe relative to Big Horn Sheep. The BIA Endangered Species Program provides tribes with the technical and financial assistance to protect endangered species on trust lands but funding of this program has declined significantly over the last 8 years.

In addition, the funding provided under the BIA Rights Protection fund is critical as it supports the exercise of off-reservation hunting and fishing for tribes like the Nez Perce. It is important to understand that this funding is not for equipment but is used for job creation. The tribe has employed two new conservation officers and an additional biologist for our programs under the funding during the last several fiscal years. The tribe has to cover and manage a large area in fisheries related activities from the Lostine River in Oregon to the South Fork of the Salmon River and a capable and adequate staff is vital to continue this work.

The tribe supports the funding requests for the BIA Wildlife and Parks Tribal Priority Allocations. This funding is allowing important work to be done on fish recovery through hatchery operation and maintenance. As stated earlier, the tribe has invested a large amount of its personnel and resources in the restoration and recovery of this important resource through its fisheries programs. The State of Idaho directly benefits from this work as well through its sports fisheries. These programs have been successful but more work needs to be done.

*Fish and Wildlife Service and United States Forest Service*

The tribe relies heavily on funding sources within FWS and the USFS. First, the Tribal Wildlife Grants account for a small pot of money that has resulted in huge returns from the tribe's perspective. This competitive grant does not simply dole out funds for projects but awards grants based on the quality of the proposal. The tribe has received funding from this grant 4 out of the last 5 years based on the quality of our research work on Big Horn Sheep. The Big Horn Sheep is a treaty resource of the tribe that is declining rapidly within the tribe's ceded territory. The funds from this program provide the resources to keep the research going. Funding for these grants was reduced to \$4 million in the fiscal year 2012 budget. The tribe strongly urges this subcommittee to increase this funding as it provides a large return in work for a small investment. It is also one of the few sources of funds tribes can tap into for wildlife research.

The tribe also supports increased funding for the work of USFS in the protection of treaty reserved resources of tribes. The Nez Perce Tribe reservation and its usual and accustomed areas are rich in natural resources and encompass eight different national forests. The tribe works closely with each forest administration to properly manage its resources on behalf of the tribe. These range from protecting and properly managing the products of the forest to managing the vast wildlife in each one such as elk, deer, bighorn sheep and wolves. For example, the Payette Forest will need increased funding for monitoring over the next several years. Increased funding is necessary so that the Forest Service can meet these trust obligations and continue to work with tribes such as the Nez Perce on a Government-to-government basis.

The tribe also strongly supports the recommendations of USFS in the fiscal year 2013 Presidential budget justification for the United States Department of Agriculture to eliminate or delete section 431 of the Consolidated Appropriations Act, 2012 (Public Law 112-74) from the fiscal year 2013 budget. Section 431 restricts agency flexibility in the implementation of decisions and will prove harmful to the Nez Perce Tribe as it will limit the ability of USFS to provide protection to treaty reserved resources of the Nez Perce Tribe such as big horn sheep.

Similarly, the tribe is looking for funding for solutions to help with its Bison hunt in the Gallatin National Forest near Yellowstone National Park. For the last 6 years, the Nez Perce Tribe has returned to the Gallatin to exercise its treaty right to harvest bison in that area. The treaty hunt has been successful and this year the tribe harvested more than 80 animals. However, disease transmission by the bison is a concern and therefore a ship and slaughter program used by the State of Montana to protect domestic livestock has the potential to endanger such treaty based hunts. More funding for work and research to assist in helping USFS, FWS, and the National Park Service meet the treaty hunting rights of the Nez Perce Tribe and the Confederated Tribes of the Salish Kootenai is needed.

*Environmental Protection Agency*

The Nez Perce Tribe currently implements, on behalf of EPA, the Federal Air Rules for Reservations program (FARR). The program monitors air quality and regulates field burning throughout the Nez Perce Reservation. The tribe is located in Region 10 of the EPA. The tribe is currently dependent on several EPA sources for funding for the FARR. Continued funding is needed for tribes to meet their air quality needs and operate programs under the delegation of the EPA. EPA consistently uses the Nez Perce Tribe's FARR Direct Implementation Tribal Cooperative Agreement (DITCA) program as a model of success but Region 10 is being forced to look for ways that the Nez Perce Tribe can reduce the cost of its FARR DITCA. The Nez Perce Tribe cannot cut its FARR DITCA budget without adversely impacting the tribe's ability to protect the health and welfare of the 18,000 residents of the Nez Perce Reservation. The Nez Perce Tribe currently operates its entire FARR DITCA program for about the same cost per year as the State of Idaho operates solely an agricultural burning program, therefore, EPA gets a much bigger "bang for their buck" with the FARR DITCA program compared to the state program and is a program worthy of investment.

The tribe was pleased to see that most tribal set asides received increased funding in fiscal year 2012. Funding for these tribal programs is important. In addition to the air quality program, the tribe is currently in facilitated discussions with the State of Idaho that are being funded through grants from the EPA. The facilitated discussions involve the tribe adopting water quality standards to improve the water quality on the Nez Perce Reservation. The tribe also relies heavily on contract support dollars for our water resource programs such as the storage tank remediation issues and watershed restoration. As you can see, the Nez Perce Tribe does a variety of work, sometimes instead of and sometimes on behalf of the United States but

the tribe still expects the United States to provide proper funding under its trust obligations.

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PREPARED STATEMENT OF THE NORTHWEST INDIAN FISHERIES COMMISSION

Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide written testimony on the fiscal year 2013 Interior, Environment and Related agencies appropriations. My name is Billy Frank, Jr. and I am the Chairman of the Northwest Indian Fisheries Commission (NWIFC). The NWIFC is comprised of the 20 tribes that are party to the *United States vs. Washington*<sup>1</sup> (*U.S. vs. Washington*). To meet the many natural resource management responsibilities required of the tribes, I submit the following requests for the Bureau of Indian Affairs (BIA) and the Environmental Protection Agency (EPA).

SUMMARY OF FISCAL YEAR 2013 APPROPRIATIONS REQUEST

*Bureau of Indian Affairs*

*Rights Protection Implementation*

Provide \$17.146 million for BIA Western Washington Fisheries Management.  
Provide \$2.777 million for BIA Washington State Timber, Fish and Wildlife (TFW).  
Provide \$4.8 million for BIA U.S./Canada Pacific Salmon Treaty (PST) Implementation.

Provide \$2.4 million for BIA Salmon Marking.

*Fish, Wildlife, and Parks*

Provide \$5.452 million for BIA Fish Hatchery Maintenance.

*Contract Support*

Provide \$228 million for BIA Contract Support.

*Environmental Protection Agency*

Provide \$96.375 million for EPA General Assistance Program (GAP).  
Provide \$20 million for EPA Multi-media Tribal Implementation Grants Program.  
Provide \$50 million for EPA Puget Sound.

*National Requests*

We also support the budget priorities and funding requests of the National Congress of American Indians.

TREATY RIGHTS AT RISK AND THE FEDERAL TRUST OBLIGATION

Before providing justification on our specific funding requests, I want to highlight an initiative that we have been pursuing—our Treaty Rights at Risk initiative. The treaty rights of the western Washington treaty tribes to harvest salmon are in imminent danger. The danger exists due to the inability to restore salmon habitat faster than it is being destroyed. The Federal Government has an obligation to the tribes to protect their constitutionally based treaty rights. By fulfilling these Federal obligations and implementing our requested changes to protect and restore salmon habitat, I have no doubt that we will recover the salmon populations. It is imperative that we are successful with this initiative as salmon are critical to the tribal cultures, traditions and their economies.

The tribes have developed sophisticated natural resource programs designed to protect and enhance their treaty rights. Tribal programs have served as the backbone of salmon recovery, providing the technical, policy, and legal framework for this incredibly difficult task. Tribes perform complicated harvest, hatchery and habitat management tasks that neither the state nor the Federal Government can effectively carry out. It is because of the role that tribes play in protecting their rights that they require adequate, long-term, and stable funding.

We are pleased that the fiscal year 2013 President's budget continues to be supportive of the northwest tribes' natural resources funding requests. On behalf of our 20 member tribes, our specific requests to the fiscal year 2013 natural resource management programs contained in the BIA and EPA are further described below.

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<sup>1</sup>*United States vs. Washington*, Boldt Decision (1974) reaffirmed Western Washington Tribes' treaty fishing rights.

## JUSTIFICATION OF REQUESTS

*Bureau of Indian Affairs**Provide \$17.146 Million for Bureau of Indian Affairs Western Washington Fisheries Management*

Over the past several years, the tribes and the NWIFC have requested an increase of \$12 million in the base Western Washington Fisheries Management program (WW). In fiscal year 2010, the Congress heard our plea and increased the national Rights Protection Implementation account by \$12 million with \$3.386 million of this going to the WW Program. This increase was very much appreciated, however, we once again ask Congress to address the remaining identified needs of the NWIFC and our member tribes. The President's fiscal year 2013 budget contains \$8.66 million. We respectfully request \$17.146 million, an increase of \$8.486 million more than the President's fiscal year 2013 budget. This request is consistent with our needs assessment presented in fiscal year 2010. This will provide new monies for shellfish, groundfish, enforcement, habitat, wildlife, and other natural resource management needs.

*Provide \$2.777 Million for Bureau of Indian Affairs Washington State Timber, Fish and Wildlife*

The Timber-Fish-Wildlife Agreement is one of the most successful models of collaboration in natural resource management. This coordinated approach of private forest landowners, environmental groups, and tribal, State and Federal governments has led to greater integration of management responsibilities that ensures protection for salmon and wildlife while allowing for a financially viable timber industry. Tribes need the ability to participate in this process to help develop consensus-based solutions for natural resource management and landowner issues. The President's fiscal year 2013 budget contains \$2.777 million. We support funding this account at \$2.777 million as requested in the President's fiscal year 2013 budget. This will provide the necessary funding to tribal TFW programs to fully participate in the TFW process.

*Provide \$4.8 Million for Bureau of Indian Affairs U.S./Canada Pacific Salmon Treaty Implementation*

The Pacific Salmon Treaty Act of 1985 charges the U.S. Section of the Pacific Salmon Commission with the responsibility for implementation of the Pacific Salmon Treaty, a bilateral treaty with Canada. Tribes assist in meeting the Federal Government's obligations in implementing the treaty by participating in cooperative research and data gathering programs. The President's fiscal year 2013 budget contains \$4.364 million. We support the U.S. Section's recommendation to fund the BIA at \$4.8 million, an increase of \$436,000 more than the President's fiscal year 2013 budget. This will provide sufficient funding to ensure that the tribes can continue to participate effectively in the bilateral PST process.

*Provide \$2.4 Million for Bureau of Indian Affairs Salmon Marking*

These funds are used to mark salmon at tribal hatcheries, which are used to scientifically monitor salmon populations and watersheds in western Washington. This is necessary due to the Federal requirement to mass mark Pacific salmon reared in facilities funded by Federal dollars. The President's fiscal year 2013 budget contains \$1.068 million. We respectfully request an additional \$1.332 million to fully implement more extensive selective fisheries targeted at these marked fish. This is the true need as determined by the tribes to meet the request of the Congress.

*Provide \$5.452 Million for Bureau of Indian Affairs Fish Hatchery Maintenance*

Tribal fish hatcheries in western Washington are part of the largest fish hatchery system in the world. These hatcheries provide fish that significantly contribute to both non-Indian recreational and commercial harvest, as well as for tribal fisheries. Today, hatcheries also play a large role in recovering pacific salmon, many of which are listed under the Endangered Species Act. A comprehensive needs assessment study was conducted in fiscal year 2006 by the BIA at the request of Congress which identified a level of need of more than \$48 million in necessary hatchery maintenance and rehabilitation costs. This account has been increased over the last few years to better reflect the tribal need and the backlog of maintenance projects requested for tribal hatcheries. The President's fiscal year 2013 budget contains \$4.838 million. We support funding this account at \$5.452 million as previously requested in the President's fiscal year 2012 budget.

*Provide \$228 Million for Bureau of Indian Affairs Contract Support Costs*

In fiscal year 2011 these funds received an increase of \$53.56 million more than the fiscal year 2010 enacted level of \$166 million. The President's fiscal year 2013 budget contains \$228 million. We support funding this account at \$228 million as requested in the President's fiscal year 2013 budget. By not fully funding Contract Support Costs it hampers the tribes' ability to fully exercise their right to self-govern and requires tribes to use direct program dollars to fund the required contract support functions.

*Environmental Protection Agency*

*Provide \$96.375 Million for Environmental Protection Agency General Assistance Program*

This funding has built essential tribal capacities and remains critical to the tribes' ability to sustain their important water quality programs. The President's fiscal year 2013 budget contains \$96.375 million for the nationwide General Assistance Program (GAP). We support funding this account at \$96.375 million as requested in the President's fiscal year 2013 budget.

*Provide \$20 Million for Environmental Protection Agency Multi-Media Tribal Implementation Grants Program*

This program was initially included in the President's fiscal year 2011 budget request but it did not receive an appropriation. These funds would allow the EPA to provide targeted multimedia (cross discipline) grants to tribes for implementation of Federal environmental programs. This program logically follows the capacity building function under the tribal GAP, as noted above. The President's fiscal year 2013 budget did not include any funding for this new initiative. We respectfully request \$20 million for this program as previously requested in the President's fiscal year 2012 budget. This program will provide targeted grants to tribes for implementation of Federal environmental programs and would move the EPA/tribal partnership from capacity building to implementation of these important environmental programs. Identifying western Washington as a pilot for designing an EPA Indian program implementation strategy would build on the current investment EPA has made in tribal program development.

*Provide \$50 Million for Environmental Protection Agency Puget Sound*

The Puget Sound Geographic Program provides essential funding that will help protect, restore and enhance Puget Sound. Tribes will continue to seek funding from this EPA account, in coordination with the Puget Sound Partnership. Such funding will allow the tribes to participate in the necessary scientific work, implementation measures, and policy discussions on issues that affect our treaty rights. The President's fiscal year 2013 budget contains \$19.289 million. We respectfully request \$50 million, an increase of \$30.711 that restores this program to the fiscal year 2010 enacted level of \$50 million. With this level of funding, collaborative work can continue on key marine issues, salmon recovery, land-use management, and regulatory changes.

CONCLUSION

We know that it is difficult to allocate scarce Federal funds at this time. However, we believe the management work that we perform to protect our valuable resources and to help fulfill the trust obligation of the Federal Government continues to be worthy of your support. Thank you.

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PREPARED STATEMENT OF THE NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD

Chairman Reed, Ranking Member Murkowski, and members of the subcommittee the Northwest Portland Area Indian Health Board (NPAIHB) is honored to provide this testimony on the Indian Health Service (IHS) fiscal year 2013 budget.

Established in 1972, NPAIHB is a Public Law 93-638 tribal organization that represents 43 federally recognized tribes in the States of Idaho, Oregon, and Washington on healthcare issues. Over the past 21 years, our Board has conducted a detailed analysis of the Indian Health Service (IHS) budget. Our Annual IHS Budget Analysis and Recommendations report has become the authoritative tribal document on the IHS budget. It is used by the Congress, the administration, and national Indian health advocates to develop recommendations on the IHS budget. It is indeed an honor to present you with our recommendations.

*Indian Health Disparities*

The recent reauthorization of the Indian Health Care Improvement Act (IHCA) includes a declaration of national Indian health policy. The Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians, to ensure the highest possible health status for Indians and to provide all resources necessary to effect that policy.<sup>1</sup> The Congress recognizes that it has a duty to elevate the health status of American Indian and Alaska Native (AI/AN) people to a parity with the general U.S. population and to provide the resources necessary to do so. Our recommendations are consistent with this policy declaration and we respectfully ask the Congress to fulfill this duty.

While tribes have been successful at reducing the burden of certain health problems, there is strong evidence that other types of diseases are on the rise for Indian people. For example, national data for Indian people compared to the United States all races rates indicate they are 638 percent more likely to die from alcoholism, 400 percent greater to die from tuberculosis, 291 percent greater to die from diabetes complications, 91 percent greater to die from suicide, and 67 percent more likely to die from pneumonia and influenza.<sup>2</sup> In the Northwest, stagnation in the data indicates a growing gap between the AI/AN death rate and that of the general population. Evidence suggests that this gap might be widening in recent years. These data document the fact that despite the considerable gains that tribes have made at addressing health disparities, these gains are reversing themselves and the health of Indian people could be getting worse.<sup>3</sup>

*Recommendation: Maintain Current Services*

The fundamental budget principle for Northwest Tribes is that the basic healthcare program must be preserved by the President's budget request and the Congress. Preserving the IHS base program by funding the current level of health services should be a fundamental budget principle of the Congress. Otherwise, how can unmet needs ever be addressed if the existing program is not maintained? Current services estimates' calculate mandatory costs increases necessary to maintain the current level of care. These "mandatories" are unavoidable and include medical and general inflation, Federal and tribal pay act increases, population growth, and contract support costs.

The IHS congressional justification reports that the President's budget provides a \$115.9 million to support activities identified by the tribes as budget priorities including increasing resources for the Contract Health Services (CHS) program; funding Contract Support Costs (CSC) shortfall; funding for health information technology activities; and providing routine facility maintenance. The IHS explains that the overall increase is adequate to "sustain the Indian health system, expand access to care, and continue to improve oversight and accountability" despite the insignificant increase. How can you sustain the system or expand access to care if you do not fund inflation? NPAIHB projections indicate that an additional \$287 million is needed to maintain the current levels of care.

Inflation and population growth alone using actual rates of medical inflation extrapolated from the Consumer Price Index (CPI) and IHS user population growth predict that at least \$304 million will be needed to maintain current services. Compound this with the fact that nearly half of the proposed increase is for staffing and operation of six new facilities (\$49 million), which will only leave \$66 million to cover current services. Estimates developed by the IHS during the fiscal year 2013 budget formulation process and used during tribal consultation to develop tribal recommendations on the fiscal year 2013 budget, estimate current services at \$136.8 million for pay act costs, inflation, and population growth. These are IHS estimates and not tribal estimates, thus there should be no question about the validity of these projections.

## FISCAL YEAR 2013 CURRENT SERVICE REQUIREMENTS

[In thousands of dollars]

Mandatory Cost To Maintain Current Services	Increase needed
Contract Health Services Inflation estimated at 5.5 percent; and Population Growth .....	64,112

<sup>1</sup> 25 U.S.C. 1601.

<sup>2</sup> Fiscal Year 2000–2001 Regional Differences Report, Indian Health Service, available at: [www.ihs.gov](http://www.ihs.gov).

<sup>3</sup> Please note findings in *The Health of Washington State: A Statewide Assessment of Health Status, Health Risks, and Health Care Services*, December 2007. Available: <http://www.doh.wa.gov/hws/HWS2007.htm>.



## FISCAL YEAR 2013 CURRENT SERVICE REQUIREMENTS—Continued

[In thousands of dollars]

Mandatory Cost To Maintain Current Services	Increase needed
Health Services Account (not including Contract Health Services) inflation .....	167,058
Contract Support Costs (unfunded) .....	99,300
Population Growth (estimated at 1.6 percent of Health Services accounts) .....	72,722
<b>Total Mandatory Costs .....</b>	<b>403,192</b>

The administration's proposal does not provide any funding increases for inflationary costs except for the CHS program. The \$54 million increase for the CHS program is respectable but will fall short by \$10 million to maintain current services. Aside from this request for CHS, there is absolutely no additional funding requested for inflation, population growth or civilian and tribal pay cost increases. NPAIHB estimates that at least \$213.4 million is needed to fund inflationary costs and an additional \$90.4 million is needed to cover population growth. Add to this the accumulated past year's CSC shortfall of \$99.3 million, means that there are at least \$403 million in mandatory costs that will have to be absorbed by IHS programs—most likely by cutting services to Indian people.

*Per Capita Spending Comparisons*

The most significant trend in the financing of Indian health over the past 10 years has been the stagnation of the IHS budget. With exception of a notable increase of 9.2 percent in fiscal year 2001 and last year's 14-percent increase, the IHS budget has not received adequate increases to maintain the costs of current services (inflation, population growth, and pay act increases). The consequence of this is that the IHS budget is diminished and its purchasing power has continually been eroded over the years. As an example, in fiscal year 2009, we estimated that it would take at least \$513 million to maintain current services<sup>4</sup>. The final appropriation for the IHS was a \$235 million increase, falling short by \$278 million. This means that tribes must absorb unfunded inflation and population growth by cutting health services. The IHS Federal Disparity Index (FDI) is often used to cite the level of funding for the Indian health system relative to its total need. The FDI compares actual healthcare costs for an IHS beneficiary to those costs of a beneficiary served in mainstream America. The FDI uses actuarial methods that control for age, sex, and health status to price health benefits for Indian people using the Federal Employee Health Benefits (FEHB) plan, which is then used to make per capita health expenditure comparisons. It is estimated by the FDI, that the IHS system is funded at less than 60 percent of its total need.<sup>5</sup>

*Fiscal Year 2013 Indian Health Services Budget Recommendations*

NPAIHB recognizes that the following recommendations may seem unreasonable in the current fiscal environment. However when the significant healthcare needs of Indian people are considered, our recommendations are realistic. We all recognize that in this difficult budget environment, we all must make sacrifices for our country. As the historic record on Indians will demonstrate, no one has sacrificed more than Native Americans. We hope you will recognize the significant healthcare needs of Indian Country by supporting the IHS budget.

—NPAIHB recommends that the subcommittee restore funding eliminated in the President's request for inflation, population growth and tribal pay costs. Our estimates are based on budget worksheets provided and used by the IHS during fiscal year 2013 National Budget Formulation Meetings. We recommend \$13.4 million to cover tribal pay costs; \$60 million for inflation, and; \$52.4 million for population growth.

—NPAIHB recommends that at least an additional \$10 million be provided for the IHS Contract Health Service Program (CHS) to cover inflation and population growth. The CHS program is extremely important for Portland area tribes since we do not have any hospitals and rely on the CHS program for all specialty and inpatient care. Other parts of the IHS system have access to hospitals for specialty and inpatient care. Because of this, the CHS program makes up 34 percent of the Portland area budget and when less than adequate inflation and

<sup>4</sup>Fiscal Year 2009 IHS Budget Analysis & Recommendations, Northwest Portland Area Indian Health Board, March 17, 2008; available: [www.npaihb.org](http://www.npaihb.org).

<sup>5</sup>Level of Need Workgroup Report, Indian Health Service, available: [www.ihs.gov](http://www.ihs.gov).

population growth increases are provided, Portland area tribes are forced to cut health services to absorb these mandatory costs.

—We recommend that the subcommittee provide an additional \$99.3 million to fund past years' CSC shortfalls that are owed to tribes under Public Law 93-638. The well-documented achievements of the Indian self-determination policies have consistently improved service delivery, increased service levels, and strengthened tribal governments, institutions, and services for Indian people. Every administration since 1975 has embraced this policy and the Congress has repeatedly affirmed it through extensive amendments to strengthen the Self-Determination Act in 1988 and 1994.

—The Portland area has developed a new innovative approach to constructing health facilities in order to address the health needs of tribes. Portland tribes have conducted a pilot study to examine the feasibility of developing regional referral specialty care centers to improve healthcare access and quality of healthcare. The study concludes that regional referral specialty care centers are feasible, and recommended a demonstration project to validate the concept's viability through the collection of actual data. The pilot study recommended that the demonstration project be located in the Northwest quadrant of the Portland Area. This would serve 24,000 users from tribal facilities within 1 hour's drive. We recommend that the subcommittee include \$10 million for the Portland Area to develop this demonstration project.

Thank you for this opportunity to provide our recommendations on the fiscal year 2013 IHS budget. I am happy to respond to any questions from the subcommittee.

LETTER FROM NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD

*Portland, OR, February 22, 2012.*

Yvette Roubideaux, M.D., M.P.H.,  
 Director, Indian Health Service, 801 Thompson Avenue, Suite 440, Rockville, Maryland 20852.

DEAR DR. ROUBIDEAUX: On behalf of the IHS Contract Support Cost (CSC) Work Group, I want to thank you for reconvening the Work Group to begin the evaluation process concerning the 2007 CSC Policy contained in the IHS Manual. As the Tribal Chair of the CSC Work Group, I write to follow up on the Work Group's initial recommendations made during our January 31-February 2012 Rockville, Maryland meeting.

You charged the CSC Workgroup with reviewing and evaluating the 2007 CSC Policy changes, but to also make recommendations on how to improve other aspects of the Policy. You also requested that we consider technical revisions to clarify definitions, consider deadlines and dates that are referenced in the Policy, and engage in a discussion about whether tribes remain open to having their data disclosed for purposes of reporting CSC requirements and deficiencies. In order to address this ambitious agenda, I believe it is important that we identify specific follow-up actions needed for the CSC Workgroup to complete its work in an efficient manner and to prepare for our next meetings.

As we explained during our exit meeting, the CSC Work Group cannot do an assessment of the 2007 CSC Policy until IHS complies with the existing Policy by releasing the data which the Policy currently requires be released. In substantial part, reviewing this data will permit the Work Group to assess how the 2007 changes which you have requested us to examine have worked over time. All of the data the CSC Work Group requested for fiscal year 2009, fiscal year 2010, and fiscal year 2011 is required to be disclosed under IHS Manual, Chapter 6-3.5(8)(4). We expressly did not request the disclosure of congressional reports that are not yet cleared for disclosure. Again, absent disclosure of this raw data, the Work Group believes it cannot proceed with a full assessment of the 2007 Policy, as charged. I respectfully renew our request that this data be released.

The CSC Workgroup also requests additional information concerning the following items:

- When were the Ch. 6-3.5(B) data reports certified by the IHS Chief Financial Officer for fiscal year 2009, fiscal year 2010 and fiscal year 2011?
- What specific provisions of the Manual does IHS propose be changed and how does IHS propose they be changed? (A redline of IHS's suggestions would expedite the Work Group's review and work.)
- What provision of law or regulation has been relied upon by IHS to withhold disclosure of the data reports regarding the expenditure of closed appropriations? As we discussed, we believe these disclosures are not only necessary to

comply with the Policy, but necessary to facilitate maximum tribal consultation on issues directly impacting federally recognized tribes.

—What is the allocation plan for the \$74 million increase in contract support cost appropriations enacted for fiscal year 2012? (The Manual requires the allocation by March 30, 2012, and the Work Group believes that disclosure of the allocation plan before allocations are made will maximize the President's commitment to tribal consultation.)

—How were the fiscal year 2010 and fiscal year 2011 CSC appropriations allocated?

The forgoing information is essential for the CSC Work Group to fully and properly review the existing CSC Policy, consistent with the Government-to-government relationship and the President's commitment to maximum tribal consultation.

With regard to dates and deadlines, I would note that, while some of the dates may initially be confusing, I understand that the dates and deadlines were specifically adopted to accommodate the declination and rejection deadlines that appear in the Indian Self-Determination Act. I also understand that other dates and deadlines were adopted by IHS to permit an orderly reporting process and a prompt allocation of appropriated funds based upon that data. It would be beneficial to the CSC Work Group to have IHS staff go through the Policy, to review the dates and logic behind them, and to propose other dates that might better achieve these goals consistent with the Act. The Work Group intends to do the same.

Similarly with regard to definitions and terms, efficiency in Work Group meetings will best be served if IHS would identify the terms or definitions that agency staff would like us to consider revising, again using a "redline" method. CSC Work Group members should also feel free to prepare "redline" amendments which they would like the full Work Group to consider. All such redline documents should be shared with one another prior to our next meeting.

Finally, I would like to accommodate the request of some CSC Work Group members for an orientation to CSC policy. Toward this end, I believe it would be most beneficial to arrange a joint Federal-Tribal panel that would provide a brief history of the CSC changes that have taken place over the years, and a discussion of how the key Policy provisions are being implemented. This will allow new Work Group members and IHS staff, alike, to see the evolution of the Policy to its present form. I understand that the goal of each successive change has been to improve equity across tribes while maximizing tribal self-determination. If so, the more Work Group members and IHS staff understand this evolution, the more likely we are to develop new recommendations consistent with those goals. I am committed to working with you to develop this joint Federal-Tribal presentation for the Workgroup.

I am hopeful that with assistance from IHS staff we can get these requests organized and addressed over the next 2 weeks, so that we prepare an agenda for our next CSC Work Group meetings. I believe our request is consistent with your priorities to strengthen the IHS's partnership with tribes and to have the work of IHS be as transparent, accountable, fair, and inclusive as possible. Our request is consistent with your principles to improve the work of IHS.

I have directed my technical staff, Jim Roberts, NPAIHB Policy Analyst, to work with your office or designee to follow up on the details of this letter. You and your staff should feel free to contact Mr. Roberts at (503) 228-4185 or by email at [jroberts@npaihb.org](mailto:jroberts@npaihb.org).

Respectfully,

ANDREW JOSEPH, JR.,

*Chairperson, Colville Tribal Council Member, Tribal Chair, CSC Workgroup.*

Enclosures:

ATNI Resolution  
GPTCHB Resolution

NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD

Burns Paiute Tribe	Jamestown S'Klallam Tribe
Chehalis Tribe	Kalispel Tribe
Coeur d' Alene Tribe	Klamath Tribe
Colville Tribe	Kootenai Tribe
Coos, Suislaw & Lower Umpqua Tribe	Lower Elwha Tribe
Coquille Tribe	Lummi Tribe
Cow Creek Tribe	Makah Tribe
Cowlitz Tribe	Muckleshoot Tribe
Grand Ronde Tribe	Nez Perce Tribe
Hoh Tribe	Nisqually Tribe

Nooksack Tribe	Snoqualmie Tribe
NW Band of Shoshone Tribe	Spokane Tribe
Port Gamble S'Klallam Tribe	Squaxin Island Tribe
Puyallup Tribe	Stillaguamish Tribe
Quilecute Tribe	Suquamish Tribe
Quinault Tribe	Swinomish Tribe
Samish Indian Nation	Tulalip Tribe
Sauk-Suiattle Tribe	Umatilla Tribe
Shoalwater Bay Tribe	Upper Skagit Tribe
Shoshone-Bannock Tribe	Warm Springs Tribe
Siletz Tribe	Yakama Nation
Skokomish Tribe	

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2012 WINTER CONVENTION, SHELTON, WASHINGTON

RESOLUTION #12-09

“REQUESTING THE INDIAN HEALTH SERVICES (IHS) DIRECTOR TO DIVULGE CONTRACT SUPPORT COST (CSC) DATA PURSUANT TO THE IHS CONTRACT SUPPORT COST POLICY; AND SUPPORT FOR THE NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD (NPAIHB) FREEDOM OF INFORMATION ACT REQUEST FOR CSC DATA”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the States of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, on October 11, 2011, the Indian Health Service (IHS) Director sent a Dear Tribal Leader Letter initiating Tribal consultation on the IHS 2007 Contract Support Cost (CSC) Policy, the purpose of the consultation is to review and evaluate policy changes made in 2007, and to make recommendations on whether to continue or change the IHS CSC Policy; and

WHEREAS, the 2007 CSC Policy revised the methodology associated with CSC funding for new or expanded awards under the Indian Self-Determination and Education Assistance Act (ISDEAA, Public Law 93-638, as amended), at section 6-3.3A(3) and Manual Exhibit 6-3-D; this change was temporary and implemented only for fiscal years 2007-2010. The CSC Policy further states that:

“To ensure responsiveness to the needs of Tribes in administering their health programs, and continued support of the IHS’s commitment to the Federal Government’s policy of Indian Self-Determination, the change will be monitored and fully evaluated during the fiscal year 2010 funding period to determine if the change should be made permanent.”

All other aspects of the CSC Policy were unchanged; and

WHEREAS, as part of the Tribal consultation process the IHS Director appointed a CSC Workgroup comprised of Tribal leaders or designees to act on their behalf who convened their first meeting in Rockville, Maryland on January 31-February 1, 2012; and

WHEREAS, in order for the CSC Workgroup to evaluate the impact of the 2007 CSC Policy changes the Workgroup must have CSC data in order to assess the impact that the CSC Policy changes have had on the CSC shortfall, deficiencies, and to evaluate the impact of the policy change on new and expanded programs as well as the impact on current self-determination contractors and compactors; and

WHEREAS, during the CSC Workgroup meeting the IHS Director refused to divulge CSC data with the Workgroup, which resulted at an impasse between the IHS Director and the Workgroup and resulted in the CSC Workgroup not being able to complete its charge to evaluate the 2007 CSC Policy changes; and

WHEREAS, the CSC Workgroup acknowledges that prior year's CSC data has been regularly disclosed by IHS to Tribal leaders, the public and to Indian Tribes at meetings attended by the IHS Director and by representatives of the Office and Management and Budget; and

WHEREAS, the CSC Workgroup contends that there is no basis in law for withholding disclosure of the requested CSC data and documents; and

WHEREAS, absent the CSC data the CSC Workgroup cannot and should not evaluate the impact of the 2007 CSC Policy changes, and to do so would not be fiscally prudent nor in the best interest of Indian Tribes; and

WHEREAS, if IHS does not complete the evaluation of the 2007 policy changes, the Agency will be out of compliance with its CSC Policy; now

THEREFORE BE IT RESOLVED, that ATNI does hereby request that the Office of Management and Budget, the Secretary for the Department of Health and Human Services and the IHS Director make available and disclose CSC data prepared pursuant to the IHS Contract Support Cost Policy at Chapter 6-3.5(B)(4) for fiscal year 2009, fiscal year 2010, and fiscal year 2011; and

BE IT FURTHER RESOLVED, that ATNI does hereby acknowledge and support the Freedom of Information Act (FOIA) request made by the Northwest Portland Area Indian Health Board for Contract Support Cost data for fiscal year 2010, fiscal year 2011, and fiscal year 2012; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of ATNI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted at the 2012 Winter Convention of the Affiliated Tribes of Northwest Indians, held at Little Creek Casino Resort, Shelton, Washington on February 13-16, 2012, with a quorum present.

FAWN SHARP,  
*President.*

NORMA JEAN LOUIE,  
*Secretary.*

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#### GREAT PLAINS TRIBAL CHAIRMAN'S HEALTH BOARD

#### RESOLUTION 2012-02

WHEREAS, the Great Plains Tribal Chairmen's Health Board (GPTCHB) is comprised of the Chairmen/Presidents of seventeen (17) Tribes and one (1) Health organization in a four State area including North Dakota, South Dakota, Nebraska, and Iowa; and

WHEREAS, federally recognized Indian Tribes have an absolute right to healthcare from the United States Federal Government, based on treaty rights, on Congressional Acts, on Federal Court decisions, and on the Federal Government's trust responsibility to Indian Tribes;

WHEREAS, the GPTCHB is primarily responsible for addressing the health concerns and needs of the American Indian Tribes in the Aberdeen Area; and

WHEREAS, the Great Plains Tribal Chairman's Association recognizes that over 20 percent of the Aberdeen Area IHS budget is currently operated by Tribes under self-determination contracts; and

WHEREAS, tribes cannot operate these contracts properly without full reimbursement of indirect costs and other contract support costs; and

WHEREAS, despite substantial increases in fiscal year 2010 and fiscal year 2012, IHS has historically failed (and continues to fail) to request full funding from Congress and failed (and continues to fail) to fully reimburse tribal contract support costs; and

WHEREAS, services to tribal members suffer when Tribes have to use program funds to cover the shortfall in IHS contract support cost reimbursements; and

WHEREAS, the law (25 U.S.C. 450j-1(c)) and the IHS Manual (IHS Manual Part 6, Chapter 3.5B) requires that IHS annually track and publish all indirect, contract support need and contract support shortfall data for every Tribe in the country;

WHEREAS, in violation of the IHS Manual (IHS Manual Part 6, Chapter 3.5B), HIS has failed and refused to distribute this data to all Tribes for fiscal year 2010,

fiscal year 2011 and fiscal year 2012, either nationally or on an Area basis (showing data for all Tribes within each Area); and

WHEREAS, due to this failure, Tribes cannot tell how IHS is handling and managing tribal contract support cost funds, either from Tribe to Tribe or from Area to Area, and also cannot tell how IHS is allocating its contract support cost appropriation and whether it is doing so in conformity with the law and the IHS Manual; and

WHEREAS, the law mandates the public disclosure of all contract support and related data for every tribal contract, and Tribes therefore do not object to this disclosure of financial data regarding contracted Federal funds; and

WHEREAS, IHS's failure to share its data on a timely basis, as mandated by the IHS Manual, is unprecedented, is particularly inappropriate for an Administration committed to transparency, and has contributed to a lack of trust in the Indian Health Service;

NOW THEREFORE BE IT RESOLVED, that the Great Plains Tribal Chairman's Health Board calls upon the Director of IHS to immediately release all data specified in IHS Manual Part 6, Chapter 3.5B for fiscal year 2010, fiscal year 2011 and fiscal year 2012 for every Tribe in the United States, including data showing how IHS calculated the distribution of contract support cost funds in fiscal year 2010 and fiscal year 2011, and data showing how IHS has calculated the distribution of contract support cost funds for fiscal year 2012.

#### CERTIFICATION

This is to certify that the foregoing Resolution was adopted by the GPTCHB Board/Executive Committee by Meeting/Conference Call/Special session, February 6, 2012 by a vote of 11 FOR 0 OPPOSED 7 NOT VOTING.

MOTION CARRIED/DENIED.

RODGER TRUDELL,

*GPTCHB Chairmen, Chairmen, Santee Sioux Nation.*

JOHN BLACKHAWK,

*GPTCHB Vice-Chairmen, Chairmen, Winnebago Tribe of Nebraska.*

#### PREPARED STATEMENT OF THE NORTON SOUND HEALTH CORPORATION

The request of the Norton Sound Health Corporation (NSHC) for the fiscal year 2013 Indian Health Service (IHS) budget is \$21.6 million for the staffing of our new hospital and ambulatory care center which will open this fall. This is \$10.9 million in addition to the administration's request of only \$10.6 million.

The Norton Sound Health Corporation is the only regional health system serving Northwestern Alaska, along the Bering Strait Region. The system includes a regional hospital, which we own and operate under an Indian Self-Determination and Education Assistance Act (ISDEAA) agreement, and 15 village-based clinics<sup>1</sup>.

NSHC is in the final stages of completing the construction of a replacement hospital and ambulatory care center facility in Nome. The construction was funded by the Recovery Act. NSHC worked its way over many years to the top of the IHS health facility construction priority system and when the Recovery Act was enacted

<sup>1</sup>We serve the communities of:

- Brevig Mission;
- Council;
- Diomede;
- Elim;
- Gambell;
- Golovin;
- King Island;
- Koyuk;
- Mary's Igloo;
- Nome;
- St. Michael;
- Savoonga;
- Shaktolik;
- Shishmaref;
- Solomon;
- Stebbins;
- Teller;
- Unalakleet;
- Wales; and
- White Mountain.

we were in a position to be awarded \$160 million in construction funds. The IHS and Norton Sound Health Corporation have been working together as Government-to-government partners to construct and furnish the new facility, in part under a title V Construction Project Agreement under ISDEAA. Construction has proceeded on course and NSHC will open its new facility early this fall. Now, IHS has only to fund the expanded staffing needs for operation of the replacement hospital.

The replacement facility is almost three times the size of the current Norton Sound Regional Hospital and will allow for increased patient visits in the primary and acute care areas, including chronic disease prevention and management, and allow us to provide enhanced trauma and emergency services. And the presence of a significant number of new jobs at the replacement hospital will give an economic boost to the Nome area.

*The Administration's Staffing Proposal Would Not Allow Optimal Use of the Facility.*—The administration's request of funding for only 81 new positions in fiscal year 2013 for the Norton Sound replacement hospital would greatly constrain our ability to effectively utilize this new facility. We point out to the subcommittee that the IHS Alaska Area office recommended to IHS Headquarters that we need 159 new positions in fiscal year 2013, based on the IHS Resources Requirements Methodology (RRM), and that is what we are requesting. While NSHC will still be able to open in the fall if only 81 new positions are funded, the result would be that NSHC could not expand healthcare services, which is after all the purpose of the new and larger facility. NSHC would be limited to funding only the necessary maintenance, facilities, technology, and security positions—few if any new needed healthcare provider positions could be filled.

For instance, NSHC currently has two in-house dentists, while our new facility has space for a much needed 12-chair dental operation. The unmet dental need in our region is staggering, but under the administration's proposal we perhaps could add only one dentist. Failing to provide adequate dental staffing through a new staffing package will in essence result in a failure to fully realize the Recovery Act funding spent for the new hospital and its intention to be used to provide increased and quality healthcare services in Nome.

Exacerbating the inadequate funding request is that the IHS provides funding for only 85 percent of what it identifies as staffing need. Further straining the staffing situation is the fact that we received no fiscal year 2012 funds for the costly transition to the new facility. Transition to a new and much larger facility requires a great deal of planning, training, and coordination. Patients must be transported, some equipment moved, and staff must master new mechanical and electrical systems, medical equipment and work flow systems. Just moving into the new facility will require \$2–\$3 million in operational costs that the Norton Sound Health Corporation cannot divert to staffing needs.

Should NSHC receive only enough fiscal year 2013 funding for 81 new positions, it will greatly limit our ability to recruit and hire medical professionals; much of the hiring in fiscal year 2013 would of necessity be core operational staff, as opposed to additional healthcare providers. Even if additional funding is provided for staffing in fiscal year 2014, it is nearly impossible to successfully recruit medical staff—likely some who will need to move to Nome with their family—based on an anticipation of the Congress potentially making the money available in a future year. Delaying the funding over a 2-year fiscal period would thus prevent the Norton Sound Health Corporation from recruiting and filling needed healthcare professionals until well into 2015—up to 3 years or more after we open the new facility.

Given the realities of the appropriations process, we greatly need the full funding in fiscal year 2013 for 159 new positions at a total cost of \$21.6 million.

*Village Built Clinics Lease Program.*—We also remind the subcommittee that Norton Sound Health Corporation filed joint testimony with Aleutian Pribilof Islands Association, Bristol Bay Area Health Corporation and Maniilaq Association—all co-signers to the Alaska Tribal Health Compact—regarding the urgent need for additional fiscal year 2013 IHS funding for the Village Built Lease Program. As noted above, the Norton Sound Health Corporation healthcare system includes 15 village-built clinics.

Thank you for your consideration of our request that adequate fiscal year 2013 IHS staffing funding be made available for the Norton Sound Health Corporation replacement hospital. We are very excited about the possibilities this facility brings for improved healthcare for the people of northwestern Alaska. We are happy to provide any additional information you may request.

## PREPARED STATEMENT OF THE NUCLEAR ENERGY INSTITUTE

The Nuclear Energy Institute<sup>1</sup> (NEI) appreciates the opportunity to express its concern over the revision or enforcement of certain regulations promulgated, and actions taken under certain laws, by the Department of the Interior, the Bureau of Land Management (BLM), and the Environmental Protection Agency (EPA):

- EPA's infeasible requirements and prohibitively restrictive definitions in the proposed rule for existing facilities implementing section 316(b) of the Clean Water Act governing cooling water intake structures;
- The Department of the Interior's withdrawal of land in northern Arizona from uranium mining activity;
- BLM's proposal to amend land segregation regulations to allow withdrawal of lands from mining activity when they are included in a pending or future wind or solar energy generation right-of-way application, or identified by BLM for potential authorization for that purpose;
- BLM sage grouse habitat management in 10 Western States, which could unduly restrict uranium mining activity; and
- EPA Region 6's departure from EPA Guidelines for Reviewing Aquifer Exemption Requests for mining projects and unilaterally establishing its own evaluation standards.

*316(b) Regulations Will Increase Consumer Electricity Prices With no Environmental Benefit Unless They Are Made More Flexible To Account for Ecological, Geographic and Engineering Diversity of Existing Industrial Facilities*

EPA has issued a proposed regulation to reduce aquatic life mortality at cooling system intake structures for existing industrial facilities, including powerplants. The final rule is scheduled to be promulgated in July. The proposed regulation treats entrainment (fish drawn through the cooling system) and impingement (fish trapped on intake screens of these systems) separately. The proposed impingement requirements will result in the installation of costly, ineffective technologies with no assurance of compliance or environmental benefit. The EPA cost-benefit calculations indicate that the proposed rule will cost citizens 21 times the benefit they will derive if these changes at facilities are implemented. In addition, the Nation's electricity sector could face grid reliability challenges if the rule is promulgated recommending excessive mitigation technologies that could reduce plant efficiency and electrical output.

Studies of aquatic life population conducted periodically at America's powerplants indicate that once-through cooling systems do not harm aquatic life populations. This is because the very small number of fish lost to the cooling system, when compared to the overall population, is readily replaced by reproduction. Any nationwide numeric performance standard ignores ecosystem diversity at the 1,152 affected sites. For instance, there are 3,153 species of fish in U.S. waters. Every water body has a different mix and population of fish species and each species differs in susceptibility to impingement and impingement mortality, and in behavioral responses to various technologies developed to prevent these occurrences.

If EPA continues to insist upon a nationwide impingement requirement, it should be a technology-based standard that would accommodate rather than violate site diversity. The regulation should offer a variety of pre-approved technologies from which to choose for compliance. Also, there should be the opportunity to propose an alternative technology if it can achieve significant impingement mortality reduction at that site.

The electricity industry, including companies who own and operate nuclear energy plants, continues to encourage EPA to develop cooling water intake structure regulations that strike a reasonable balance between electricity production and environmental protection. A technology-based standard for a nationwide impingement requirement would accommodate site bio-diversity. The proposed rule, in its current form, does not achieve these results. We ask the subcommittee to encourage EPA to adopt a technology-based standard for impingement.

<sup>1</sup>The Nuclear Energy Institute is the industry's policy organization, whose broad mission is to foster the beneficial uses of nuclear technology in its many commercial forms. Its membership, more than 350 corporate members in 17 countries, includes every U.S. utility that operates a nuclear powerplant as well as international utilities, plant designers, architect and engineering firms, uranium mining and milling companies, nuclear service providers, universities, manufacturers of radiopharmaceuticals, universities, labor unions, and law firms.



*The Department of the Interior's Withdrawal of Land From New Uranium Mining in Northern Arizona Is Unnecessary for Environmental Protection and Removes From Production a Domestic Source of High-Grade Uranium for Energy Security*

DOI has withdrawn from new uranium mining activity 1 million acres outside the boundaries of the Grand Canyon National Park, which encompasses 1.2 million acres and includes a buffer zone to protect the Grand Canyon. There is no current or proposed uranium mining inside Grand Canyon National Park.

The proposed land withdrawal is not justified by information contained in DOI's Final Environmental Impact Statement. For instance, regarding land disturbance, "impact to overall soil productivity and watershed function would be small because the level of disturbance represents a very small fraction of the respective parcel areas." In terms of water resources, "impacts would be local and temporary." Modern in situ mining practices and standards, unlike the mining of 50 to 60 years ago, have minimal environmental impact. Contrary to Secretary Salazar's statement in announcing the land withdrawal on January 9, today's environmental laws ensure that ore extraction and production at uranium mines have negligible impact on surrounding land, water and wildlife.

Uranium resources in the Arizona Strip are among the highest-grade ores in the United States. These uranium resources are higher grade than 85 percent of the world's uranium resources, according to DOI's Final Environmental Impact Statement. The area represents as much as 375 million pounds of uranium—more than seven times U.S. annual demand. NEI supports legislation introduced in the Senate and the House to overturn the DOI decision. NEI encourages the subcommittee to hold an oversight hearing on this very important issue.

*The Bureau of Land Management's Proposal To Amend Land Segregation Regulations To Allow Withdrawal of Lands From Mining Activity for Wind or Solar Energy Generation Violates the Multiple-Use Mandate of Federal Lands, Penalizing Economic Growth and Job Creation*

The Federal Land Policy and Management Act of 1976 requires BLM to manage public lands to accommodate multiple uses and to provide for the Nation's mineral needs so that the most benefit will accrue to U.S. citizens. Conflicts should be resolved in favor of maximum land use and benefit. The BLM proposal violates the multiple-use requirement, being overly broad in its outright segregation of lands for renewable energy use only. Moreover, the amendment is unnecessary, as conflict resolution is possible.

Mining and all renewable energy projects are not mutually exclusive. Wind energy projects and mining operations can be co-located and developed simultaneously. Solar projects consisting of fields of photovoltaic panels, on the other hand, eliminate all other uses of the land, including grazing, recreation, and oil and gas exploration and production. Photovoltaic fields also eliminate the mining of minerals, many of which are required for renewable energy generation and transmission.

Thus, rather than BLM designating lands solely for solar projects, NEI urges the subcommittee to direct BLM to evaluate whether other potential uses of Federal land are being prevented and if benefits would be lost to the American public during the BLM process of determining sole use segregation of land for renewable energy production.

*The Bureau of Land Management's Sage Grouse Habitat Management in 10 Western States May Unduly Restrict Uranium Mining Activity*

BLM has issued two instructional memorandums regarding immediate and longer-term conservation actions for sage grouse priority habitat (breeding, late brood-rearing, winter concentration areas) and general habitat (additional occupied seasonal or year-round areas). Both types of habitat are being identified in collaboration with state wildlife agencies.

The affected Western States are California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. With about 47 million acres of sage grouse habitat involved, BLM's conservation efforts could have a substantial impact on uranium mining activity on public lands. Wyoming's guidance for sage grouse preservation has been approved by the Fish and Wildlife Service and adopted by BLM. For the other States, the interim management memorandum guidance instructs mining operators "to avoid effects on sage grouse and its habitat."

According to the long-term planning directive memorandum, BLM will establish consistent protection measures for the sage grouse and its habitat. BLM will incorporate the protection measures into one or more alternatives for analysis in the environmental impact statements that BLM will use to amend its resource management plans. These plans are scheduled for release in 2014. NEI believes there is

the potential that these plans will require wholesale withdrawal of lands from mining activities with no validity examination allowed for ongoing or future mining claims.

NEI recommends close congressional oversight of the BLM process for releasing the Sage Grouse Habitat Management plan. In addition, NEI asks that the subcommittee direct BLM to adopt a balanced approach to sage grouse conservation that is consistent with BLM's statutory mandate for multiple uses of public lands and avoid or minimize adverse social and economic impacts.

*EPA Region 6's Departure From EPA Guidelines for Reviewing Aquifer Exemption Requests Will Have a Prohibitive Effect on Expanding the Domestic Uranium Industry*

EPA guidance is clear regarding evaluation of requests to exempt aquifers from drinking water protections so that mining projects can proceed:

- the exempted area does not currently serve as a source of drinking water; and
- it cannot now, and will not in the future, serve as a source of drinking water because of the presence of minerals or hydrocarbons expected to be commercially producible.

To demonstrate that a particular area meets these requirements, applicants must perform, respectively, a water well survey covering the exempted area and a buffer of one-quarter mile from the exempted area's boundary, and provide a history of mineral production in the area.

In the case of the Goliad County, Texas, uranium mining project, EPA Region 6 is requiring modeling analysis in addition to a well survey and history—a unilateral departure from the established EPA guidance. Moreover, the requested modeling is not defined, and Region 6 says that it will review whatever modeling results are submitted to determine if more modeling is needed, creating an open-ended regulatory process.

The new standards unilaterally imposed by Region 6 will jeopardize future uranium mining in Texas and limit the potential of one of this country's most promising domestic supplies of uranium. Moreover, this effect will be compounded if one, or more additional EPA regions, unilaterally decides to impose its own evaluation criteria counter to established EPA guidance.

The nuclear industry believes that the result will be a serious impediment to expanding the domestic uranium industry and ensuring a reliable and secure supply of nuclear powerplant fuel. In addition, the EPA Region 6 process introduces uncertainty into well-known guidance. The overall result will adversely impact U.S. mining operations and unnecessarily restrict domestic job creation.

NEI urges the subcommittee to direct the agency to review the guidelines for reviewing aquifer exemption requests to ensure that these guidelines are clear and the EPA regions are not unilaterally imposing unfunded mandates on mining companies.

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PREPARED STATEMENT OF THE OFFICE OF THE STATE ENGINEER, STATE OF NEW MEXICO

I am requesting your support for fiscal year 2013 appropriations to the Fish and Wildlife Service (FWS) for the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program. The Upper Colorado and San Juan recovery programs are highly successful collaborative conservation partnerships involving the States of Colorado, New Mexico, Utah and Wyoming, Indian tribes, Federal agencies and water, power, and environmental interests. They are working to recover the four species of endemic Colorado River fish such that they can each be removed from the Federal endangered species list. Through these efforts, water use and development has continued in our growing western communities in full compliance with the Endangered Species Act (ESA), State water and wildlife law, and interstate compacts. Implementation of the ESA has been greatly streamlined for Federal agencies, tribes and water users. Recognizing the need for fiscal responsibility, I must also point out the participants would all be spending much more in ESA-related costs in the absence of these programs. The State of New Mexico requests action by the subcommittee to:

- Appropriate \$706,300 in "Recovery" funds (Resource Management Appropriation; Ecological Services Activity; Endangered Species Subactivity; Recovery of Listed Species Program Element; within the \$81,709,000 item entitled "Recovery") for fiscal year 2013 to allow the U.S. Fish and Wildlife Service (FWS) Region 6 to continue its essential participation in the Upper Colorado River Endangered Fish Recovery Program.

- Appropriate \$200,000 in “Recovery” funds (Resource Management Appropriation; Ecological Services Activity; Endangered Species Subactivity; Recovery of Listed Species Program Element; within the \$81,709,000 item entitled “Recovery”) to allow FWS Region 2 to continue its essential participation in the San Juan River Basin Recovery Implementation Program during fiscal year 2013.
- Appropriate \$485,800 in operation and maintenance funds (Resource Management Appropriation; Fisheries and Aquatic Resource Conservation Activity; National Fish Hatchery Operations Subactivity; within the \$43,189,000 item entitled “National Fish Hatchery System Operations”) for endangered fish propagation and hatchery activities at the FWS’s Ouray National Fish Hatchery. Operation of this facility is integral to the Upper Colorado Recovery Program’s stocking program.

On behalf of the State of New Mexico, I thank you for your consideration of my request and for the past support and assistance of your subcommittee; it has greatly facilitated the ongoing and continuing success of these multi-state, multi-agency programs that are vital to the recovery of the endangered fish and providing necessary water supplies for the growing Intermountain West.

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PREPARED STATEMENT OF 1,237 FOREST OWNERS, ET AL.

Dear Chairman Reed and Ranking Member Murkowski: Representing the more than 10 million U.S. family forest owners, the 1,237 undersigned forest owners would like to show our support and gratitude to all our State service foresters. In order to ensure these trusted men and women continue to help forest owners across the country, we urge Congress to maintain funding for the Forest Stewardship Program—a program that provides boots-on-the-ground assistance to ensure the health and vitality of America’s forests for generations to come.

Families and individuals steward more of America’s forests than the Federal Government or big companies. With the largest area of forest ownership, families and individuals own 35 percent—or 251 million acres—of our Nation’s forests. Our forests provide clean air, clean water, recreation, renewable resources that build our homes and communities, and good-paying rural jobs. But we cannot do it alone. Every state has a network of reliable and trusted service foresters that help us make good forest management decisions. Boots-on-the-ground make all the difference.

As private forest owners, we rely on the U.S. Forest Service Forest Stewardship Program, which provides our State foresters with the resources they need for outreach, education, and technical assistance. We are grateful for the reliable assistance our service foresters provide every day. Without this boots-on-ground assistance, forests will fall victim to an ever-increasing list of challenges, such as insects and disease, development pressures, and growing ownership costs.

The planning assistance made possible by the Forest Stewardship Program helps us realize the full potential of our land and provides us the peace-of-mind that our forests will be around for our kids and grandkids to enjoy. We hope that you will maintain current funding for this important program in the fiscal year 2013 appropriations process so that families (and our forests) continue to reap these important benefits. We are happy to answer any questions you may have or provide additional input from the perspective of family forest owners.

Thank you for your time and consideration of this important request.

ALABAMA

Russell Miller, Cullman, AL	Paul Hudgins, Greenville, AL
Don Heath, Birmingham, AL	Walter E. Cartwright, Greenville, AL
Jon H. Gould, Birmingham, AL	Bob Roberts, Pike Road, AL
Robert Amason, Tuscaloosa, AL	Noah Poe, Prattville, AL
Frances Lewis, Aliceville, AL	Rrice and Johnnie Nichols, Prattville, AL
Rusty Lewis, Aliceville, AL	Bill Tomlin, Prattville, AL
Katherine RouLaine, Coker, AL	James Hyland, Montgomery, AL
Irvin Eatman, Eutaw, AL	Don C. East, Lineville, AL
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 Ron Nelson, Tumwater, WA

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 Nels Hanson, Lacey, WA  
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 Tumwater, WA  
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 Norma Green, Tumwater, WA  
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 WA  
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 WA  
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 Michael C. Glover, White Salmon, WA  
 Whitney Miller, White Salmon, WA  
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 Douglas P. Bailes, Yacolt, WA  
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 Cliff Aaby, Vancouver, WA  
 Erik Folke, East Wenatchee, WA  
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 WA  
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 WA  
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 Karen Bailey, Cle Elum, WA  
 Ronald Miller, Cle Elum, WA  
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 Lake, WA  
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 Farm, Curlew, WA  
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 Mark Simpson, Newport, WA  
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 Mike Brewer, Spokane, WA  
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 Guy Gifford, Spokane, WA  
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 Nicole Campbell, Goldendale, WA  
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 Lake, WI  
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 Ronald Rohrmayer, Dousman, WI  
 Kendra Johncock, Elkhorn, WI  
 Art Reimer, New Berlin, WI  
 Randy and Karen Cooper, New Berlin,  
 WI  
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 John Ballogh, Wauwatosa, WI  
 Timothy Steffen, Wauwatosa, WI  
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 Tina Wickham, Omro, WI  
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 Russ Richardson, Arnoldsburg, WV  
 Robert Marshall, Kenna, WV  
 Cinda Francis, Sandyville, WV  
 Bill Pepper, Charleston, WV  
 Denis Foley, Hedgesville, WV  
 Ron Gibson, Ona, WV  
 David J. Bennett, Parkersburg, WV  
 Gerald William "Jerry" Waybright, Washington, WV  
 Jim Mitchell, Buckhannon, WV  
 Simeon Duke Layfield, Buckhannon, WV  
 Barbara Craft Myers, Valley Head, WV

## WYOMING

John C. Varner, Encampment, WY  
 Lucy Diggins-Wold, Green River, WY

## PREPARED STATEMENT OF OPERA AMERICA

Mr. Chairman and distinguished members of the subcommittee, I am grateful for the opportunity to submit testimony on behalf of OPERA America, its Board of Directors and its 2,000 organizational and individual members. We strongly urge you to support increased appropriations of \$155 million for the National Endowment for the Arts for fiscal year 2013. This testimony and the funding examples described below are intended to highlight the importance of Federal investment in the arts, so critical to sustaining a vibrant cultural community throughout the country.

Opera is a continuously growing art form that can address the diverse needs and backgrounds of our communities. New opera companies are being established in communities that have never before had access to live performances. Seventy percent of the opera companies in existence today have been established since 1960. The growth of the field corresponds to the establishment and growth of the NEA. Over the last 20 years, a rich repertoire of American operas has been created by composers who communicate the American experience in contemporary musical and dramatic terms. The growth in number and quality of American operas corresponds directly to the investment of the NEA in the New American Works program of the former Opera-Music Theater Program.

Beyond the opera house, opera companies are finding new and exciting ways to bring the essence of opera to other local theaters and community centers, frequently with new and innovative works that reflect the diverse cultures of the cities they serve. Strong partnerships with local schools, too, extend the civic reach of opera companies as they introduce children to another multi-media art form and discover promising young talent.

Past NEA funding has directly supported projects in which arts organizations, artists, schools and teachers collaborated to provide opportunities for adults and children to create, perform, and respond to artistic works. NEA funding has also made the art form more widely available in all States, including isolated rural areas and inner cities; indeed, NEA funded projects cross all racial, geographic, and socio-economic lines.

The following are some examples of the impact of NEA funding on opera programs from the NEA's 2012 Art Works Program:

*American OPERA Projects, Inc.*

Brooklyn, New York

\$10,000

To support the development and workshop production of *Paul's Case* by composer Gregory Spears and librettist Kathryn Walat. Based on the short story by Willa Cather, the 85 minute score featuring seven singers and a six-piece chamber orchestration will see two semi-staged workshops in Brooklyn and two in Princeton.

*Anchorage Opera Company*

Anchorage, Alaska

\$11,500

To support Verdi's *Macbeth* as part of the company's 50th anniversary season. Educational outreach, seminars, and public lectures highlighting the achievements of the composer will take place in public schools and community centers in metropolitan areas and throughout the State's south-central region.

*Beth Morrison Projects*

New York, New York

\$10,000

To support the world premier of *Song From the Uproar: The Lives and Deaths of Isabelle Eberhardt* by composer Missy Mazzoli in collaboration with librettist Royce Vavrek and filmmaker Stephen Taylor. Culled from the journals of Swiss explorer, Eberhardt, at the turn of the last century, the multimedia work explores Eastern and Western cultures, the elation of self-discovery, and the mystery of death.

*Boston Lyric Opera Company, Inc.*

Boston, Massachusetts

\$22,500

To support the adaptation and remounting of the comic opera *The Inspector* by composer John Musto and librettist Mark Campbell, as well as outreach activities. Based on the play *The Government Inspector* by Nikolai Gogol, the production will expand the physical and orchestral elements, working with the original creative team to make the work accessible for larger opera houses.

*Central City Opera House Association*

Denver, Colorado

\$22,500

To support a new production of *The Turn of the Screw* by composer Benjamin Britten. Based on the Henry James novella, the 20th-century English chamber opera will launch a season celebrating the 100th anniversary of the composer's birth.

*Chateauville Foundation*

Great Falls, Virginia

\$17,500

To support the fourth Castleton Festival, which takes place annually on a farm in rural Virginia and includes opera performances with orchestral accompaniment. The festival's mission to engage young artists will be met by the residency program that will allow 40 advanced voice students to live, study, and perform onsite during the festival.

*Chicago Opera Theater*  
Chicago, Illinois  
\$25,000

To support *Moscow, Cheryomushki* by composer Dmitri Shostakovich. The production marks the first time a Shostakovich opera will be performed in Chicago in 25 years, and it will feature the U.S. premier of the re-orchestrated score arranged by Shostakovich scholar, Gerard McBurney.

*Houston Grand Opera Association, Inc.*  
Houston, Texas  
\$20,000

To support year two of activities from East + West, a 4-year program of chamber opera focused on Houston's Asian populations. Dedicated to art as a vehicle for cultural diplomacy and community building, the second year of the initiative will focus on Iranian and Cambodian communities in Houston, exploring subjects such as the relationship between first- and second-generation immigrants, displacement of war refugees, storytelling traditions, and cultural inheritance.

*Lyric Opera of Kansas City, Inc.*  
Kansas City, Missouri  
\$16,500

To support *Nixon in China* by composer John Adams. Coinciding with the 40th anniversary of the historic presidential visit, local partnerships with the Kemper Museum of Contemporary Art and the University of Kansas will engage new audiences.

*North Carolina Opera*  
Raleigh, North Carolina  
\$10,000

To support the production of Philip Glass's *Les Enfants Terribles*. The performance aligns with the company's commitment to present an annual mainstage production of a contemporary work.

*Opera Theatre of Saint Louis*  
St. Louis, Missouri  
\$40,000

To support the U.S. premier of *Alice in Wonderland* by composer Unsuk Chin and librettist David Henry Hwang.

*Regents of the University of California at Berkeley*  
Berkeley, California  
\$75,000

To support performances of *Einstein on the Beach* by composer Philip Glass and librettist Robert Wilson. A 2-week residency with the composer and librettist and numerous education and community programs will bring this significant work to the stage.

*San Diego Opera Association*  
San Diego, California  
\$42,500

To support the new opera *Moby Dick* by composer Jake Heggie and librettist Gene Scheer, based on the novel by Herman Melville.

*Seattle Opera*  
Seattle, Washington  
\$20,000

To support the new production of *Orphee et Eurydice* by composer Christoph Willibald Gluck. Education events will include preview lectures, post-performance Q and A's, and the company's Experience Opera program, which allows student to experience in-class presentations and dress rehearsals for free.

*Tulsa Opera, Inc.*  
Tulsa, Oklahoma  
\$16,500

To support *Dead Man Walking* by composer Jake Heggie. Due to the unique subject matter and its potential appeal to those not familiar with the art form, both pre- and post-performance surveys will gauge the level of engagement among audi-



ence members. Sister Helen Prejean will also participate in various lectures and panel discussions prior to the production.

Despite overwhelming support by the American public for spending Federal tax dollars in support of the arts, the NEA has never recovered from a 40-percent budget cut in the mid-nineties and found its budget further decreased by \$22 million in the past 2 years, leaving its programs seriously underfunded. We urge you to continue toward restoration and increase the NEA funding allocation to \$155 million for fiscal year 2013.

On behalf of OPERA America, thank you for considering this request.

#### PREPARED STATEMENT OF THE OREGON WATER RESOURCES CONGRESS

The Oregon Water Resources Congress (OWRC) was established in 1912 as a trade association to support member needs to protect water rights and encourage conservation and water management Statewide. OWRC represents nonpotable agricultural water suppliers in Oregon, primarily irrigation districts, as well as water control districts, and other special districts and local governments that deliver irrigation water. The association represents the entities that operate water management systems, including water supply reservoirs, canals, pipelines, and hydropower production.

OWRC is concerned about continued reductions to the U.S. Environmental Protection Agency's (EPA) Clean Water State Revolving Fund Loan Program (CWSRF) and is requesting that appropriations for this program be increased to at least \$2 billion in fiscal year 2013. The CWSRF is an efficient loan program that addresses critical water infrastructure needs while benefitting the environment, local communities, and the economy.

OWRC is also concerned about various efforts by EPA to increase regulatory authority over water resources planning and urges the Senate to take action and prevent further jurisdictional overreach. EPA's actions to increase its jurisdiction are counterproductive to collaborative planning and detract from the positive solutions achieved through the CWSRF program.

#### FISCAL YEAR 2013 APPROPRIATIONS

We are disappointed that the administration's request of \$1.175 billion for the CWSRF program is a sharp reduction from enacted 2011 funding, and is still far short of what is needed to address critical water infrastructure needs in Oregon and across the Nation. As acknowledged in EPA's budget materials, this will lead to "fewer water infrastructure projects," and therefore a reduction in improvements to water quality. The Oregon Department of Environmental Quality's (DEQ) most recent "Proposed Intended Use Plan Update #2—State Fiscal Year 2012", lists 115 projects in need of a total of \$273,263,717 in Oregon alone.

Additionally, EPA budget materials indicate that "a number of systems could have access to capital through the administration's proposed Infrastructure Bank," but this has not happened yet and there are numerous dire water infrastructure needs now. OWRC supports the creation of an infrastructure bank, but the needs facing communities now cannot wait for a new funding mechanism, particularly when the CWSRF has worked very efficiently in Oregon. The CWSRF has been an extremely valuable tool in Oregon for improving water quality and efficiently addressing infrastructure challenges that are otherwise cost-prohibitive.

Six OWRC member districts have successfully received loans from the CWSRF over the last several years and many more will apply if funds are available. Numerous irrigation districts and other water suppliers need to pipe currently open canals, thereby improving water quality by eliminating run-off into the canals and increasing water availability for fish and irrigators by eliminating water loss from the canal system. These projects not only benefit the environment and the patrons served by the water delivery system, but also benefit the economy.

Four irrigation districts received more than \$11 million funding in Oregon from the 2009 ARRA funding through the CWSRF for projects which created valuable jobs while improving water quality. These four projects were essential to DEQ not only meeting but exceeding the minimum requirement that 20 percent of the total ARRA funding for the CWSRF be used for "green" projects. Those districts' applications had been on DEQ's list of eligible projects for many years and would probably still be on that list had the ARRA funding not been made available. We provide that comment not to complain, but to emphasize the need for additional funding for this program.

We acknowledge and support the administration's desire to "expand "green infrastructure" options and their multiple benefits" as part of EPA's In fact, as men-

tioned above, irrigation districts and other water suppliers in Oregon are on the forefront of “green infrastructure” through innovative piping projects that provide multiple environmental benefits. However, continually reducing the amount of funds available for these worthwhile projects is counterproductive and has created increased uncertainty for potential borrowers about whether adequate funding will be available in future years. CWSRF is often an integral part of an overall package of State, Federal, and local funding that necessitates a stronger level of assurance that loan funds will be available for planned water infrastructure projects. Reductions in the CWSRF could lead to loss of grant funding and delay or derail beneficial projects that irrigation districts have been developing for years.

We recognize that our country is facing difficult economic times and that we must make strategic investments with scarce resources. However, the CWSRF is a perfect example of the type of program that should have funding increased because it creates jobs while benefitting the environment, and is an efficient return on taxpayer investment. Oregon is facing record levels of unemployment and the CWSRF funded projects provide much needed construction and professional services jobs. Moreover, as a loan program, it is not a hand-out but a wise investment that allows local communities to leverage their limited resources and address critical infrastructure needs that would otherwise be unmet.

We respectfully request the appropriation of at least \$2 billion for EPA’s Clean Water State Revolving Loan Fund for fiscal year 2013.

#### ENVIRONMENTAL PROTECTION AGENCY REGULATORY OVERREACH

OWRC is very concerned about EPA’s recent efforts to revise Clean Water Act Guidance without appropriate public process or legislative oversight. The proposed changes would greatly broaden EPA authority and illustrates an apparent desire to dictate watershed planning methods for the Nation using a top-down regulatory approach from a desk in Washington, DC. This regulatory overreach will lead to uncertainty for landowners and water users, increased litigation and destroy collaborative efforts (including CWSRF projects) already underway in Oregon and across the Nation. OWRC concerns are now being reflected in new bi-partisan legislation, H.R. 4965, introduced by several distinguished Members of Congress. EPA recently also has been pushing Oregon’s Department of State Lands (DSL) to assume the Army Corps of Engineers 404 program. Based on the controversy and EPA’s incorrect interpretation of the Clean Water Act, OWRC opposes these efforts.

Oregon is the model for watershed planning and does not need a new Federal agency or executive branch office to continue watershed planning. Watershed planning in Oregon formally began in 1995 with the development of the Oregon Plan for Salmon Recovery and Watershed Enhancement, a statewide strategy developed in response to the Federal listing of several fish species. This strategy led to the creation of the Oregon Watershed Enhancement Board (OWEB), a State agency and policy oversight board that funds and promotes voluntary and collaborative efforts that “help create and maintain healthy watersheds and natural habitats that support thriving communities and strong economies” in 1999.

Oregon’s success in watershed planning illustrates that planning efforts work best when diverse interests develop and implement plans at the local watershed level with support from State government. Planning activities are conducted through local watershed councils, volunteer-driven organizations that work with local, State and Federal agencies, economic and environmental interests, agricultural, industrial and municipal water users, local landowners, tribes, and other members of the community. There are more than 60 individual watershed councils in Oregon that are already deeply engaged in watershed planning and restoration activities.

OWRC has written and commented on many of the EPA activities. These documents can be found on our Web page. Below are links to these documents.

—[http://www.owrc.org/useruploads/files/Federal/CWAJurWhitePaper\\_owrc.pdf](http://www.owrc.org/useruploads/files/Federal/CWAJurWhitePaper_owrc.pdf)

—[http://www.owrc.org/useruploads/files/Federal/SustainableWatershedPlanningAct\\_OWRC%20Letter%20to%20OR%20Delegation.pdf](http://www.owrc.org/useruploads/files/Federal/SustainableWatershedPlanningAct_OWRC%20Letter%20to%20OR%20Delegation.pdf)

—[http://www.owrc.org/useruploads/files/Federal/OWRC\\_comments\\_EPA\\_DraftStrategic%20Plan\\_July2010.pdf](http://www.owrc.org/useruploads/files/Federal/OWRC_comments_EPA_DraftStrategic%20Plan_July2010.pdf)

In conclusion, we applaud the CWSRF program for allowing Oregon’s DEQ agency to make targeted loans that address CWA issues but also help water quantity and quality while addressing ESA in some instances. This voluntary approach creates and promotes cooperation and collaborative solutions to water resources challenges.

Conversely, regulatory overreach destroys cooperation, creates mistrust and has a very negative affect on jobs and local economies. OWRC applauds the Congress’s

bi-partisan effort in the House to reel in EPA overreach. We encourage the Senate to pass H.R. 872, support H.R. 4965, and increase oversight of EPA.

PREPARED STATEMENT OF THE OREGON WATER RESOURCES CONGRESS

REQUEST

The Oregon Water Resources Congress (OWRC) requests \$25 million to fully fund the U.S. Fish and Wildlife Service (FWS) Fisheries Restoration Irrigation Mitigation Act (FRIMA) program in fiscal year 2013 as authorized in the Omnibus Public Lands Act Public Law 111-11, section 13002. OWRC continues to be deeply disappointed that the administration has not requested any funding in the fiscal year 2013 budget submission for this valuable program. The FRIMA program is an important tool for FWS to help achieve its priorities in fish species conservation and restoration and fills a void that other FWS programs cannot provide.

NEED

OWRC was established in 1912 as a trade association to support member needs to protect water rights and encourage conservation and water management statewide. OWRC represents nonpotable agriculture water suppliers in Oregon, primarily irrigation districts, as well as other special districts and local governments that deliver irrigation water. OWRC members operate water management systems, including water supply reservoirs, canals, pipelines, and hydropower production.

There are more than 100 irrigation districts and other special districts in Oregon that provide water supplies to more than 1 million acres of irrigated cropland in the State. Almost all of these districts are affected by either State or Federal Endangered Species Act listings of Salmon and Steelhead, Bull Trout or other sensitive, threatened or endangered species.

FRIMA meets a critical need in fishery protection and restoration and complements other FWS programs. Fish passage and fish screens installations are a vital component to fishery protection with several benefits:

- Keeps protected fish species out of water canals and delivery systems;
- Allows fish to be safely bypassed around reservoirs and facility structures; and
- Eliminates water quality risks to fish species.

Oregon irrigation districts anticipate no less than \$500 million in funding will be required to meet current fish passage and fish screen needs. Limited cost-share funds are available from the Oregon Watershed Enhanced Board (OWEB) program in Oregon, but the primary cost-share for fish screen and fish passage projects has been provided by the districts and their water users. Project needs include both construction of new fish screens and fish passage facilities as well as significant upgrades of existing facilities to meet new requirements of the NOAA Fisheries Service and FWS.

BACKGROUND OF FISHERIES RESTORATION IRRIGATION MITIGATION ACT PROGRAM

FRIMA, enacted November 2000, created a Federal partnership program entailing voluntary cost-share fish screen construction for water withdrawal projects in Idaho, Oregon, Washington and western Montana. FWS is to implement this program through the four States' fishery agencies. The funding goes to local governments for construction of fish screens and fish passage facilities. Irrigation districts and other local governments that divert water for irrigation can access the funding directly; individual irrigators can access funding through their local Soil and Water Conservation District (SWCD), which are local governments affiliated with the Natural Resources Conservation Service (NRCS).

The original legislation in 2000 (Public Law 106-502) was supported and requested by the Pacific Northwest Partnership, a coalition of local governmental entities in the four Northwest States. As one of the members of that coalition, we appreciate your consideration of this request. When the Congress reauthorized the program in 2009 in the Omnibus Public Lands Act minor clarifying changes were made to the legislation while reauthorizing the program for 5 more years at \$25 million a year.

FUNDING

The legislation calls for \$25 million annually, to be divided equally among the four States from 2001 forward. Agency administrative costs cannot exceed 6 percent of the funding. FWS has never requested funding for FRIMA in its budgets since passage of the legislation. The Congress provided the first funding in 2001 through

a write-in of \$4 million to be shared among the four States. The agency did not get the program up and running until late 2002, at which time the first moneys were distributed.

In 2000, in its report accompanying the initial authorizing legislation for FRIMA, the Congressional Budget Office (CBO) estimated outlays of \$70 million between 2001 and 2004. The actual appropriation was only \$8.8 million during that time period and all of the money was a write-in. For fiscal year 2005, the Congress provided \$2 million for the program in the Consolidated Appropriations Act and, \$2 million in fiscal year 2006. The fiscal year 2007 funding of \$1 million was part of an appropriation to FWS but was not a separate, designated appropriation. Again, all of those appropriations were the result of congressional write-ins, not FWS budget requests.

As you can see, total amount of money that the Congress has written in for the program is woefully inadequate for the accomplishments anticipated for the program. The administration did not request funding for the program for fiscal year 2013, consistent with its past budget submittals, despite widespread benefits from the money that the Congress has provided.

OWRC appreciates the funding the Congress has provided for the FRIMA program in the past. That funding has begun to address the need for fish screens and fish passages to protect sensitive, threatened, and endangered fish species in the States in the Northwest, but there still continues to be a significant need.

#### PROJECT BENEFITS

A report by FWS covering program years fiscal year 2002–2012 provides State-by-State coverage of how the congressional provided funding has been used in the program. Funding funneled through FWS to State fishery agencies is distributed using an application and approval process that is based on a ranking system implemented uniformly among the States, including the following factors:

- fish restoration benefits;
- cost effectiveness; and
- feasibility of planned structure.

The project must provide improved fish passage or fish protection at water diversion structures and must benefit fish species native to and present in the area, including those listed on State or Federal endangered species or conservation lists. The project must use applicable State and Federal requirements for project construction and operation.

FRIMA-funded projects will increase the survival of many native fish species in a relatively short period of time. Compared to other recovery strategies, the risks posed by these activities are low and the assurance of success in increasing numbers of fish is high. Dislocation of existing social and economic activities is minor. Screening and passage can make a very substantial contribution utilizing existing implementation mechanisms and methods well accepted by landowners and rural communities.

#### COST SHARE

FRIMA provides for a maximum Federal cost-share of 65 percent. The applicant's cost-share is 35 percent plus the ongoing maintenance and support of the structure for passage or screening purposes.

Applicants operate the projects and the State agencies monitor and review the projects. This program is headquartered in the Portland, Oregon, regional office of FWS. For more information, see the FWS Fisheries Resources Web site for the Pacific Region at: <http://www.fws.gov/pacific/Fisheries/FRIMA>.

#### OREGON'S PROJECT BENEFITS

Twenty-six fish screens or fish passage projects in Oregon have been funded using funding from FRIMA for part of the project since the start of the FRIMA program. These projects have led to:

- Installation of screens at 17 diversions or irrigation pumps;
- Removal or modification of 12 fish passage barriers; and
- Three-hundred sixty-five miles being re-opened to fish passage.

In addition, the Oregon Department of Fish and Wildlife (ODFW) has used some of the FRIMA funding to develop an inventory of need for fish screens and passages in the State. Grants have ranged from just under \$6,000 to \$400,000 in size with a local match averaging 64 percent of the project costs, well more than the amount required under the Act (35 percent). In other words, each Federal dollar invested in the FRIMA program generates a local investment of just more than \$1 for the protection of fish species in the Pacific Northwest.

The following are examples of how Oregon has used some of its FRIMA money:

*Santiam Water Control District Project.*—Fish screen project on a large 1,050 cubic feet per second (cfs) multipurpose water diversion project on the Santiam River (Willamette Basin) near Stayton, Oregon. Partners are the Santiam Water Control District, ODFW, Marion Soil and Water Conservation District, and the City of Stayton. Approved FRIMA funding of \$400,000 leverages a \$1,200,000 project. Species benefited include winter steelhead, spring Chinook, rainbow trout, and cutthroat trout.

*South Fork Little Butte Creek.*—Fish screen and fish passage project on a 65 cfs irrigation water diversion in the Rogue River Basin near Medford, Oregon. Partners are the Medford Irrigation District and ODFW. Approved FRIMA funding is \$372,000 and leverages a \$580,000 total project cost. Species benefited include listed summer and winter steelhead, coho salmon, and cutthroat trout.

*Running Y (Geary Diversion) Project.*—Fish screen project on a 60 cfs irrigation water diversion in the upper Klamath Basin near Klamath Falls, Oregon. Partners are the Wocus Drainage District, ODFW, and Jeld-Wen Ranches. Approved FRIMA funding of \$44,727 leveraged a total project cost of \$149,000. Species benefited included listed red-band trout and short-nosed sucker.

*Lakeshore Gardens Project.*—Fish screen project on a 2 cfs irrigation water diversion in the upper Klamath Basin near Klamath Falls, Oregon. Partners are the Lakeshore Gardens Drainage District and ODFW. Approved FRIMA funding is \$5,691, leveraging a total project cost of \$18,970. Species benefited include red-band trout, short-nosed sucker and Lost River sucker.

#### WHY FUND NOW

FRIMA should be a priority program of the U.S. Department of the Interior as it prepares to meet the court-ordered January 1, 2014, deadline for a new Federal Columbia River Power System Biological Opinion that provides reasonable and prudent alternatives to mitigate impacts to Columbia-Snake river salmon and steelhead. FRIMA funded projects funded will help the Bureau of Reclamation, Bonneville Power Administration, the U.S. Army Corps of Engineers, and NOAA Fisheries meet these requirements.

Moreover, FRIMA funds projects that are ready to be constructed and will provide immediate improved protections for fish and immediate jobs for the construction of the projects. Dollar-for-dollar, providing screening and fish passage at diversions is one of the most cost-effective uses of restoration dollars, creating fishery protection at low cost, with low risk and significant benefits. While we acknowledge the efforts of the U.S. Department of the Interior and its agencies in habitation restoration through the Cooperative Landscape Conservation Program, this is a longer range program for fish and habitat protection. FRIMA projects provide immediate protection for fish and fill a large unmet need in the Pacific Northwest for cost-share assistance with fish screening and fish passage installations and improvements.

We urge the full authorization funding of \$25 million for FRIMA in fiscal year 2013 and urge the Congress's oversight in encouraging FWS to budget for this successful program in the future.

Thank you for the opportunity to provide this statement for the hearing record.

#### PREPARED STATEMENT OF THE OUTDOOR ALLIANCE

The Outdoor Alliance is a coalition of Access Fund, American Canoe Association, American Hiking Society, American Whitewater, International Mountain Bicycling Association and Winter Wildlands Alliance, six national, member-based organizations representing millions of Americans who paddle, climb, mountain bike, hike, ski and snowshoe on our Nation's public lands, waters and snowscapes.

The Outdoor Alliance has extensive experience working with Federal land managers across the country concerning recreation and conservation policies. Adequate funding for the National Park Service, U.S. Forest Service, and Bureau of Land Management is required to support public access and enjoyment of the cherished public lands and rivers they manage. Although Federal land managers are integrating recreation, conservation, and restoration programs to more effectively manage public lands for Americans, budget cuts to these agencies will mean less access to and conservation of our public land. Under-funded and under-staffed land managers, when forced to make resource protection and visitor use decisions, are much more likely to close or highly restrict public access.

The Outdoor Alliance supports a common sense budget approach that adequately funds Department of the Interior and Department of Agriculture activities essential

to conservation and the provision of public recreation access to high quality public lands and waters. Human powered and active outdoor recreation supports the \$730 billion annual outdoor recreation economy and is critical in reconnecting our youth and our increasingly diverse citizenry with nature. To achieve these goals, we offer the following budget recommendations for fiscal year 2013.

DEPARTMENT OF AGRICULTURE—FOREST SERVICE

The Outdoor Alliance supports the President's fiscal year 2013 budget request of \$4.86 billion for USFS, an increase of \$15.5 million more than the fiscal year 2012 appropriated level.

Recreation on national forest lands greatly supports local economies and employment. The 2010 National Visitor Use Monitoring Report found that spending by recreation visitors in areas near national forests totals almost \$13 billion annually. Protecting these economic benefits requires an adequately funded planning process, an effective infrastructure of trails and roads, and protected natural landscapes and rivers. Forest Service land management plans (with appropriate inventory and monitoring efforts) are critical to respond to existing and developing management challenges, and to inform intelligent and strategic forest management that allows for responsible recreational access. Forest plans must be maintained and revised repeatedly to maintain relevancy. Updated data and information is critical for present-day planning and management efforts, and to ensure that forest planning is integrated effectively. In the last 8 years funding for Forest Service planning dropped by more than one-third, and we see associated unmet issues and obligations that lead directly to restrictions of various Outdoor Alliance activities.

The President's fiscal year 2013 budget proposes a consolidated budget line item to facilitate a consolidated approach to landscape management, merging Land Management Planning, and Inventory and Monitoring, into a single budget line item called Land Management Planning, Assessment, and Monitoring. This proposed consolidated budget line item provides the agency flexibility to implement the requirements of the new Planning Rule (collaborative science-based approach for planning, monitoring, and conducting assessments that considers information from and about all lands affected by, or influencing, planning unit activities). To maintain a basic planning program that is able to respond to today's management challenges, we support the President's requested budget of \$205 million for Land Management Planning, Assessment & Monitoring.

The Recreation Management, Heritage and Wilderness program oversees all recreation on National Forest lands. This program is chronically under-funded and understaffed. Outdoor Alliance supports the President's allocation of \$267 million that will permit the Forest Service to begin to prioritize resources and facilities, maintain current on-the-ground staff, and continue basic recreation resource analyses and planning. Additionally, this funding level will assist in leveraging partnerships with the human-powered recreation community, who devote many thousands of volunteer hours to conservation and stewardship projects on our national forests. Additional funds will allow these critical activities to be accomplished in a timelier manner.

The National Forest System serves more than 50 million visitors annually who participate in activities that include cross-country skiing, hiking, climbing, boating, and mountain biking on more than 153,000 miles of trails. Nearly all Forest visitors use the trails to some extent and the recreation economy depends on quality trail experiences, yet the Forest Service struggles with maintenance backlogs in the billions of dollars. We believe that \$346 million in fiscal year 13 for Capital Improvements and Maintenance is the basic support needed to avoid adding to the massive deferred maintenance backlog, improve human powered trail infrastructure, mitigate resource impacts, and provide high-quality recreational experiences on Forest Service lands.

Integrated Resource Restoration (IRR) is a new funding approach that merges several different funds into one large restoration funding line item. Last year the administration and the Congress agreed on a three-region pilot (Regions 1, 3, and 4) to test IRR on the ground. However, the President's budget for 2013 proposes skipping the assessment phase and adopting IRR wholesale across all Forest Service lands in 2013. This would mean no assessment of what worked and what did not and is not prudent.

The Outdoor Alliance does not support the absorption of Legacy Roads and Trails funding into IRR in fiscal year 2013. Our national forests are interspersed with old roads that receive little or no use yet cause serious environmental impacts and pose long-term financial threats. Removing old and unused roads and investing in the roads and trails used by hikers, climbers, backcountry skiers, mountain bicyclists,

and boaters is good for recreation, good for the environment, creates jobs, and improves water quality benefitting downstream users. Since its creation in 2007, the Legacy Roads and Trails Remediation Fund has improved more than 12,000 acres of watershed, maintained 3,170 miles of trails, improved 10,959 miles of authorized roads, and decommissioned 2,970 miles of unauthorized roads. The Legacy Roads initiative creates or retains approximately 1,500 jobs every year which provide a significant economic stimulus to rural America. If the program is merged into the IRR, there is no guarantee that any funds would be used for the purposes the Congress intended in establishing this program. Outdoor Alliance is concerned that although the Congress and the administration agreed to test the concept in a three region pilot program last year, there has been no assessment of its success and now the program is being rolled out nationwide. We believe such an assessment is critical before implementation across the board occurs.

The Outdoor Alliance supports an fiscal year 2013 appropriation of \$793.1 million for the Integrated Resource Restoration budget line for the restoration and management of priority watersheds, with at least \$75 million of that allocated to continue the important work of the Legacy Roads and Trails program.

#### DEPARTMENT OF THE INTERIOR—NATIONAL PARK SERVICE

Our national parks offer opportunities for world-class recreation and they serve as iconic locations for Outdoor Alliance activities. Enthusiasts travel from all over the world to climb, hike, boat, bike, and ski in places like Zion, Rocky Mountain, and the North Cascades National Parks. Importantly, our parks also serve as crucial economic engines for local economies. While the administration's overall request for the Park Service is essentially flat, it proposes cuts to base park operations by almost \$22 million which will likely eliminate hundreds of full-time employees and lead to deteriorating Park resources. If we are serious about maintaining our Parks as economic engines for local economies it is critical that we maintain funding for base park operations. We are hopeful that the Congress will improve on the administration's budget request and provide critical funding for base park operations.

The Outdoor Alliance supports the President's proposed fiscal year 2013 appropriation of \$2.3 billion for the Operation of the National Park System, including \$52 million for National Recreation and Preservation. However, the administration's request must be increased if \$2.3 billion will not at least maintain basic park operations after fixed costs have been addressed.

The Rivers, Trails and Conservation Assistance (RTCA) program helps people build parks and trails and preserve open space and river corridors in their local communities. The RTCA program produces a multiplier effect for local economies. It leverages Federal funding by assisting locally-led conservation and outdoor recreation projects nationwide to develop important community infrastructure, inspire volunteerism and environmental stewardship, and connect Americans to close-to-home recreation opportunities. This is especially important for kids. Accordingly, the Outdoor Alliance supports an RTCA appropriation of at least \$10 million for fiscal year 2013 in order for this essential capacity-building conservation and recreation program to maintain its high level of effectiveness.

#### DEPARTMENT OF THE INTERIOR—BUREAU OF LAND MANAGEMENT

Many Outdoor Alliance members recreate on BLM lands across the country, including those in the National Landscape Conservation System. Opportunities to recreate on BLM lands—such as rock climbing at Colorado's Shelf Road, mountain biking around Moab, Utah, boating New Mexico's Rio Chama, backcountry skiing at Gunnison Gorge NCA in Colorado—are some of the most sought-after recreation opportunities in America. Outdoor Alliance believe that the BLM is uniquely positioned to contribute to the success of the America's Great Outdoors initiative and its goals of reconnecting Americans to our exceptional recreation resources. Accordingly, we support the President's inclusion of \$70.3 million fiscal year 2013 budget for Recreation Management that will help to begin to enable BLM to strengthen its protection and management of popular, high quality recreation areas. We also believe that the President's call for funding of \$35.1 million for National Landscape Conservation System programs is necessary to maintain necessary staffing, enable adequate planning and resource monitoring to protect natural and recreational resources and allow for a quality visitor experience.

#### DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF AGRICULTURE

The Land and Water Conservation Fund uses off shore oil and gas royalties to address the national need to preserve natural areas and provide recreation opportunities. Outdoor Alliance supports the President's stated goal of fully funding the

Land and Water Conservation Fund by 2014 and supports his fiscal year 2013 LWCF requests. We also believe that the Congress may have opportunities to significantly exceed these figures this year and encourage them to do so. In addition, we support the President's suggested funding of the Forest Legacy Fund.

Wild and Scenic Rivers offer Americans some of the best outdoor recreation opportunities on Federal lands and is a core component of the America's Great Outdoors Initiative. Explicitly funding Wild and Scenic River program staff and activities within each agency would ensure that agencies have the capacity to protect these rivers and provide world-class recreation opportunities.

We support the administration's proposed \$9.3 million for the BLM Wild and Scenic River Program, request that a new line item for the Forest Service Wild and Scenic Rivers program be funded at \$19 million out of the Recreation Management, Heritage and Wilderness budget, and that the Wild and Scenic Rivers Program line item in the NPS budget be funded at no less than \$1 million to complement the Park Unit, Partnership Rivers, and Special Resource Studies budget lines.

DEPARTMENT OF COMMERCE: NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The President's budget has recommended \$10.8 million for the Fisheries Habitat Restoration program, which is comprised of the Community-based Restoration Program that restores coastal and marine habitat and the Open Rivers Initiative that removes obsolete dams and other stream barriers in coastal watersheds that currently block salmon from their native spawning habitat. While these two programs are focused on improving fish habitat, they provide direct benefits to recreational users of our waterways by enhancing the riverscape we enjoy and reconnecting rivers currently blocked by dams that are barriers to navigation. We strongly recommend the program receive \$19 million in fiscal year 2013, and that the President's proposal to merge the program with the Estuary Restoration Program and the Marine Debris Program be rejected.

Thank you for considering our perspectives.

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PREPARED STATEMENT OF THE PACIFIC SALMON COMMISSION

Mr. Chairman, and honorable members of the subcommittee, I am W. Ron Allen, Chairman of the U.S. Section's Budget Committee on the Pacific Salmon Commission (PSC). The U.S. Section prepares an annual budget for implementation of the Treaty. The integrated budget details program needs and costs for Tribal, Federal, and State agencies involved in the Treaty. Under the Bureau of Indian Affairs budget, the U.S. Section recommends that the Congress:

—Fund the tribes' program at a restored funding level of \$4,800,000 for tribal research projects and participation in the U.S.-Canada Pacific Salmon Treaty process, an increase of \$500,000 more than the President's requested level for 2013. This funding level represents status quo funding plus adjustments to meet increased obligations under the 2009–2018 Pacific Salmon Treaty Agreement. The funding for tribal participation in the U.S./Canada Salmon Treaty is a line item in the BIA's budget under the Rights Protection Implementation, Wildlife and Parks, Other Recurring Programs Area.

Under U.S. Fish and Wildlife Service programs, the U.S. Section recommends that the Congress:

Provide base funding of \$417,000 for USFWS participation in the Treaty process, and provide funding of \$315,000 for the Pacific States Marine Fisheries Commission's Regional Mark Center. This funding level represents an increase for the Mark Center to make up for losses from other programs and allow the Mark Center to maintain the same level of service to the U.S. Section.

This base funding for the U.S. Fish and Wildlife Service will pay for the critically important ongoing work. The funding for Pacific States Marine Fisheries Commission's Regional Mark Center is utilized to meet Treaty requirements concerning data exchange with Canada. These program recommendations are integrated with those of the State and Federal agencies to avoid duplication of effort and provide for the most efficient expenditure of scarce funds.

A copy of the integrated U.S. Section budget justification has been made available to the subcommittee. The budget summary justifies the funding we are recommending today. All of the funds are needed for critical data collection and research activities directly related to the implementation of the Treaty and are used in cooperative programs involving Federal, State, and tribal fishery agencies and the Department of Fisheries in Canada. The monetary commitment of the United States is matched by the commitment of the Government of Canada.



The U.S. Section of the Pacific Salmon Commission is recommending an adjustment to the funding for the work carried out by the 24 treaty tribes' that participate in the implementation of the Treaty. Programs carried out by the tribes are closely coordinated with those of the States and Federal agencies. Tribal programs are essential for the United States to meet its international obligations. Tribal programs have taken on additional management responsibilities due to funding issues with State agencies. All participating agencies need to be adequately funded to achieve a comprehensive U.S. effort to implement the Treaty.

We are strongly recommending maintaining base funding of \$417,000 for the U.S. Fish and Wildlife Service so the United States can maintain the critical database to implement the Treaty. We also strongly recommend funding of \$315,000 to allow continuation of work carried out by the Regional Mark Processing Center. This work, maintaining and updating a coastwide computerized information management system for salmon harvest and catch effort data as required by the Treaty, has become even more important to monitor the success of management actions at reducing impacts on ESA-listed salmon populations. Canada has a counterpart database. The database will continue to be housed at the Pacific States Marine Fisheries Commission. The U.S. Fish and Wildlife Service will contract with the PSFMC to provide this service.

Mr. Chairman, the United States and Canada established the Pacific Salmon Commission, under the Pacific Salmon Treaty of 1985, to conserve salmon stocks, provide for optimum production of salmon, and to control salmon interceptions. After more than 20 years, the work of the Pacific Salmon Commission continues to be essential for the wise management of salmon in the Northwest, British Columbia, and Alaska. For example, upriver Bright fall Chinook salmon from the Hanford Reach of the Columbia River are caught in large numbers in Alaskan and Canadian waters. Tribal and nontribal fishermen harvest sockeye salmon from Canada's Fraser River in the Strait of Juan de Fuca and in Puget Sound. Canadian trollers off of the west coast of Vancouver Island catch Washington coastal Coho salmon and Puget Sound Chinook salmon. In the Northern Boundary area between Canada and Alaska, fish from both countries are intercepted by the other country in large numbers. The Commission provides a forum to ensure cooperative management of salmon populations. In 2008, the United States and Canada successfully concluded lengthy negotiations to improve this management, including the adjustments to the coastwide abundance-based management regime for Chinook salmon and a framework for abundance based management for southern Coho populations. The agreement is intended to last through 2018. The Fraser River sockeye and pink chapter to the Pacific Salmon Treaty expired in 2010 and negotiators worked out an interim arrangement while Canada's Cohen Commission completes its judicial inquiry on the Fraser River sockeye fishery.

Before the Treaty, fish wars often erupted with one or both countries overharvesting fish that were returning to the other country, to the detriment of the resource. At the time the Treaty was signed, Chinook salmon were in a severely depressed state as a result of overharvest in the ocean as well as environmental degradation in the spawning rivers. Under the Treaty, both countries committed to rebuild the depressed runs of Chinook stocks, and they recommitted to that goal in 1999 when adopting a coastwide abundance based approach to harvest management. Under this approach, harvest management will complement habitat conservation and restoration activities being undertaken by the States, tribes, and other stakeholders in the Pacific Northwest to address the needs of salmon listed for protection under the Endangered Species Act. The 2008 Chinook agreement continues these commitments. The combination of these efforts is integral to achieving success in rebuilding and restoring healthy, sustainable salmon populations.

Finally, you should take into account the fact that the value of the commercial harvest of salmon subject to the Treaty, managed at productive levels under the Treaty, supports the infrastructure of many coastal and inland communities. The value of the recreational fisheries, and the economic diversity they provide for local economies throughout the Pacific Northwest and Alaska, is also immense. The value of these fish to the 24 treaty tribes in Washington, Oregon, and Idaho goes far beyond their monetary value, to the cultural and religious lives of Indian people. A significant monetary investment is focused on salmon as a result of listings of Pacific Northwest salmon populations under the Endangered Species Act. Given the resources, we can continue to use the Pacific Salmon Commission to develop recommendations that help to ensure solutions that minimize impacts on listed stocks, especially if we are allowed to work toward the true intent of the Treaty: mutually beneficial enhancement of the shared resource.

Mr. Chairman, that concludes my written testimony submitted for consideration by your subcommittee. I want to thank the Committee for the support that it has

given the U.S. Section in the past. Please feel free to contact me, or other members of the U.S. Section, through the Office of the U.S. Section Coordinator to answer any questions you or Committee members may have regarding the U.S. Section of the Pacific Salmon Commission budget.

SUMMARY OF TRIBAL AND FISH AND WILDLIFE SERVICE PROGRAMS UNDER THE U.S.-CANADA  
PACIFIC SALMON TREATY

	Fiscal year 2012 enacted appropriation	Fiscal year 2013 recommendation	Increase
Department of the Interior:			
Bureau of Indian Affairs, Wildlife and Parks, Rights Implementa- tion .....	\$4,120,000	\$4,300,000	+ \$180,000
U.S. Fish and Wildlife Service, Anadromous Fisheries .....	667,000	732,000	+ 65,000

PREPARED STATEMENT OF THE PARTNERSHIP FOR THE NATIONAL TRAILS SYSTEM

Mr. Chairman and members of the subcommittee: The Partnership for the National Trails System appreciates your support over the past 18 years, through operations funding and dedicated Challenge Cost Share funds, for the national scenic and historic trails administered by the National Park Service (NPS). We also appreciate your increased allocation of funds to support the trails administered and managed by the United States Forest Service (USFS) and for the trails in the Bureau of Land Management's (BLM) National Landscape Conservation System (NLCS). To continue the progress that you have fostered, the Partnership requests that you provide annual operations funding for each of the 30 national scenic and historic trails for fiscal year 2013 through these appropriations:

*National Park Service.*—\$16.21 million for administration of 23 trails and for coordination of the long-distance trails program by the Washington office.

—Construction: \$380,000 for the Ice Age Trail and \$200,000 for the Pacific Crest Trail.

*United States Forest Service.*—\$9.096 million to administer 6 trails and \$1.2 million to manage parts of 16 trails administered by the NPS or BLM. \$1 million for Iditarod Trail construction.

*Bureau of Land Management.*—To coordinate its National Trails System Program: \$250,000;

—to administer these trails:

—Iditarod Trail: \$700,000,

—the Camino Real de Tierra Adentro Trail: \$230,000,

—the Old Spanish Trail: \$350,000 and

—to manage portions of 10 trails administered by NPS or USFS: \$4 million;

—\$3,140,000 for operating five National Historic Trail interpretive centers;

—Construction: \$300,000 for the Pacific Crest Trail.

We ask that you appropriate \$4.5 million for NPS Challenge Cost Share Program and continue to direct one-third (\$1.5 million) for national scenic and historic trails or create a separate \$1.5 million National Trails System Challenge Cost Share Program.

We ask that you add \$500,000 to BLM's Challenge Cost Share Program and allocate it for the national scenic and historic trails it administers or manages.

We ask that you appropriate from the Land and Water Conservation Fund (LWCF) for land acquisition:

—to USFS:

—\$7.25 million for the Pacific Crest Trail;

—\$1.5 million for the Florida Trail;

—\$2.65 million for the Old Spanish Trail;

—\$3.24 million for the Appalachian Trail;

—\$1.5 million for the Nez Perce Trail;

—\$3 million for the Continental Divide Trail;

—\$45,000 for the Pacific Northwest Trail; and

—\$15,000 for the Arizona Trail; and

—to BLM:

—\$3.5 million for the Oregon Trail in Oregon;

—\$732,000 for the Pacific Crest Trail in Oregon; and

—\$1 million for the Oregon, California, Mormon Pioneer, and Pony Express Trails in Wyoming; and

- to NPS:
  - \$6.2 million to continue work with the State of Wisconsin for the Ice Age Trail;
  - \$2 million for the North Country Trail;
  - \$2.5 million for the New England Trail;
  - \$1.125 million for the Appalachian Trail;
  - \$4 million for the Ala Kahakai Trail; and
  - \$450,000 for the Overmountain Victory Trail.

*National Park Service*

The \$16.21 million we request for NPS operations includes increases for some of the trails to continue the progress and new initiatives made possible by the additional funding the Congress provided over the past 7 years. We support the administration's requested funding for the new Star Spangled Banner and Washington-Rochambeau National Historic Trails and we request \$400,000 for NPS to implement planning and administration for the New England National Scenic Trail.

We request an increase of \$626,000 to expand NPS efforts to protect cultural landscapes at more than 200 sites along the Santa Fe Trail, to develop GIS mapping, and to fund public educational outreach programs of the Santa Fe Trail Association. An increase of \$780,000 for the Trail of Tears will enable NPS to work with the Trail of Tears Association to develop a GIS to map the Trail's historical and cultural heritage sites to protect them and to develop interpretation of them for visitors. We request an increase of \$346,000 to \$866,000 for the Ala Kahakai Trail to enable NPS to work with E Mau Na Ala Hele, the Ala Kahakai Trail Association, and other community organizations to care for resources on the land and with the University of Hawaii to conduct archaeological and cultural landscape studies along this trail.

We request an increase of \$193,000 to \$1,708,000 for the Appalachian Trail to expand the highly successful "Trail to Every Classroom" program of the Appalachian Trail Conservancy. The \$1,483,000 we request for the 4,200-mile North Country Trail will enable NPS to provide greater support for the regional GIS mapping, trail building, trail management, and training of volunteers led by the North Country Trail Association. This funding will also enable NPS to move the administrative office for the North Country Trail to Michigan for more efficient and effective collaboration with the North Country Trail Association. The \$1,389,000 we request for the Ice Age Trail includes a \$535,000 increase to build partner and citizen capacity for protecting the natural, cultural and recreational resources on the Ice Age NST and Ice Age Trail lands as well as to provide NPS with a property manager for NPS-owned lands.

*Construction.*—We request that you appropriate for trail construction projects \$380,000 for the Ice Age Trail and \$200,000 for the Pacific Crest Trail in the national parks crossed by the trail.

Challenge Cost Share programs are one of the most effective and efficient ways for Federal agencies to accomplish a wide array of projects for public benefit while also sustaining partnerships involving countless private citizens in doing public service work. The Partnership's member organizations applaud the administration's decision to restore these highly effective programs of the NPS, BLM, and Fish and Wildlife Service. We request that you fund all of them and appropriate \$4.5 million in Challenge Cost Share funding to NPS for fiscal year 2013 as a wise investment of public money that will generate public benefits many times greater than its sum. We ask you to continue to direct one-third of the \$4.5 million for the national scenic and historic trails to continue the steady progress toward making these trails fully available for public enjoyment. We suggest, as an alternative to the annual allocating of funds from the Regular Challenge Cost Share program, that you create a separate National Trails System Challenge Cost Share program with \$1.5 million funding.

We support the administration's requested \$934,000 for the Connect Trails to Parks project to enhance the public's understanding of the National Trails System and its relationship to the National Park System.

*United States Department of Agriculture—United States Forest Service*

As you have done for several years, we ask that you provide additional operations funding to USFS for administering 5 national scenic trails and 1 national historic trail, and managing parts of 16 other trails. We ask you to appropriate \$9.096 million as a separate budgetary item specifically for the Arizona, Continental Divide, Florida, Pacific Crest, and Pacific Northwest National Scenic Trails and the Nez Perce National Historic Trail within the overall appropriation for Capital Improvements and Maintenance for Trails. Full-time managers have been assigned for each of these trails by USFS. Recognizing the on-the-ground management responsibility

USFS has for 838 miles of the Appalachian Trail, more than 650 miles of the North Country Trail, and sections of the Ice Age, Anza, Caminos Real de Tierra Adentro and de Tejas, Lewis & Clark, California, Iditarod, Mormon Pioneer, Old Spanish, Oregon, Overmountain Victory, Pony Express, Trail of Tears and Santa Fe Trails, we ask you to appropriate \$1.2 million specifically for these trails.

Work continues, supported by funds you provided over the past 10 years, to close several major gaps in the Florida Trail. In 2011, Florida Trail Association (FTA) volunteers maintained 1,143 miles and completed eight major construction and restoration projects along the Trail. The Partnership's request of \$9.096 million more than includes \$2.5 million to enable USFS and FTA to continue this maintenance, to control invasive species, do ecosystem restoration, and otherwise manage 4,625 acres of new Florida Trail land.

The Partnership's request of \$9.096 million above also includes \$2 million for the Pacific Crest Trail, \$2.2 million for the Continental Divide Trail, \$1 million for the Pacific Northwest Trail, \$826,000 for the Nez Perce Trail, and \$570,000 for the Arizona Trail. Some of the additional funds requested will enable USFS to develop Comprehensive Management Plans for the latter three trails. We also request \$1 million of additional funding for construction of sections of the Iditarod Trail.

#### *Bureau of Land Management*

While BLM has administrative authority only for the Iditarod, El Camino Real de Tierra Adentro, and the Old Spanish National Historic Trails, it has on-the-ground management responsibility for 641 miles of five scenic trails and 3,115 miles of eight historic trails administered by NPS and USFS. BLM recognized the significance of these trails by including them in NLCS and since fiscal year 2002 has provided funding for each of them. The Partnership applauds these decisions of BLM and encourages its staff to budget specific funding for each of these trails.

Although considerably more money is needed to fully administer NLCS and protect its resources, we support the administration's request of \$69.549 million in base funding for the System for fiscal year 2013 and ask that you appropriate as new permanent base funding \$250,000 for National Trails System Program Coordination, \$700,000 for the Iditarod Trail, \$230,000 for El Camino Real de Tierra Adentro Trail, \$350,000 for the Old Spanish Trail, and \$4 million for management of the portions of the 10 other trails under the care of BLM. For trail maintenance we request \$300,000 for the Pacific Crest Trail and \$50,000 for the Nez Perce Trail; and request \$3,140,000 to operate five historic trails interpretive centers.

We ask you to fund the Bureau's Challenge Cost Share program and to add \$500,000 directed for projects for the National Trails System as you have done for many years with NPS's Challenge Cost Share program.

To promote greater management transparency and accountability for the National Trails and the whole NLCS, we urge you to request expenditure and accomplishment reports for each of the NLCS Units for fiscal year 2012 and to direct BLM to include unit-level allocations by major sub-activities for each of the scenic and historic trails, and wild and scenic rivers—as BLM has done for the monuments and conservation areas—within a new activity account for NLCS in fiscal year 2013. Existing accounts for Wilderness Areas and Wilderness Study Areas should also be included in this new NLCS activity account. BLM's lack of a unified budget account for National Trails prevents the agency from efficiently planning, implementing, reporting, and taking advantage of cost-saving and leveraging partnerships and volunteer contributions for every activity related to these national resources.

#### *Land and Water Conservation Fund*

The Partnership applauds and supports the administration's intention to provide \$449.934 million for LWCF. We request that you provide at least this amount to keep on a trajectory to achieve annual full funding for the LWCF and that you make the specific appropriations for national scenic and historic trails detailed at the beginning of this statement and below.

*United States Forest Service.*—The \$7.25 million we request for the Pacific Crest Trail will continue to support the acquisition underway by USFS Lands Team and NPS National Trail Land Resources Program Center, protecting 3 miles of PCT in Washington, 0.5 mile in Oregon, and 8 miles (including taking 3.4 miles off of roads) in California. The \$1.5 million requested for the Florida Trail will continue another successful collaboration between these two agencies to protect 30 tracts and 3.4 miles of the Trail along the Suwanee River. We request \$2.65 million to protect a section of the Old Spanish Trail in the Carson National Forest, \$3.240 million to protect sections of the Appalachian Trail in the Cherokee, Pisgah and George Washington/Jefferson National Forests, and \$1.5 million to acquire land in Hell's Canyon of the Snake River in Oregon to protect sites along the Nez Perce Trail.

*Bureau of Land Management.*—We request \$732,000 for the Cascade Siskiyou National Monument that will preserve a section of the Pacific Crest Trail in Oregon, \$3.5 million to purchase land along the Big Sandy River in Oregon for the Oregon Trail, and \$1 million to protect sections of the Oregon, California, Mormon Pioneer, and Pony Express Trails along the Platte River in Wyoming.

*National Park Service.*—The National Trails System Act encourages States to assist in the conservation of the resources and development of the national scenic and historic trails. Since fiscal year 2000 Wisconsin has matched \$13.6 million Federal LWCF funding with \$27.7 million to help protect 67 miles of the Ice Age National Scenic Trail by purchasing 51 parcels totaling 7,727 acres. Another 40 parcels are under negotiation, appraisal, or option to purchase. The requested \$6.2 million will continue this successful Federal/State/local partnership for protecting land for the Ice Age Trail. We request \$2 million to close gaps in the North Country Trail, \$4 million to acquire one parcel for the Ala Kahakai Trail, \$2.5 million to acquire three parcels for the New England Trail, and \$1.125 million to acquire parcels in Pennsylvania and Vermont for the Appalachian Trail.

The Partnership strongly supports the new “National Rivers and Trails Initiative” funding line for fiscal year 2013 as a first step to providing consistent annual funding to acquire the land needed to complete congressionally authorized trails. We urge you to provide considerably more than the \$4 million requested by the administration since the LWCF funding requests a total more than \$15 million.

*Private Sector Support for the National Trails System*

Public-spirited partnerships between private citizens and public agencies have been a hallmark of the National Trails System since its inception. These partnerships create the enduring strength of the Trails System and the trail communities that sustain it by combining the local, grassroots energy and responsiveness of volunteers with the responsible continuity of public agencies. They also provide private financial support for public projects, often resulting in a greater than equal match of funds.

The private trail organizations’ commitment to the success of these trail-sustaining partnerships grows even as the Congress’s support for the trails has grown. In 2011, the trail organizations fostered 1,157,493 hours—an increase of 4 percent more than 2010—of documented volunteer labor valued at \$24,724,054 to help sustain the national scenic and historic trails. The organizations also raised private sector contributions of \$8,740,790 to benefit the trails.

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PREPARED STATEMENT OF THE PERFORMING ARTS ALLIANCE

We urge the subcommittee to designate a total of \$155 million to the National Endowment for the Arts (NEA) for fiscal year 2013. Mr. Chairman and distinguished members of the subcommittee, I am grateful for this opportunity to submit testimony on behalf of the Performing Arts Alliance (PAA) and its member organizations—American Composers Forum, Association of Performing Arts Presenters, Chorus America, Dance/USA, Fractured Atlas, League of American Orchestras, National Alliance for Musical Theatre, National Association of Latino Arts and Culture, National Performance Network, New Music USA, OPERA America, and Theatre Communications Group. The PAA is a national network of more than 27,000 organizational and individual members comprising the professional, nonprofit performing arts and presenting fields.

This testimony is intended to highlight the importance of the Federal investment in the arts in order to sustain a vibrant cultural community. With strong Federal support, the NEA can widen citizen access to the cultural, educational, and economic benefits of the arts, and advance creativity and innovation in communities across the United States.

The NEA increases opportunities for the American public to enjoy and benefit from the performing arts. Since the establishment of the NEA in 1965, access to the performing arts has improved in communities large and small across the country. The NEA has helped foster the development of the many regional theatres, opera companies, dance companies, orchestras, and performing arts centers that Americans now enjoy. Despite diminished resources, the NEA awarded more than 2,400 grants in fiscal year 2011 to nonprofit arts organizations for projects that encouraged artistic creativity, provided lifelong learning opportunities, and engaged audiences in the finest the arts have to offer.

The NEA contributes to the economic growth and development of communities nationwide. The arts are part of a diversified 21st century economy. Along with nonprofit arts organizations, creative enterprises make significant contributions to State

and local economies, generating employment and tax revenues and providing goods and services in high demand by the public. A strong arts sector is an economic asset that stimulates business activity, attracting companies that want to offer their employees and clients a creative climate and amenity-rich community.

#### THE NONPROFIT PERFORMING ARTS COMMUNITY

The following member profiles of the PAA, which include national service organizations representing composers, presenting, chorus, dance, musical theatre, Latino arts and culture, new music, opera, orchestras, and theatre fields, exemplify the economic, educational, and quality of life benefits that performing arts organizations bring to communities across the country.

#### AMERICAN COMPOSERS FORUM

American Composers Forum (Forum), one of the Nation's premier composer services organizations, works to make composers, and the music they create, a vibrant and integral part of our culture. Forum programs reflect the diversity of our world, and they partner with a variety of ensembles and organizations including faith communities, rural and urban schools, healthcare facilities, Indian reservations, and civic organizations. With more than 2,000 members nationwide, the organization serves thousands of artists annually through its online networks and social media.

#### ARTS PRESENTERS

Performing arts presenters bring professional performing artists from all over the world into the communities they serve and include organizations such as performing arts centers in major urban cities, academic institutions, festivals and fairs as well as the artists, artist managers, agents, and local arts agencies. The Association of Performing Arts Presenters (APAP) is the national service and advocacy organization with more than 1,400 members worldwide, dedicated to developing and supporting a robust performing arts presenting field and the professionals who work within it. APAP members bring performances to more than 2 million audience-goers each week and spend in excess of \$2.5 billion annually, and the field of presenters serves more than 6 million audience members every week. The membership includes a range of organizations from very small presenting groups (under \$50,000 budgets) to multi-million dollar budgets and individuals who are artists or performing arts professionals, representing a diversity of performing arts fields.

#### CHORUS

Chorus America's mission is to build a dynamic and inclusive choral community so that more people are transformed by the beauty and power of choral singing. Chorus America strengthens choral organizations and provides their leaders with information, research, leadership development, professional training, and advocacy to help them deliver the best possible contributions to their communities and to the choral art. The more than 2,000 choruses, individuals, businesses, and organizations that are members of Chorus America speak with a strong and unified voice to increase recognition of choral singing as an essential part of society.

#### DANCE

More than two-thirds of America's professional dance companies are less than 45 years old; as an established art form with national identity and presence, dance has burst onto the scene almost entirely within living memory. And yet, America can boast some of the greatest dance companies of the world and can take credit for birthing two indigenous dance styles—tap and modern dance. The key to this spectacular achievement was the creation of a national marketplace for dance, especially in the 1970s and 1980s. When the NEA instituted its Dance Touring Program in the 1970s, great dance became accessible to every community in the United States. NEA programs have continued to ensure that the best of American dance is for all of the United States and a showpiece for the rest of the world. Based on data from almost 300 nonprofit dance companies from across the United States, Dance/USA, the national service organization for not-for-profit professional dance, estimates that dance companies employed more than 12,800 people in a mix of full-time and part-time positions; paid approximately \$316 million in wages and benefits; earned \$178.9 million, or 30 percent of their income, from performances; received \$235.7 million, or 47 percent of their income in contributions; and generated more than \$585 million in economic activity across the United States.

## FRACTURED ATLAS

Fractured Atlas is a nonprofit organization that serves a national community of artists and arts organizations. Their programs and services facilitate the creation of art by offering vital support to the artists who produce it, and they help artists and arts organizations function more effectively as businesses by providing access to funding, healthcare, education, and more, all in a context that honors their individuality and spirit. Their fiscal sponsorship program has grown from 6 local groups to more than 2,200 nationally, and in 2011 their membership topped 16,000 artists and arts organizations, with an expanded audience of more than 140,000 through their Open Arts Network.

## MUSICAL THEATRE

National Alliance for Musical Theatre (NAMT) is the national service organization dedicated exclusively to musical theatre and serving some of the leading musical theatre producers in the world. Last season, NAMT members collectively staged more than 18,500 performances attended by more than 11.5 million people, employed more than 16,500 people, and provided education programs for more than 1 million students and teachers. NAMT has presented its Festival of New Musicals annually since 1989, bringing together theatre producers and writers, with the goal of furthering the development and production of new musicals. NAMT's Festival has showcased almost 500 writers and almost 300 new musicals.

## NATIONAL ASSOCIATION OF LATINO ARTS AND CULTURE

Founded in 1989, the National Association of Latino Arts and Culture (NALAC) is the Nation's only multidisciplinary Latino arts service organization. NALAC provides critical advocacy, funding, networking opportunities, and professional development training to build the capacity and sustainability of the Latino arts and cultural field to sustain artists and arts organizations in every region of the country. NALAC's constituency is a multi-ethnic, multigenerational, and interdisciplinary community that includes thousands of artists and hundreds of not-for-profit Latino arts and cultural organizations in the United States.

## NATIONAL PERFORMANCE NETWORK

The National Performance Network (NPN) is a group of diverse cultural organizers, including artists, working to create meaningful partnerships and to provide leadership that enables the practice and public experience of the contemporary arts in the United States. As a nationwide network, NPN functions as an applied learning community. NPN's resources currently support and connect 50–75 performing arts organizations, called NPN Partners. The NPN constituency ranges from the most grassroots operations to large regional arts centers. NPN Partners are ethnically, culturally, and stylistically diverse and reflect a cross-section of urban, suburban, and rural communities that are generally under-represented.

## NEW MUSIC USA

New Music USA's mission is to increase opportunities for composers, performers and audiences by fostering the creation, dissemination, and enjoyment of new American music, both nationally and internationally. New Music USA places special emphasis on broadening the public community for the music and musicians whom we serve.

## OPERA

OPERA America members are found in communities all across the country—a total of 122 companies in 43 States. In the United States, more than one-half of these companies were established after 1970, and more than 40 percent were established since 1980, indicating the growth of opera throughout North America in the last 40 years. More than 6.7 million people attended a live performance at one of OPERA America's Professional Company Members in the 2009–2010 season, including education and outreach programs, and festivals. In 2009–2010, OPERA America's Professional Company Members in North America presented 1,298 mainstage, festival, educational, and other programs. Beyond the opera house, opera companies are finding new and exciting ways to bring the essence of opera to other local theaters and community centers, frequently with new and innovative works that reflect the diverse cultures of the cities they serve. Strong partnerships with local schools, too, extend the civic reach of opera companies as they introduce children to another multi-media art form and discover promising young talent.

## ORCHESTRAS

Supported by a network of musicians, volunteers, administrators, and community leaders, America's symphony, chamber, collegiate, and youth orchestras total more than 1,800, existing in every State and territory, with annual budgets ranging from less than \$10,000 to more than \$90 million. More than half a million individuals are involved in orchestras, including conductors, staff, board members, musicians, and volunteers. Orchestra revenue totaled \$1.69 billion in 2008–2009, and their economic impact exceeds several times that amount as orchestras create jobs, engage in commerce with local businesses, and spur local expenditures on related goods and services. NEA grants to orchestras and the communities they serve support arts education for children and adults, expand public access to performances, preserve great classical works, and foster the creative endeavors of contemporary classical musicians, composers, and conductors. Orchestras now offer nearly 13,000 education concerts, more than 1,000 community engagement concerts, and more than 40 kinds of programs, including pre-school programs; in-depth, multi-year community residencies; and long-term partnerships with schools, instrumental instruction, educational classes for seniors, and programs in libraries and hospitals.

## THEATRE

In 1961, nonprofit theatre in America consisted of only 16 theatre companies. Today, thanks in large measure to the pivotal role played by the NEA since 1965, the nonprofit theatre field consists of more than an estimated 1,800 theatres located in major metropolitan centers, urban neighborhoods, suburbs, and rural communities. Theatre Communications Group (TCG), the national organization for the American nonprofit theatre, reports that the estimated 1,807 nonprofit professional theatres in the United States employ more than 119,800 theatre workers—actors, directors, playwrights, designers, administrators, and technicians—and constitute a nearly \$1.9 billion industry. Collectively, these theatres are estimated to have offered 163,000 performances that attracted 31 million patrons. Based on recent surveys of 171 nonprofit theatres, TCG reports that more than 1,100 outreach and educational programs are in existence today, serving more than 2.5 million people. The direct impact of a theatre receiving funding from the NEA comes not only in the form of project grants, but also in the multiplier effect that NEA grants, through its matching funds requirement, have on theatres' abilities to leverage and attract other private and public funding.

## CONCLUSION

Performing arts organizations are a vital component of community life, allowing citizens to appreciate our Nation's culture and heritage through excellent artistic programming. The NEA is an investment that realizes significant returns on the Federal dollars invested, both measurable and intangible. We urge you to designate no less than \$155 million to the NEA. Thank you for your consideration of our request.

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 PREPARED STATEMENT OF THE PENNSYLVANIA FISH & BOAT COMMISSION
*Introduction*

The Pennsylvania Fish and Boat Commission (PFBC) is submitting the following statement supporting two complementary programs:

- the State and Tribal Wildlife Grant (SWG); and
- Aquatic Nuisance Species (ANS) Plan funding.

The SWG Program is directed at protecting and recovering native species of greatest conservation need, whereas the Aquatic Nuisance Species (ANS) Plan funding helps to prevent and reduce aquatic nuisance species which pose a serious threat to native flora and fauna.

*State and Tribal Wildlife Grants Program*

The Pennsylvania Fish and Boat Commission (PFBC) respectfully urges your consideration for continued support of the State and Tribal Wildlife Grants (SWG) Program for fiscal year 2013. This appropriation to Pennsylvania and other States is crucial for slowing and reversing the decline of imperiled species. In the past decade, the SWG Program has become an integral component in the Commonwealth's wildlife conservation efforts and crucial to implementation of federally required State Wildlife Action Plan. State Wildlife Grants are matched with non-Federal funds from a variety of State and nongovernmental partners, thus allowing even greater work to be conducted. With increasing financial stresses on States and their



partners, maintaining the Federal/non-Federal match rate of 65:35 is an important aspect of the program.

The Congress has had the exceptional foresight to recognize that endangered species prevention provides fundamentally efficient use of taxpayer dollars, and early intervention is the most-effective approach. As a Federal cooperative effort with the States and tribal entities, State Wildlife Grants provide preventative care of natural resources. This is the core program for preventing the listing of endangered species and for the recovery of declining fish and wildlife. In Pennsylvania, the Fish and Boat Commission, through SWG-funded projects, has gained incredibly valuable information about the distribution and abundance of species, for which we previously had minimal data. Consequently, we have been able to delist 10 species from the State threatened and endangered species list because we found the populations of these species to be sufficiently abundant to preclude listing as threatened or endangered. These new data have also highlighted low abundances of other species toward which we can further expect to direct additional efforts to help recover their populations to help avoid Federal listing.

Additionally, the SWG Program has allowed the Commission and our partners to implement proactive projects that have benefitted several of the Commonwealth's most vulnerable species and habitats. Direct habitat restoration, exemplified by the Commission's nationally renowned fish passage program, has resulted in the removal of more than 170 small dams since 2004. This habitat restoration improves water quality and opens critical habitat for numerous species of greatest conservation need. Further, through our environmental review process, funded by SWG, we are able to make prudent and appropriate decisions that protect species and their habitats while advancing societal needs. Increasing pressures from a variety of stressors and threats make the value of this program an essential part of species protection.

State Wildlife Grants funds are vital for statewide efforts to monitor and manage at-risk species populations, manage and restore their critical habitats, and prevent further species decline. The projects supported by State Wildlife Grants have improved public safety, served private landowners, supported small business contractors, and provided targeted management attention in every congressional district of the Commonwealth. This proactive and nonregulatory program, that ensures cost-effective matching funds, provides a large return on a relatively small Federal investment.

#### *Aquatic Nuisance Species Plans*

We also respectfully urge your consideration for continued support of funding for implementation of State Aquatic Nuisance Species (ANS) Plans. ANS in Pennsylvania are of ever-increasing concern to Pennsylvania's \$3.4 million fishing and boating industry that supports nearly 18,000 jobs and generates \$120 million in annual State and local tax revenues. A few examples with economic and ecological impacts, that have either been recorded in Pennsylvania, or are a potential threat include; the fish virus viral hemorrhagic septicemia (VHS), zebra and quagga mussels, the algal didymo, and fishes such as the round goby, Eurasian ruffe and Asian carp—Pennsylvania Sea Grant Aquatic Invasive Species: <http://seagrant.psu.edu/publications/ais.htm>.

Yet, despite the negative economic and ecological impacts posed by these diverse ANS, State funding is inadequate, and most of Pennsylvania's Federal funding to address this problem is received through the Great Lakes Restoration Initiative (GLRI), which is focused on critical needs associated with the Lake Erie area. The ANS Plan funding is the primary Federal funding available for use statewide, without geographic restriction.

In Pennsylvania, the ANS Plan funds support Pennsylvania Sea Grant initiatives to work with watershed associations, angling groups, boating organizations, diving groups, State agencies, and other interested parties to conduct programs and develop outreach materials to emphasize the steps that can be taken to prevent the spread of ANS. This outreach effort is emphasizing both the national Stop Aquatic Hitchhikers! campaign message and the Pennsylvania Clean Your Gear campaign message. It also supports Pennsylvania's participation in regional ANS coordination efforts like the Mid-Atlantic ANS Panel and the Great Lakes ANS Panel, because ANS movement is not limited by State boundaries.

ANS Plan funding has been used to support the aquatic nuisance (invasive) species workgroup of the Pennsylvania Invasive Species Council, help develop a model rapid response plan, conduct early detection and monitoring work for certain species, and develop an ANS prevention sign for boat ramps that is now used by multiple agencies across the Commonwealth.

Addressing ANS requires a diverse approach with prevention as the initial effort. Once established, aquatic nuisance species can wreak substantial negative ecological and economic impacts on native flora and fauna. Preventative action is crucial to avoiding the cost and ecological degradation that accompanies the establishment of these aquatic invaders. As part of this prevention effort, education and outreach provide the public, and all who may be impacted, with the information needed to prevent or slow ANS transmission. Pennsylvania Sea Grant has been a vital partner in providing this outreach. Special initiatives such as “clean your gear,” ANS fact sheets, presentations and other outreach efforts provide anglers and boaters with information that can help reduce the inadvertent spread of ANS among waterbodies. Early Detection and Monitoring can help reduce the establishment and spread of ANS by providing an opportunity to control and potentially eradicate an ANS before it is firmly established and broadly distributed. Research to help repress, and perhaps eliminate, ANS is another important facet in this effort to control these undesirable species. ANS often demonstrate dramatic growth in abundance and distribution after establishment, so measures to control and contain the invasion may reduce the resulting outcomes from their occurrence.

Without the continued State ANS Plan funding, State agencies and organizations will not have the necessary tools to leverage other monies and resources to continue to implement this important program which can have profound ecosystem, public health, and economic impacts. In addition to these significant concerns posed by expansion of aquatic nuisance species, aquatic nuisance species threaten Pennsylvania’s diverse native flora and fauna. This ANS plan funding is crucial to maintain our natural heritage for future generations.

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PREPARED STATEMENT OF PNM RESOURCES, INC.

I am requesting your support for fiscal year 2013 appropriations to the Fish and Wildlife Service (FWS) for the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program consistent with the President’s recommended budget. I request that the subcommittee:

- Appropriate \$706,300 in “Recovery” funds (Resource Management Appropriation; Ecological Services Activity; Endangered Species Subactivity; Recovery of Listed Species Program Element within the \$81,709,000 item entitled “Recovery”) to the U.S. Fish and Wildlife Service (FWS) to allow FWS to continue its essential participation in the Upper Colorado River Endangered Fish Recovery Program.
- Appropriate \$200,000 in FWS “Recovery” funds for the San Juan River Basin Recovery Implementation Program to meet expenses incurred by FWS’s Region 2 in managing the San Juan Program’s diverse recovery activities.
- Appropriate \$485,800 in operation and maintenance funds (Resource Management Appropriation; Fisheries and Aquatic Resource Conservation Activity; National Fish Hatchery Operations Subactivity; within the \$43,189,000 item entitled “National Fish Hatchery System Operations”) for endangered fish propagation and hatchery activities at the FWS’s Ouray National Fish Hatchery. Operation of this facility is integral to the Upper Colorado Recovery Program’s stocking program.

I request the subcommittee’s assistance in assuring fiscal year 2013 funding to allow the FWS to continue its financial and personnel participation in these two vitally important recovery programs. I recognize and appreciate that the past support and assistance of your subcommittee has greatly facilitated the success of these ongoing efforts.

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PREPARED STATEMENT OF PRESERVATION ACTION

REQUEST

\$46.925 million in appropriations (level funding) from the Historic Preservation Fund for State Historic Preservation Offices (SHPOs).

\$9.7 million in appropriations from the Historic Preservation Fund for Tribal Historic Preservation Offices (THPOs).

\$10 million in appropriations from the Historic Preservation Fund for a Historic Preservation Grant Program run through SHPO offices.

\$17.4 million in appropriations (level funding) from the Preservation and Recreation Account for National Heritage Areas.

FUNDING FOR THE HISTORIC PRESERVATION FUND AND FOR THE PRESERVATION AND RECREATION ACCOUNT—CORE SOURCES OF FUNDING FOR THE FEDERAL FUNCTIONS OUTLINED IN THE NATIONAL HISTORIC PRESERVATION ACT OF 1966

Thank you Chairman Reed, Ranking Member Murkowski, and members of the subcommittee for the opportunity to submit testimony. We would like to respectfully request \$66.2 million in appropriations for the Historic Preservation Fund (HPF). Recognizing our Nation's economic challenges, this number represents a funding level approximately 17 percent less than fiscal year 2010, and about 18 percent higher than the President's request—but still substantially less than 50 percent of the \$150 million authorized from the HPF each year. We would also like to request level funding for National Heritage Areas of \$17.4 million, paid for out of the Preservation and Recreation account.

Beginning with the HPF, we ask that this funding be allocated at \$46.925 million for State Historic Preservation Officers (SHPOs), which is level with fiscal year 2012 and equal to the President's request, \$9.7 million for Tribal Historic Preservation Offices (THPOs)—which is a slight increase of 10 percent, and \$10 million for a fully competitive historic preservation grant program administered by the SHPOs in consultation with the National Park Service. This would restore some degree of programmatic capabilities lost with the elimination of funding for Save America's Treasures and Preserve America in fiscal year 2011.

SHPOs carry out a substantial portion of our Federal historic preservation program that provides citizens the tools needed to revitalize, rehabilitate, and protect the places that give meaning to America. They also assure State and local input into the designation of the cultural resources that are important to them. Funding for SHPOs, leverages investments through local jobs, non-Federal contributions and long-term economic development. In 2011, the Rehabilitation Tax Credit, administered by SHPOs, leveraged more than \$4 billion in private investment and created more than 55,000 jobs. SHPOs, as required by the National Historic Preservation Act, also review Federal projects for their potential impact on historic sites. In 2011, 140,600 projects were reviewed. Another vital component administered by the SHPOs, the Certified Local Government Grant program, provided small grants and assistance to 1,800 communities throughout the Nation.

THPOs carry out many of the same functions as SHPOs, but on tribal lands. While the THPOs are exempt from matching requirements, over the life of this program, tribes overmatch the Federal funds by a factor of between 5 and 10 to 1. There are currently more than 130 THPOs, compared to only 12 in fiscal year 1996 when the program was first funded. Unfortunately, the amount of funding annually appropriated to the THPO program has not kept pace with this expansion. It is important to keep in mind that this expansion is the result of the recognition of tribes, not from out of control growth of a program. Thus, the addition of new THPOs each year without additional funding actually means substantial budget cuts for the tribes recognized by the program. With the growing popularity of outdoor recreation, tourism and amateur treasure-hunting, under-funding this program jeopardizes the irreplaceable cultural artifacts from thousands of years of civilization.

We also respectfully request \$10 million for the establishment of a fully competitive historic preservation grant program administered by SHPOs. Recognizing the difficult economic times we are in, and our country's need to better leverage our existing programs, this request represents only one-third of the total previously funded through the Save America's Treasures and Preserve America programs. In fiscal year 2011, funding for the Save America's Treasures and Preserve America programs—collectively representing slightly more than \$30 million was completely eliminated, leaving no dedicated Federal funding stream solely for the purpose of restoring, rehabilitating and surveying historic places of national importance. The justification for this, as published in the Interior Budget in Brief document last year, was so that the National Park Service could “focus available resources on managing national parks and other primary responsibilities.” We take great exception to this observation.

The Organic Act of 1916 created the National Park Service in the Department of the Interior “. . . to conserve the scenery and the natural and historic objects and the wild life therein . . .” Since 1933, the NPS has managed the Historical American Buildings Survey, the Federal Government's oldest historic preservation program responsible for the creation of more than 556,900 measured drawings, large-format photographs, and written histories for more than 38,600 historic structures and sites. The National Historic Preservation Act of 1966, which forms the basis of our Nation's Federal historic preservation program within the Department of the Interior, further expanded the role of the NPS in the designation and maintenance of historic resources. Coupled with the fact that the NPS is the steward of more

than 27,000 significant structures, 66,000 archaeological sites and 115 million objects in museum collections, one could argue that not only is historic preservation a core part of the mission of the NPS, it helps define it.

We would be happy to work with a broad group of legislators, preservationists, agencies and organizations to define the program to meet strict performance metrics—assuring a sensible and balanced program for restoring and sustaining our places of national significance and a good return on investment.

We are also seeking level funding (\$17.4 million) for National Heritage Areas, paid for out of the National Recreation and Preservation Account. National Heritage Areas, of which there are 49, have been individually designated by the Congress because their natural, cultural, historic, and scenic resources are considered uniquely representative of the American experience. While the National Park Service provides technical assistance and funding, 85 percent of the support for National Heritage Areas comes from the impacted regions through private, State, and local government sources. The Federal seed monies provided have spurred grassroots conservation efforts that are self-determining, self-defined and thereby reflective of their individual values in a national context.

Recognizing concern about the sustainability of Heritage Areas, recently, legislation has been introduced, which Preservation Action supports, that would formally define the program and establish performance metrics, and paths to self-sufficiency—so that we can get the best return on our national investment. The administration's proposed 50-percent reduction in funding for National Heritage Areas, so that they can focus resources on park operations and other critical partnership programs is disingenuous. In past attempts to cut this funding, Interior and the NPS have cited the lack of the program legislation that is now on the table—when they know full well of its existence—because they helped to draft it. Cutting funding by 50 percent because the legislation does not exist yet is counterproductive—unfairly harming the very program they are attempting to better define. Given the economic value of Heritage Areas, the number of jobs they produce (estimated at 152,324, paying \$3.2 billion in wages), and their ability to tie together history, place, tourism and environment—we believe they are a good investment and support small business.

#### THE NATIONAL PARK SERVICE IS MORE THAN JUST PARKS

Preservation and conservation are intertwined. In implementing the National Historic Preservation Act, there was recognition of this fact by placing the primary responsibility for both federally owned and non-federally owned resources of national significance within the Department of the Interior, who subsequently assigned responsibilities to the National Park Service. Yet there seems to be an ongoing tension between natural resources or “parks” and their broader responsibilities for nonpark based “partnership programs.” In the administration's budget, we see continued level funding for SHPOs and THPOs, no funding replacing the \$30 million in project grants eliminated by not funding Save America's Treasures and Preserve America, a 50-percent cut to National Heritage Areas, a \$1.4 million reduction in cultural resource stewardship, and reduced funding for construction and major maintenance (in the face of an enormous maintenance backlog and the fact that only 58.5 percent of our historic structures are considered to be in good condition). At the same time there is \$215 million proposed for natural resource stewardship programs (twice the amount of cultural), and a proposed increase of \$104 million to the Land and Water Conservation Fund—used primarily for land acquisition. We should be prepared to increase our investment in preserving the very assets we already own as well as new ones.

Based upon several years of similar trends, this past year, Preservation Action convened a Task Force consisting of eleven national historic preservation organizations, examined this problem, and published a series of findings and recommendations in a report called “Aligned for Success, Recommendations to Increase the Effectiveness of the Federal Historic Preservation Program.” Among the Task Force's findings are that the current structure of the Federal historic preservation program does not “provide for the levels of leadership, public and private partnerships, advocacy, innovation and visibility required to realize the transformative vision for historic preservation set forth in the 1966 Act.” The Task Force also found that there exists a competition for resources between park-based and nonpark-based cultural resources—a finding directly related to the funding choices made by the National Park Service.

To correct the problem, the Task Force recognizes that visibility for the historic preservation program is key so that it can get the resources needed to fully realize the vision of the National Historic Preservation Act. These no-nonsense solutions

don't require tremendous a lot of funding—attempting to maximize return on investment, and better positioning existing resources:

- Realign the responsibilities for Preservation Partnership Programs within the National Park Service under a Deputy Director for Historic Preservation and Heritage who reports to the Director of the National Park Service.
- Designate a Senior Policy Officer for Historic Preservation and Heritage in the Department of Interior as a Special Advisor for Heritage to the Secretary of the Interior.
- Make the Advisory Council on Historic Preservation Chairman a full-time position.
- Designate a senior staff position for historic and cultural resources on the President's Council on Environmental Quality (CEQ).

We would welcome the opportunity to work with members of this Committee to find a way to facilitate these changes, and to provide encouragement or instruction to the National Park Service and the Department of the Interior to make them happen. The result would be a more-effective program, and one better able to sustain itself while at the same time focusing on our national heritage.

Our Nation's cultural resources and natural resources are both important. We believe that they should not be an either-or proposition. Further, during this time of economic challenge, and widespread discussion on investments in infrastructure, we respectfully ask that you consider investment in our cultural resources, the preservation of our heritage, and the jobs that go along with historic preservation as a vital part of the solution.

Preservation Action is a nonprofit grassroots advocacy organization founded in 1974. Our membership is made up organizations and individuals throughout the United States who share an ongoing interest and concern in our Nation's Federal historic preservation programs.

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PREPARED STATEMENT OF THE PUYALLUP TRIBE OF INDIANS

Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide testimony on the fiscal year 2013 appropriations for American Indian and Alaskan Native programs. My name is David Z. Bean, Tribal Council Member for the Puyallup Tribe of Indians. The Puyallup Tribe is an independent sovereign nation having historically negotiated with several foreign nations including the United States in the Medicine Creek Treaty of 1854. This relationship is rooted in Article I, Section 8, of the United States Constitution, Federal laws and numerous Executive orders. The governing body of the Puyallup Tribe of Indians is the Puyallup Tribal Council which upholds the tribe's sovereign responsibility of self-determination and self-governance for the benefit of the 4,416 Puyallup tribal members and the 25,000 plus members from approximately 355 federally recognized tribes who utilize our services. The Puyallup Reservation is located in the urbanized Seattle-Tacoma area of the State of Washington. The 18,061-acre reservation is a "checkerboard" of tribal lands, Indian-owned fee land and non-Indian owned fee land. Our reservation land includes parts of six different municipalities:

- Edgewood;
- Federal Way;
- Fife;
- Milton;
- Puyallup; and
- Tacoma.

The following written testimony being submitted to the U.S. Senate Appropriations Interior, Environment, and Related Agencies Subcommittee documents the Puyallup Tribe's views on the President's fiscal year 2013 Federal budget. On February 13, 2012, President Obama delivered his fiscal year 2013 budget to the Congress. The budget proposal focuses on job creation and the beginning steps to reducing the Nation's projected deficits. Within the budget, \$2.5 billion is provided for the Operation of Indian Programs. This represents an overall increase of \$4.6 million from current levels. For the Indian Health Services (IHS), \$4.422 billion is provided, an increase of \$115.9 million more than the fiscal year 2012 enacted level. We appreciate the increased funding provided for the operation of Indian programs within the Bureau of Indian Affairs (BIA) and IHS. However, the years of inadequate funding and the effects of inflation has impacted the tribe's ability to fully exercise self-determination and self-governance. As negotiations proceed on the fiscal year 2013 budget and future appropriations, efforts to insure adequate funding is provided for the operation of Indian programs will be paramount. To preserve the increased funding levels realized in recent years and contained in the proposed fiscal year

2013 budget for BIA and IHS, the increases should be viewed by the Congress and the administration as new “base funding” amounts with annual increases to meet actual need. Specific issues and needs are:

*Department of the Interior—Bureau of Indian Affairs*

*Public Safety and Justice.*—The fiscal year 2013 budget request includes \$353.8 million for BIA Public Safety and Justice. This represents a \$8.4 million increase more than the fiscal year 2012 enacted level which is fully supported by the Puyallup Tribe. The \$88.1 million for tribal and BIA detention and corrections funding is of great importance to the Puyallup Tribe. Within this amount, \$6.3 million increase is directed to fund operations and O&M costs at newly constructed facilities. While this increase is supported by the Puyallup Tribe, it is of concern that current and ARRA funded facilities will remain understaffed. It is estimated that 373 positions are needed to fully staff existing direct service facilities and Public Law 93–638 contracted facilities. The Department of Justice funded 13 tribes for the construction and/or expansion of detention facilities. According to the BIA Greenbook, five new or expanded facilities will become operational by the end of fiscal year 2013. It is estimated that 186 additional staff will be needed to operate these facilities. In fiscal year 2009, the Puyallup Tribe received a Department of Justice ARRA grant, in the amount of \$7.9 million to construct a 43 bed adult corrections facility. The tribe has mobilized the Project Team, addressed all Special Conditions of the Grant Award, completed facility environmental documentation, design and established a Groundbreaking Ceremony for spring/summer 2012. The Project will be completed and be coming online by the end of the third quarter of fiscal year 2013. Over the past 2 years the Puyallup Tribe has been working closely with the BIA—Office of Justice Services National and Regional staff on identifying the future operating and staffing costs associated with the Puyallup Tribe’s new adult corrections facility. The Puyallup Tribe has submitted a Public Law 93–638 contract request to the BIA for Operations and Maintenance funding for the new facility, including Pre-Award, Start-up, Transitional funding, Staffing and O&M funding. We are requesting support from the subcommittee on our contract request to the BIA for the O&M funding for the Tribe’s Adult Corrections facility, estimated at \$3.1 million annually. Further, the Puyallup Tribe requests the subcommittee support to increase funding for BIA Detention/Corrections by \$32.2 million to reflect actual funding need. In addition, we have submitted a Public Law 93–638 contract request to the BIA for tribal court funding, including pre-award and start-up funding. In fiscal year 2012, the BIA was able to fund only one-third of actual need of pre-award and start-up funding requests. We are requesting support from the subcommittee on our contract request for tribal court funding and to fund pre-award and start-up funding at 100 percent level of need, approximately an increase of three times the fiscal year 2012 base funding.

*Natural Resources Management.*—The Puyallup Tribe as stewards for land and marine waters in the Usual and Accustomed fish, shellfish and wildlife areas has treaty and governmental obligations and responsibilities to manage natural resources for uses beneficial to the tribal membership and the regional communities. Despite our diligent program efforts, the fisheries resource is degrading and economic losses are incurred by Native and Non-native fishermen and surrounding communities. Our resource management responsibilities cover thousands of square miles in the Puget Sound region of the State of Washington with an obligation to manage production of anadromous, non-anadromous fish, shellfish and wildlife resources. Existing levels of support are inadequate to reverse the trend of resource/habitat degradation. For fiscal year 2013, \$8.660 million is provided for BIA Western Washington Fisheries Management, a small increase more than the fiscal year 2012 enacted level of \$8.257. The Puyallup Tribe agrees with the Northwest Indian Fisheries Commission (NWIFC) request of \$17.146 million for Western Washington Fisheries Management. The \$8.486 million increase in funding would provide new monies for shellfish, groundfish, enforcement, habitat, wildlife and other natural resource management needs. As the aboriginal owners and guardians of our lands and waters it is essential that adequate funding is provided to allow tribes to carry out our inherent stewardship of these resources. The Puyallup Tribe will continue to secure increased funding for Hatchery Operations and Maintenance. The President’s fiscal year 2013 budget contains \$4.838 million for tribal hatcheries, compared to the fiscal year 2012 budget request of \$5.452 million. The Puyallup Tribe supports the NWIFC recommendation to fund the Fish Hatchery Maintenance at \$5.452 million, an increase of \$614,000 more than the President’s fiscal year 2013 request. The Timber, Fish and Wildlife (TFW) Supplemental and U.S./Canada Pacific Salmon Treaty programs has allowed for the expansion of tribal participation in the State forest practice rules and regulations and participation in inter-tribal organizations

to address specific treaties and legal cases which relate to multi-national fishing rights, harvest allocations, and resource management practices. We request subcommittee support to provide funding for the TFW at the President's request of \$2.777 million and U.S./Canada Pacific Salmon Treaty program at \$4.8 million, an increase of \$436,000 more than the President's request of \$4.364 million. The Puyallup Wildlife Management program has been the lead agency in management activities to benefit the South Rainier elk herd since 2004. The South Rainier elk herd is the primary stock of elk harvested by the Puyallup Tribe. The tribe has not only established more reliable methods for population monitoring, but has also been proactive in initiating habitat enhancement projects, research and land acquisition to ensure sustainable populations of elk for future generations. Funds that are available to the tribe have been on a very competitive basis with a limited amount per program via USFWS Tribal Wildlife grants and the BIA Unresolved Hunting and Fishing Rights grant program. We request subcommittee support to provide base funding to the Tribes Wildlife Management Program in the amount of \$100,000 through the BIA Unresolved Hunting and Fishing Rights program in fiscal year 2013 appropriations.

*Education.*—The fiscal year 2013 budget requests funding of \$795 million for the Education program, a decrease of \$3.8 million from current levels. We operate the pre-K to 12 Chief Leschi Schools which included a verified 2008–2009 School student enrollment of 910 plus students, including ECEAP and FACE programs. With an increasing number of pre-kindergarten enrollment, Chief Leschi Schools will exceed design capacity in the near future. Additional education facility space will be required. Additional, the cost of operation and maintenance of the Chief Leschi School facilities continues to increase in the areas of supplies, energy and student transportation costs. The tribe will work with the Congress and the BIE to increase funding in fiscal year 2012, including:

- Tribal Grant Support Cost for Tribally Operated Schools—\$72.3 million; Student Transportation—\$73 million;
- School Facilities Accounts—\$109.8 million in facilities operations and \$76 million in facilities maintenance; and
- Indian School Equalization Formula—\$431 million.

*Operations of Indian Programs and Tribal Priority Allocations.*—The President's fiscal year 2013 budget is in drastic need for increased funding for the BIA Operations of Indian Programs. Within the Operations of Indian Programs is the Tribal Priority Allocations (TPA). The TPA budget functions include the majority of funding used to support ongoing services at the "local tribal" level, including; natural resources management, child welfare, other education, housing, and other tribal government services. These functions have not received adequate and consistent funding to allow tribes the resources to fully exercise self-determination and self-governance. Further, the small increases TPA has received over the past few years has not been adequate to keep pace with inflation. The Puyallup Tribe is requesting support from the subcommittee to fund the Operation of Indian Programs at the fiscal year 2013 request of \$2.5 billion and Tribal Priority Allocations at a minimum of \$897,436 million, an increase of \$6,366 million of the fiscal year 2012 enacted level. We further request support from the subcommittee to increase funding for Indian Child Welfare (TPA) by \$45 million; increase Urban Indian Child Welfare programs by \$15 million; and increase BIA Child Welfare Assistance by \$55 million.

*Department of Health and Human Services—Indian Health Service*

The Inadequate funding of IHS is the most substantial impediment to the current Indian Health system. The Puyallup Tribe has been operating healthcare programs since 1976 through the Indian Self-determination Act, Public Law 93–638. The Puyallup Tribal Health Authority (PTHA) operates a comprehensive ambulatory care program to the Native American population in Pierce County, Washington. The current patient load exceeds 9,000, of which approximately 1,700 are tribal members. There are no IHS hospitals in the Portland area so all specialties and hospital care have been paid for out of our contract care allocation. The Contract Care allocation to PTHA has been significantly inadequate to meet the actual need since fiscal year 2004 when the Puyallup Tribe subsidized Contract Health with a \$2.8 million contribution. By fiscal year 2012 the tribal subsidy had reached a staggering \$6 million. Given that the PTHA service population is only comprised of 17 percent Puyallup tribal members, tribal budget priorities in fiscal year 2011 and 2012 has made continued subsidies to the PTHA financially difficult for the Puyallup Tribe. The fiscal year 2013 budget requests \$5.5 billion in discretionary budget authority for IHS. This represents a \$115.9 million increase more than the fiscal year 2012 enacted level. For Health Services programs the fiscal year 2013 budget request is \$3.978 million, an increase of \$112 million more than the fiscal year 2012 enacted level.

Included within the increases are funding for Contract Support Costs (\$476.4 million), Contract Health Services (\$897.5 million), and Alcohol and Substance Abuse funding (\$195 million). The Puyallup Tribe fully supports funding increases for existing IHS programs and will work the Congress to continue efforts to increase funding for IHS and the critical programs administered by this Agency.

PREPARED STATEMENT OF THE QUINAULT INDIAN NATION

“The Great Spirit bestowed life to all of us . . . including the animals, birds, fish, insects, and plants. Our collective Native warnings and predictions were ignored in the rush to capitalize and exploit the bountiful resources of the land. Countless irreplaceable species are preserved now in museums or documents in textbooks. As the consequences of unmanaged exploitation and pollution reach irreversible proportions, the United States heeded our centuries old appeals for environmental protection. We only hope it’s not too late and that Mother Nature’s wounds can still be healed. We will continue to serve as the environmental conscience to the Nation and the world.”—Joseph B. DeLaCruz, President, Quinault Indian Nation, 1972–1993

In the spirit of these profound words of our former President, I am honored to appear before this Committee on behalf of the Quinault Indian Nation and provide testimony on our priority requests and recommendations on the fiscal year 2013 budgets for the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS).

*Tribal Specific Priority Requests*

\$8.714 million a Year for Blueback Restoration (for 2013–2020)—BIA.

\$4.64 million for Substance Abuse and Comprehensive Drug Strategy Plan—BIA and IHS.

\$2.21 million for the McBride Road Maintenance and Emergency Reservation Exit—BIA.

*Support Local/Regional Requests and Recommendations*

Affiliated Tribes of Northwest Indians.

Northwest Portland Area Indian Health Board.

Northwest Indian Fisheries Commission.

*Support National and Self-Governance Budget Priorities*

*Bureau of Indian Affairs*

Increase of \$8.8 million to fully fund Contract Support Costs (CSC).

Increase of \$13.7 million to fully fund Fixed Costs/Pay Costs.

Increase of \$89 million for Tribal Priority Allocations.

Fully fund all provisions of the Tribal Law & Order Act of 2010.

Office of Self-Governance—Request not to consolidate in other division within Indian Affairs.

*Indian Health Service*

Increase of \$99.4 million to fully fund Contract Support Costs (CSC).

Increase of \$200 million for Contract Health Services (CHS).

Increase of \$40 million for alcohol and substance abuse programs

Increase of \$304 million for Mandatory Costs to maintain current services

Office of Tribal Self-Governance (OTSG)—Increase \$5 million to the IHS OTSG

JUSTIFICATION FOR TRIBAL SPECIFIC REQUESTS

*\$8.714 Million Annually for Blueback Restoration (Annually From 2013–2020 = \$61 Million)*

The Blueback Restoration Program is designed to halt the current habitat loss and deterioration and to repair and restore natural habitat forming processes and sockeye production on the Quinault floodplain. Conditions that will result from implementation of this program will benefit other salmon stocks in the system and will serve to protect private property and public infrastructure. The program plan calls for formation of public and private coalitions and partnerships to implement restoration actions.

The Quinault River Blueback (Sockeye Salmon) Restoration Program will help to restore the natural beauty and productivity of the Quinault River Basin to historic levels, thus making it a more attractive tourism destination. In addition, the program will provide local construction jobs during its implementation phase, and the restoration program will result in conditions that will improve and sustain commercial and sport fishing on the Quinault River. The program will also benefit local residents and businesses by reducing the likelihood of flooding and property loss



and increasing local economies both in the near and long-term future. Implementation of the restoration program will help avoid the burdensome and restrictive consequences of having the Quinault sockeye listed as threatened or endangered under provisions of the Endangered Species Act (ESA).

This unique and valuable stock of salmon is near collapse due mostly to degraded habitats in the upper Quinault River Basin and in Lake Quinault. This habitat loss has occurred over the past century due to historic timber harvesting, property development, and infrastructure construction. Natural processes on the floodplain began unraveling in the late 1800s and the deterioration is continuing in the present time.

This is a long-term project expected to take up to 20 years to complete structure placement and enhancement, including the engineering and material procurement, with full implementation occurring in the decades following as natural processes rebuild the habitat to historic conditions. Through successful efforts of this program, it will protect and restore the livelihoods of 100 commercial fishermen and 25 sport fishing guides in Grays Harbor and Jefferson Counties and the Quinault Indian Reservation.

The program will also contribute partial support for approximately 20 jobs in the fish processing industry in western Washington, thus improve the economic status of the families living in the communities within the Quinault Indian Reservation. The program will provide employment for 10–30 laborers and equipment operators in Grays Harbor and Jefferson counties during the construction phases of individual projects. This project will reverse adverse environmental impacts by restoring habitats and ecosystems of the Quinault River and Lake Quinault while at the same time stabilizing the river channel in efforts to protect infrastructure and property loss.

The construction phase of this plan was implemented in the fall of 2008 with the construction of 12 engineered log jams. With full funding as needed on an annual basis, the basic construction phase of this project is expected to be completed at the end of fiscal year 2020. Fertilization, data acquisition and monitoring will continue for many years.

#### *\$4.64 Million for Substance Abuse and Comprehensive Drug Strategy Plan*

The Quinault Indian Nation Substance Abuse and Comprehensive Drug Strategy Plan seeks to improve, integrate, and strengthen the overall health and services to protect the communities on the reservation from the significant risks related to drug production, sale, and use by targeting enforcement, outreach, prevention, stabilization, and harm reduction services to high risk-populations.

The Quinault Indian Nation is located along the southwest coast of Washington State. We are facing ever-escalating threats of drug trafficking, narcotic distribution, gang activity and weapons offenses—leading to devastating social, health and environmental consequences including damage to the pristine ecosystems. It is documented that for every 1 pound of methamphetamine that is produced, there are 6 pounds of hazardous waste materials created.

The regional topography renders us susceptible to drug smuggling and production. The Washington section of the U.S.-Canadian border is approximately 430 miles in length, a significant portion of which is vast, dense forest. The border has 13 official ports of entry (POEs), but the rest of the border is largely unpatrolled. Drug smugglers exploit the national parks and forests, as well as other forestlands and waterways adjacent to the border, to smuggle drugs into Washington. Similarly, the clandestine manufacturing of methamphetamine in this region is of epidemic proportions.

To combat this problem, the Quinault Indian Nation Tribal legislative body (the Business Committee) formed and funded the Quinault Nation Narcotics Enforcement Team (QNNET) in September, 2011. Reporting directly to the Attorney General of the Quinault Indian Nation, QNNET works to prevent and suppress narcotic trafficking and drug use through intensive investigations. QNNET also collaborates and communicates with other local law enforcement agencies, the Department of Justice, elected officials and the community at large. During the first quarter of fiscal year 2012, we have made 48 arrests with 100 percent convictions and confiscated heroin, meth, prescription drugs, weapons and explosives. Cases have been prosecuted in tribal, State, and Federal courts.

The General Accountability Office (GAO) is currently conducting a study that will focus on:

- the scope of border and security issues facing Indian country;
- what tribes are doing to combat the problems; and
- the challenges and successes in working with Federal partners.

The Quinault Indian Nation will make a perfect case study for the GAO undertaking and gain National visibility for the collective and multi-jurisdictional efforts of law enforcement and behavioral health agencies.

The Quinault Indian Nation's Substance Abuse component to the Comprehensive Drug Strategy Plan is part of a broader more comprehensive alcohol and drug strategy that recognizes the need to plan for the future. Quinault Indian Nation drug prevention and education programs are funded at 72 percent less than the national average per capita. To provide equivalent substance abuse prevention, treatment, and interdiction funding consistent with national levels, the Quinault Indian Nation must generate and budget \$4,640,000 annually through Federal and State grants combined with tribal investment into these critical and vital programs. The estimated distribution of this annual budget need is:

*Prevention.*—\$1.8 million annually;  
*Treatment.*—\$1.54 million annually; and  
*Interdiction.*—\$1.3 million annually.

The Nation has encouraged collaborative relationships among Government departments, health authorities, professionals, community members and families to create conditions that prevent drug use, treat drug users, educate the public, and hold offenders accountable and control access to supply while helping ensure safer communities.

Most importantly, we have actively sought the guidance and wisdom of our elders and with the participation of our youth, community, churches and school districts we have undertaken a multidisciplinary approach and strategy, emphasizing prevention, enforcement, treatment and aftercare. Unfortunately, the best plans prove valuable only when the funding is available to execute and implement the strategy. We have found that at every level and in every discipline, funding to support our strategy is appallingly inadequate. We stress the urgent need to reclaim our communities to protect our families, our elders and our next seven generations from this menacing and deteriorating drug on the Quinault Indian Nation Reservation.

*\$2.21 Million McBride Road Maintenance and Emergency Reservation Exit Route: BIA/Roads Maintenance Program*

The Quinault Reservation is located in Grays Harbor County in the village of Taholah, Washington; a rural isolated and economically deprived area. The village of Taholah lies in a tsunami danger zone. The site of the village is barely above sea level and experts have determined that the sea level is rising because of global warming patterns. For Taholah, tsunami is a health and safety risk factor that we must live with everyday. The Quinault Reservation is interlaced with thousands of miles of roads that are left over from large logging contracts that ended in about 1980. Most of these roads do not have the required right-of-way and do not receive funding for maintenance.

The village of Taholah is accessible via SR 109 that parallels the Pacific Ocean. The McBride Road, a single forest road, is the only escapement route available to the 1,000 community members of the Quinault Indian Nation living in the village of Taholah. Its state of disrepair necessitates that immediate action be taken to bring the road up to a Class B gravel road status to be used in cases of emergency. The cost for this project is \$876,500 to repair 10.75 miles and could be accomplished within a 3-month timeframe during dry weather conditions. The Project will create four new jobs in right-of-way acquisition and road engineering and will impact about 400 jobs of timber workers, fishermen, and fishing guides that rely on these roads for their livelihood.

Major portions of this route are at sea level. What is particularly important to understand is that the portions of this road above sea level are susceptible to mudslides. Three such mudslides have occurred in the past 5 years. In a single event, the road blocked access for 3 days. Medical needs for village people became an issue, while those in need of kidney dialysis were particularly affected. Some tribal members were able to evacuate the village by using another, longer alternate route. Still, this application is unsafe for use by the general public because the forest roads are not patrolled, well maintained, have limited signage and cell reception.

Thank you for allowing me to provide this testimony on behalf of the Quinault Indian Nation.

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PREPARED STATEMENT OF RESTORE AMERICA'S ESTUARIES

Restore America's Estuaries is a nonpartisan, nonprofit organization that has been working since 1995 to restore our Nation's greatest estuaries. Our mission is

to preserve the Nation's network of estuaries by protecting and restoring the lands and waters essential to the richness and diversity of coastal life. Restore America's Estuaries is a national alliance of 11 community-based organizations that protect and restore coastal and estuarine habitat. Our 11 member organizations include:

- American Littoral Society;
- Chesapeake Bay Foundation;
- Coalition to Restore Coastal Louisiana;
- Save the Sound—a program of the Connecticut Fund for the Environment;
- Conservation Law Foundation;
- Galveston Bay Foundation;
- North Carolina Coastal Federation;
- People For Puget Sound;
- Save The Bay—San Francisco;
- Save the Bay—Narragansett Bay; and
- Tampa Bay Watch.

Collectively, we have more than 250,000 members nationwide.

For fiscal year 2013, Restore America's Estuaries supports the following coastal programs and funding levels within the Department of the Interior and Environmental Protection Agency:

- Fish and Wildlife Service Coastal Program.*—\$14.87 million; and
- Environmental Protection Agency National Estuary Program.*—\$35 million.

#### FISH AND WILDLIFE SERVICE COASTAL PROGRAM

The Coastal Program is a voluntary, incentive-based program that provides technical and financial assistance to coastal communities and landowners to protect and restore fish and wildlife habitat on public and private lands. The Coastal Program works with other Federal, State, local, and nongovernmental partners and private landowners to deliver strategic habitat protection and restoration for the benefit of Federal trust species.

Support for the management and stewardship of our coastal ecosystems that bridge land and sea has never been more important due to the accelerating pace of environmental change now occurring. While environmental degradation of estuaries has continued in recent years, the Coastal Program has been a key program aimed at on-the-ground habitat restoration. Despite the program's relatively small cost—it is having a huge impact on-the-ground. A recent estimate by USFWS Coastal Program staff show that the program leverages \$8 non-Federal dollars for every Federal dollar spent—this makes the Coastal Program one of the most cost-effective habitat restoration programs within the U.S. Fish and Wildlife Service.

Restore America's Estuaries has enjoyed a collaborative relationship, with the Coastal Program for many years. The nature and scope of our partnership spans the national and local levels as we work with CP headquarters on long-term issues, and locally the program works with our member groups through Regional CP staff to conduct on-the-ground habitat restoration.

As an example of a true partnership, the Coastal Program recently worked with RAE member Save The Bay—San Francisco as well as the San Francisco Bay National Wildlife Refuge to restore salt marsh on Bair Island. This project is helping to provide critical habitat for a variety of species, including the endangered California clapper rail and the salt marsh harvest mouse, and a number of birds that traverse the area on their journey across the Pacific.

On the East Coast, the Coastal Program assisted RAE member Chesapeake Bay Foundation to choose and prepare a site to plant redhead grass near the Magothy River in Maryland. This is a good example of the invaluable technical assistance that the Coastal Program is able to provide to a nongovernmental organization, which can then better restore habitat for numerous migratory bird and interjurisdictional fish species.

In the Gulf, the Coastal Program worked side-by-side with RAE member Galveston Bay Foundation to construct geotextile tube offshore breakwaters on Snake Island Cove. This effort has led to the protection of 200 acres of estuarine marsh from erosion and the creation of a 65-acre calm shallow water area conducive to seagrass restoration.

The Coastal Program also is essential in efforts to restore fish passage of anadromous fish populations and restore riverine habitat. RAE member Conservation Law Foundation worked with the Coastal Program and other regional partners to support the removal of dams along the Penobscot River as well as install fishways to restore native Atlantic salmon.

Restore America's Estuaries urges your continued support and funding for USFWS Coastal Program. This program delivers habitat protection and restoration

in priority coastal areas on both public and private lands through partnerships with other Service programs, Federal agencies, State and local agencies, tribal governments and native corporations, nongovernmental organizations, universities, corporations, and private landowners.

Further, we believe that the Coastal Program's ability to work with coastal communities and landowners on both public and private lands has been key to the program's ability to deliver restoration of priority coastal habitats, including coral reefs, shorelines, marshes, wetlands, uplands, and rivers and streams.

#### USEPA NATIONAL ESTUARY PROGRAM

The National Estuary Program is a nonregulatory, network of voluntary community-based programs that safeguards the health of important coastal ecosystems across the country program. The program utilizes a consensus-building process to identify goals, objectives, and actions that reflect local environmental and economic priorities.

Currently there are 28 estuaries located along the Atlantic, Gulf, and Pacific coasts and in Puerto Rico that have been designated as estuaries of national significance. Each NEP focuses its work within a particular place or boundary called a study area which includes the estuary, and surrounding watershed.

Restore America's Estuaries urges your continued support of the NEP and ask that you continue to invest directly in the stewardship of our Nation's coasts by ensuring that the authorized amount of \$35 million be provided for the NEP for fiscal year 2013, and that of these funds each of the 28 NEPs in the field receive \$1 million.

#### CONCLUSION

Restore America's Estuaries greatly appreciates the support this subcommittee has provided for these important programs. These programs help to accomplish on-the-ground restoration work which results in major benefits:

*Jobs.*—Coastal habitat restoration creates more than 30 jobs for each \$1 million invested. That's more than twice as many jobs as the oil and gas sector and road constructions industries combined.

*Leverage.*—USFWS Coastal Program leverages non-Federal dollars at a ratio of 8 to 1. In a time of shrinking resources, these are rates of return we cannot afford to ignore and help to accomplish more on-the-ground conservation.

*Fish.*—Traditional fisheries management tools alone are inadequate. Fish need healthy and abundant habitat for sustainable commercial and recreational fisheries.

We appreciate your taking our requests into consideration as you move forward in the fiscal year 2013 appropriations process and look forward to working with you to ensure the health of our Nation's estuaries and coasts.

#### PREPARED STATEMENT OF THE SAC AND FOX NATION

Chairman Simpson and distinguished members of the subcommittee, my name is George L. Thurman, and I am the Principal Chief of the Sac and Fox Nation. I thank you for the opportunity to present the Sac and Fox Nation's testimony before this esteemed subcommittee. We appreciate your dedication to righting the wrongs our people suffered in the past and suffer in the present. Thank you for supporting the increases for Indian programs. We understand the fiscal constraints of the Country and together we can provide a future that has many opportunities for self-sufficiency through Self-Governance.

Sac and Fox Nation Tribal Specific Budget Requests:

—Add \$4.8 million to the Bureau of Indian Affairs Detentions/Corrections to fully fund the Sac and Fox Nation Juvenile Detention Center; and

—Direct the Assistant Secretary—Indian Affairs to continue the Federal corporate charter for Sac and Fox—support tribal economic development.

National Budget Requests:

Bureau of Indian Affairs:

*Contract Support Costs.*—Fully fund \$8.8 million increase included in President's request

*Fixed Costs/Pay Costs.*—Fully fund—Provide \$13.7 million increase

Fully fund all provisions of the Tribal Law and Order Act of 2010

Do not consolidate the Office of Self-Governance; must remain stand-alone

Indian Health Service:

*Contract Support Costs.*—\$99.4 million more than President's request

*Mandatory Costs.*—\$304 million increase to maintain current services  
*Indian Health Care Improvement Fund.*—\$45 million increase  
*Contract Health Costs.*—\$200 million increase  
*Alcohol and Substance Abuse.*—\$40 million increase  
*Office of Tribal Self-Governance.*—\$5 million increase  
 Support the Requests of the National Indian Health Board  
 Support the Requests of the National Congress of American Indians

*About the Sac and Fox Nation*

The Sac and Fox Nation is headquartered in Stroud, Oklahoma, and our tribal jurisdictional area covers Lincoln, Payne, and Pottawatomie Counties. Of the 4,000 enrolled tribal members, 2,600 live in Oklahoma. We are proud pay tribute to a Sac and Fox descendent and Great Native American, Jim Thorpe. One of the most revered Olympic athletes who have ever represented the United States; Mr. Thorpe won the pentathlon and decathlon in the 1912 Olympics.

*Tribal Specific Budget Requests—\$4.8 Million for Juvenile Detention Center*

The passage of the tribal Law and Order Act was applauded by the Sac and Fox Nation because we saw this as the opportunity for the Federal Government to finally fulfill the commitment to the Nation and fully fund our Juvenile Detention Center (JDC). In 1994, the Sac and Fox Nation Juvenile Detention Center (JDC) opened its doors after years of planning and construction made possible by funding from the Department of the Interior, Bureau of Indian Affairs. The JDC is the first juvenile facility designed for American Indians/Alaska Natives as well as the first juvenile facility developed under Public Law 100–472, the Self-Governance Demonstration Project. The JDC is a full service, 24-hour juvenile detention facility that provides basic detention services to all residents to insure their health, safety, and welfare and provides programs tailored to meet the specific needs of our clients. These programs include behavioral management, substance abuse, spiritual, cultural, self-esteem, arts and crafts, health and fitness, horticulture, nutrition, life skills, counseling, and educational programs. The 39 tribes included in the Southern Plains Region will support the JDC but due to underfunding and staffing shortages, the JDC cannot accommodate the detention needs of the regional tribes.

In recent appropriations testimony provided by Assistant Secretary Larry Echo Hawk, he requested \$6.5 million for Detention/Correction and an additional 18 FTEs. We take great exception to the this request inasmuch as the Department of the Interior/Bureau of Indian Affairs has never provided the full funding that was committed for the appropriation, planning and construction process of the JDC. The Sac and Fox Nation, due to the failure of the full funding commitment by Federal officials not being honored, has had to utilize funds that could have been used for other social services needs. The Sac and Fox Nation is committed to working with the Department of the Interior/Bureau of Indian Affairs officials in an effort to help them fulfill their financial commitment. With the promise of full funding realized, the JDC will be ready, willing and able to meet the needs of tribes who need our help in guiding their children toward a successful future while providing a culturally and spiritually sensitive environment.

In fiscal year 2004, the Office of the Inspector General issues the report, “Neither Safe nor Secure”—An Assessment of Indian Detention Facilities, citing the existence of serious safety, security, and maintenance deficiencies at detention centers throughout Indian Country. One of the primary recommendations was the need to identify and remedy staffing shortages whereby Indian Affairs responded that “current facilities still remain understaffed by a total of 373 positions (74 positions for Indian Affairs direct service programs and 299 positions for programs operated by tribes under Public Law 93–638 and Self-Governance compacts).<sup>1</sup> The Sac and Fox Nation is requesting that the Bureau of Indian Affairs recommit to funding for the JDC.

*Tribal Specific Request—Federal Corporate Charter*

Since Federal recognition as an organized tribe, the Sac and Fox people have fought to maintain the well-being of our people. The Sac and Fox have persevered to maintain our sovereignty through history and into the era of Self-Governance despite broken treaties and inadequacy of Federal funding.

Historically the people of the Sac and Fox Nation stood alongside many nations to seek and pave paths to new frontiers for all tribes in the United States. This is evident in our Supreme Court victory on May 17, 1993 against the State of Okla-

<sup>1</sup> Fiscal year 2013 U.S. Department of the Interior Budget Justifications—Green Book.

homa with regard to registering vehicles and issuing license plates for tribal members.

Then, once again, the Sac and Fox Nation forged new territory in the seeking of Federal Corporate Charter in accordance with the Indian Reorganization Act of 1934 and the Oklahoma Indian Welfare Act of 1936. In 1987 the Sac and Fox Nation moved this exercise of Self-Governance forward with the signing of a Federal Corporate Charter by, then Assistant Secretary of Indian Affairs, Ross Swimmer. The key purposes of our Charter are to advance the standard of living of the tribe through the development of tribal resources, the acquisition of new tribal land, the preservation of existing land holdings, the better utilization of lands, the development of a credit program for the tribe, and the furtherance of economic industrial development within the tribal jurisdiction.

In October 2007, after decades of attempting to place tracts of land into trust through the process administered by the Bureau of Indian Affairs, the Sac and Fox Nation placed 24 tracts of land into trust in accordance with our Federal Corporate Charter. Where trust applications had been disapproved in the past by the Bureau of Indian Affairs for reasons such as not having an easement despite the fact the Sac and Fox Nation owns the adjacent property, the Sac and Fox Nation placed these 24 tracts into trust in accordance with the Charter and Laws of the Sac and Fox Nation. On November 6, 2007, the Sac and Fox Nation issued notice of these actions to the Secretary of the Interior, the Southern Plains Regional Director of the Bureau of Indian Affairs, Oklahoma State agencies, and each respective County agency. The Sac and Fox Nation's peak of accomplishment was hit hard by opposition in a letter from the Bureau of Indian Affairs Southern Plains Region dated March 7, 2008 stating "it is a well-established legal precedent, that absent the Secretary's approval of such conveyance, trust status is not imposed." The Sac and Fox Nation holds firm that Secretarial approval was granted in the signing of the Federal Corporate Charter. We stand strong behind the foresight of the leaders of the Sac and Fox Nation that held close the vision of improving the quality of life for our people through the economic development provisions of the 1987 Federal Corporate Charter.

The insight of the leaders of the Sac and Fox Nation subsequent to those essential to the 1987 Federal Corporate Charter ignited the initiative to further extend the resources of the Sac and Fox Nation to improve the well-being of its people by the passing of a tribal resolution on May 13, 2008 petitioning the Secretary of the Interior to approve a second Federal Corporate Charter. Consultation with then Assistant Secretary of Indian Affairs, Carl Artman, at the 64th annual NCAI Convention and Trade Show held in Denver in November 2007 and in an audience granted during a trip to Muskogee, Oklahoma in the spring of 2008, led to the signing of a second Federal Corporate Charter on May 22, 2008. The significant intentions of the second Federal Corporate Charter were to advance the standard of living of the Nation, its citizens, other Indians, and other persons associated with the Nation, through the acquisition of new Indian land, the preservation and expansion of Indian land holdings, the development of natural resources, the better utilization of land, the development of credit programs for the acquisition, development, and improvement of lands and the reduction of fractionated heir ships. In addition the Nation could further explore economic and industrial development on Indian lands; promote economic self-sufficiency and political self-determination for Indian tribes and members of Indian tribes; encourage inter-tribal, regional, and international trade and business development in order to assist in increasing productivity, improving the standard of living of citizens of Indian tribes, and improving the economic self-sufficiency of the governing bodies of Indian tribes.

Although the Sac and Fox Nation has two Federal Corporate Charters approved and signed by two former Assistant Secretaries of Indian Affairs, opposition has arisen again. The 2008 Federal Corporate Charter signed by former Assistant Secretary Carl Artman waits to be scrutinized by the Solicitor's office of the Department of the Interior in advisement to the National Indian Gaming Commission. A letter received from the National Indian Gaming Commission dated February 17, 2012, states that "the Office of General Counsel will coordinate with the Department of the Interior, Office of the Solicitor on whether the Indian lands definition is permissible under IGRA and whether such lands are eligible for gaming under IGRA." While Interior review was neither solicited nor warranted, the historical resistance of the Office of the Secretary of the Interior is peaking over the shoulders of the National Indian Gaming Commission. The current Assistant Secretary of Indian Affairs, Larry Echo Hawk, has diverted questions regarding Interior's position with regard to our Federal Corporate Charters to standard bureaucratic statements such as "I cannot answer at this time as it is under review by the Office of Solicitor." Attempts to seek an audience with Assistant Secretary Echo Hawk are

weighed down with a discouraging screening process while the fate of the economy of the Sac and Fox Nation gets lost in redtape. Assistant Secretary Echo Hawk's written testimony to the Senate Committee on Indian Affairs on the President's fiscal year 2013 budget request for Indian Programs in the Department of the Interior states the Department of the Interior is seeking an increase for \$43.8 million in funding for the Strengthening Tribal Nations initiative yet the Department of the Interior does not support the Sac and Fox Nation's Federal Charters which require no increase in Federal funding and directly address the Bureau of Indian Affairs initiatives.

The Sac and Fox Nation is proud to say we are a Self-Governance Tribe. Thank you.

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PREPARED STATEMENT OF THE SANTA MONICA MOUNTAINS CONSERVANCY

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF.

The LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the LWCF request in fiscal year 2013, the National Park Service included \$2.441 million for the acquisition of land at Santa Monica Mountains National Recreation Area. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for LWCF for this important project.

Southern California is 1 of only 5 locations in the world that feature the Mediterranean biome (a geographically limited ecosystem). Characterized by mild, rainy winters and warm, dry summers, these ecoregions are moderated by the windward presence of cold ocean currents offshore. The landscapes in these areas are noted for the evergreen shrublands, called chaparral in California, which host very diverse, but spatially limited, ecosystems of flora and fauna. These Mediterranean biomes also present attractive climates for human habitation, leaving the ecosystems highly threatened by development. Protecting undeveloped lands in these fragile ecological areas has become especially urgent in the burgeoning Los Angeles metropolitan area.

The Santa Monica Mountains National Recreation Area was established in 1978 to protect land in the mountains northwest of the Los Angeles basin. In creating this park, the Congress noted the region's important scenic, recreational, and historic resources, as well as the public health benefits from protecting lands in the Santa Monica Mountains. In addition to National Park Service lands, a number of State-owned lands, including Point Mugu, Leo Carrillo, Malibu Creek, and Topanga State parks and several State beaches, are located within the boundaries of the national recreation area.

Available for acquisition in fiscal year 2013 is the 6.16-acre Ramirez Canyon property, which lies in the Zuma/Trancas Canyons area of the park. The Zuma and Trancas Canyons have been inhabited for more than 10,000 years. Ancestors of the Chumash Indians gathered food and found shelter in the canyons, which were later included in a Spanish land grant of 13,330 acres and became Rancho Topanga Malibu Sequit. Eventually the Pacific Coast Highway crossed the land, making its beauty accessible to travelers. Most of this land is now under National Park Service ownership, protecting its multitude of natural and historic resources, but a number of inholdings remain unprotected.

This tract is part of a larger property that benefits from the year-round flow of Ramirez Creek, providing important riparian habitat shaded by sycamore trees. The tract itself predominantly contains oak woodlands habitat, which was identified in

the California State Wildlife Action Plan as an underprotected ecological community type. Oak woodlands within the park support an array of wildlife, including native wildflowers, acorn woodpeckers, spotted towhees, valley quail, pocket gophers, gray foxes, mule deer, and perhaps even an occasional mountain lion. This land has been designated environmentally sensitive habitat under the California Coastal Act.

The property has important linkages with already protected lands, including an invaluable trailhead providing access from Kanan Dume Road to the National Park Service lands at Zuma/Trancas Canyons. The land has been subdivided into developable parcels, and a ready access road adds to the development potential of the property. This is a critical time for Santa Monica Mountains NRA to acquire the Ramirez Canyon property, as delay will only increase the likelihood of residential housing adding to habitat fragmentation and environmental degradation.

The National Park Service at Santa Monica has identified a number of additional properties for future acquisition, and it is important for the Park Service to continue the acquisition and protection of these ecologically, recreationally, and archaeologically important scenic lands. The fiscal year 2013 President's budget recommendation of \$2.441 million through the Land and Water Conservation Fund will permit the acquisition of Ramirez Canyon and other important lands in the Zuma/Trancas Canyons.

In closing, I urge you to provide funding for the Land and Water Conservation Fund of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for the Santa Monica Mountains NRA. I want to thank the Chairman and the members of the subcommittee for this opportunity to submit testimony on behalf of this nationally important protection effort in California, and I appreciate your consideration of this funding request.

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PREPARED STATEMENT OF THE SAWTOOTH SOCIETY

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF.

The LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the LWCF request in fiscal year 2013, the U.S. Forest Service (USFS) included an allocation of \$500,000 for the Salmon-Selway Initiative in Idaho's Sawtooth National Recreation Area. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for LWCF to finish this important project.

Located in central Idaho, the Salmon-Selway Ecosystem, totaling almost 4 million acres, is one of the largest and wildest habitats in the continental United States. A rugged complex of mountains, rivers, and forests, it includes the Selway-Bitterroot and the Frank Church-River of No Return wilderness areas, five national forests, numerous rivers, and the Sawtooth National Recreation Area. The area provides unique habitats critical for fish and wildlife including threatened and endangered species such as Chinook salmon, steelhead trout, bull trout, lynx, and gray wolves. Each year in late summer, salmon and steelhead trout return to the high reaches of the Salmon and Clearwater Rivers, traveling 900 miles and climbing 7,000 feet from the Pacific Ocean to the mountain tributaries of their birth—the highest salmon spawning grounds on Earth. An appropriation of \$500,000 from the LWCF in fiscal year 2013 will complete the work that was initiated in fiscal year 2012 for the protection of the Rodeo Grounds Ranch. This project is one of the largest remaining inholdings in the Sawtooth National Recreation Area and helps to conserve the traditional landscape and scenic character of the region, protect wildlife habitat, water quality, and ensure public access for recreation.



The 756,000-acre Sawtooth National Recreation Area (SNRA) comprises one of the largest and most magnificent national recreation areas in the United States. Four mountain ranges:

- the Sawtooths;
- Boulders;
- White Clouds; and
- Smokies

provide scenic landscapes in every direction, with more than 50 major peaks more than 10,000 feet, 300 lakes, and 250 miles of trails. There are more than 1,000 high mountain lakes and glacial tarns here, as well as the headwaters of four of Idaho's major rivers:

- the Salmon;
- South Fork of the Payette;
- the Boise; and
- the Big Wood.

More than 300 species of wildlife inhabit the forests, valleys, and rocky peaks of the Sawtooth National Recreation Area including gray wolves, mountain goat, pronghorn antelope, mule deer, elk, coyote, red fox, and black bear. Birding enthusiasts can encounter a wide range of species from Clark's nutcracker, junco and chickadees to the more elusive sandhill crane and bald and golden eagles. Furthermore, the SNRA's abundance of lakes and rivers play an important role in the protection and re-establishment of salmon populations to Idaho's waterways.

The Sawtooth NRA offers some of the finest and most renowned outdoor recreation in the world including fishing, white-water sports, hiking, backpacking, snowmobiling, mountain biking, and Nordic skiing. With 37 developed campgrounds, family camping attracts more recreationists to the Sawtooth National Recreation Area than any other single activity. The Sawtooth NRA is heaven for those looking for scenic drives with three National Scenic Byways—the Sawtooth, Salmon River, and Ponderosa Pine scenic byways—converging in Stanley, Idaho, the largest settlement in the Sawtooth NRA.

With a proud ranching tradition stretching back for over a century, traditional land uses have long been interwoven with the public values here, and stewardship of these natural and recreational assets has been outstanding. To protect the historic uses and compatible public recreation values of this remarkable landscape, USFS has utilized LWCF appropriations dating back to 1972 to acquire conservation easements that protect some 17,000 acres of private land within the national recreation area.

Available for acquisition at the Sawtooth NRA in fiscal year 2013 is a conservation easement on the 157-acre Rodeo Grounds Ranch. Located just 5 miles from the historic town of Stanley, the property is a well-known and prominent component of the viewshed along Idaho Route 21—the Ponderosa Pine Scenic Byway—that connects the Sawtooth NRA to Boise. With substantial frontage on Valley Creek, a major Salmon River tributary, the ranch provides habitat for all four fish species listed as threatened or endangered in the Sawtooth NRA:

- Chinook salmon;
- sockeye salmon;
- bull trout; and
- steelhead.

USFS has identified Valley Creek as one of the most important tributaries in the Upper Salmon River watershed for the recovery of the Chinook salmon, especially for rearing and spawning habitat. Protection of Rodeo Grounds Ranch will advance fisheries recovery efforts, protecting a total of 1.8 miles of Valley Creek and its tributaries and approximately 96 acres of related riparian areas.

The conservation easement on Rodeo Grounds Ranch will allow for continued historic use and private ownership of the property, while conserving its natural values and recreational access by anglers to Valley Creek. This access would likely be lost if the property were to be developed, converted from existing use, or fragmented into smaller holdings. Moreover, incompatible development of this key Sawtooth gateway property would irreparably compromise a scenic landscape that draws hundreds of thousands of visitors each year. The easement will protect the historic ranch structures and the scenic landscape of the valley.

In fiscal year 2013, an appropriation of \$500,000 from the LWCF will augment funding provided in fiscal year 2012 to allow the completion of this important conservation easement acquisition valued at \$3 million. Protection of Rodeo Grounds Ranch, a highly visible property and longstanding priority for USFS, will protect the fisheries and recreational resources of the ranch and help ensure the scenic integrity of the Sawtooth NRA.

In closing, I urge you to provide funding for the LWCF of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for the Salmon-Selway Initiative. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in Idaho, and I appreciate your consideration of this funding request.

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PREPARED STATEMENT OF THE SKOKOMISH TRIBE OF WASHINGTON STATE

I am Joseph Pavel, Vice Chairman of the Skokomish Tribe of Washington State. I would like to thank the subcommittee for the opportunity to present testimony on the fiscal year 2013 Interior, Environment, and Related Agencies budget.

Like all governments, the Skokomish Indian Tribe handles a number of everyday operational responsibilities as well as continuing the necessity of long-term planning activities. Daily the tribe continues to strengthen the institutional and executive capacity to effectively manage the expansion of new programs. The Skokomish Indian Reservation is a rural community located at the base of the Olympic Peninsula with a population of more than 1,000 people. The 5,300-acre reservation is a fraction of the 2.2-million-acre of the tribe's Treaty area. The Skokomish Tribe operates several departments including administration; community development; information services; early childhood education (includes the Skokomish Head Start program); education; health clinic; housing; legal; natural resources; public safety; public works; and Tuwaduq Family Services. These departments provide a broad range of governmental services to our citizens.

BUREAU OF INDIAN AFFAIRS PROGRAMS

*Law Enforcement.*—The Skokomish Tribe respectfully requests increased funding for our law enforcement programs within the Bureau of Indian Affairs.

The Tribal Council created the Skokomish Department of Public Safety in 1995. The department has grown from one untrained officer, to six Washington State certified/Washington State equivalency trained or BIA certified law enforcement officers. The SPSD provides land and water patrol, and emergency services 24/7 in Hood Canal Basin. It enforces tribal ordinances, treaty rights, court orders, and State/Federal statutes. Our officers provide day-to-day law enforcement services on the Reservation. They are also responsible for patrolling the 2.2 million acres that make up our treaty protected fishing and hunting areas. SPSD not only services the Reservation but also roughly 10,000 neighboring county residents and 15,000 annual tourists.

Skokomish dispatch is cross linked with Mason County Dispatch. With only one scheduled per shift, Public Safety Officers patrol alone and respond alone to both misdemeanor and felony calls. Officers are placed in danger because back up from other agencies could be delayed in responding, if they are available at all. For natural disasters, SPSD officers are recognized as 1st Responders for the area. To be fully staffed at a baseline minimum for the area and scope of service that the Skokomish Department of Public Safety is tasked with, we need a total of 18 officers. Thus, we are almost 80 percent less than what is needed to safely serve our community. Currently, the tribe contributes approximately \$200,000 per year to cover the BIA shortfall in funding for the tribe's Public Safety Department. This funding comes from fuel taxes levied by the tribe. In an effort to efficiently use our limited resources, the tribe entered into a memorandum of understanding with the Mason County Sheriff's Office to use a provisional officer on an as-needed basis. This occurs when one of the four patrol officers is on leave or training.

The tribe constantly looks for ways to efficiently use the funding available while improving services. Recently, the tribe worked with the BIA Office of Justice Services (OJS), to receive technical assistance. The technical assistance came in the form of a monitoring process designed to evaluate the compliance of policy, standards, and professional practices of the tribe's law enforcement program. The BIA evaluator used a Program Monitoring Instrument (PMI) which consists of standards that will be reviewed and evaluated to determine if the program is in compliance with each specific standard. The department has already used the initial recommendations to begin improving in areas of training, re-writing the standard operating procedures; and instituting community policing strategies. In the end, the tribe will be able to document that we meet and/or exceed the standards of the BIA for public safety agencies.

We strongly support the \$500,000 request for Conservation Officers. These law enforcement professionals serve a vital role in ensuring that our fishermen are able to properly exercise their rights to the treaty-protected resources. The tribe has to

cover and manage a large area in fisheries related activities. Over the past few years we have experienced increased tension between treaty fishermen and non-Indian fishermen. While these conflicts have not escalated into serious physical harm, we fear without proper law enforcement presences that it will.

*Tribal Courts.*—Having a fair and qualified judiciary is the bedrock of any government's justice system. Skokomish has long understood this. In 1963, the Skokomish Tribe was the first tribe in the Northwest (and one of the first in the country) to institute a tribal court.

Today, tribal courts handle huge criminal, civil and juvenile dockets, which could not be handled by the already over burdened State and Federal courts. At the close of 2011, Skokomish had 362 open cases compared to 447 open cases at the end of fiscal year 2010. These cases range from criminal cases to child welfare cases. With the use of the one-time funding award from the BIA in fiscal year 2011, we hired a Probation Officer. The Probation Officer has helped satisfy and close 83 cases and continually meets with probationers. This Probation Office has resulted in a great deal of success in clearing criminal cases and providing support for our tribal members to exit the criminal justice system. We fully utilized this funding until it was exhausted. Although we have many needs with our limited resources, the Council approved the use of tribal funds for the continuation of the probation program. We believe it is beneficial to the members of the tribe to have a probation program.

Thus, we urge the Congress to support Tribal Courts and provide at least the \$1.1 million that the administration has requested and encourage the BIA to fund and support tribal probation officers for tribal courts.

#### INDIAN HEALTH SERVICE

The Skokomish Tribe strongly supports the \$4.422 billion budget request, an increase of \$115.9 million more than the fiscal year 2012 enacted level. We have a tribally operated Ambulatory Health Center located in a geographically challenged area and continue to face financial barriers that are not unique to the Skokomish Tribe, but unfortunately plague Indian Country as a whole. Our Contract Health (CHS) Funds continue to be taxed and we appreciate the proposed programmatic increase to CHS of \$20 million. We continually ask for CHS increases and we do know this need will always be in existence and especially with the rising cost of healthcare and the increased serious health issues our patients are experiencing such as cancer, diabetes, and heart disease. One proposal to address these costs is the NW Portland Area Indian Health Board's efforts to develop three regional health facilities in the Portland area to send our tribal members to for specialty health services not provided in our tribal clinics. This would reduce the CHS expenditures currently spent at local specialty providers.

Another way to reduce the burden on CHS is to focus on prevention and find innovative ways to make our community healthier. By investing in our member's health up front and focusing on prevention up front, we hope to offset the rising CHS costs. In this regard, we support adding additional funding for the Health Protection and Disease Prevention Program. One of the Skokomish Health Center's long-term goals is to build a culturally sensitive wellness center to focus on prevention, medical and holistic healing programs.

Due to recent cuts in State Medicaid funding, we have experienced a growing strain on our substance abuse treatment resources. We urge additional funding to be available for treatment. In this regard, we currently do not have a recovery after care facility for our clients when they finish treatment. If a client lacks the resources and family support, they are left to return to their previous addiction environments, which is likely to reduce their chance of success at recovery.

Finally, related to mental health, we have identified a need for a youth mental health facility. While there are youth substance abuse treatment facilities, there are no facilities available to treat mental health issues for youth, who do not have any substance abuse issues. This recently hit home as we had a young teenage girl who had no substance abuse issues but was in need of in-patient mental health services. After exhausting all avenues to find a tribal/IHS mental health facility to place this young lady in we were unable to locate one. The child is on the east coast and will remain in a non-Tribal/IHS institution for lack of a facility available to bring her closer to home with her extended family on the Skokomish Reservation. This young lady has attempted suicide on several occasions at the facility where she is currently located. We urge the Congress to direct the IHS to report on its effort to develop a youth behavioral health facility to meet the growing mental health needs of our Native youth.

## TRIBAL HISTORIC PRESERVATION PROGRAMS

In 1995, the Congress began encouraging tribes to assume historic preservation responsibilities as part of self-determination. These programs conserve fragile places, objects and traditions crucial to tribal culture, history, and sovereignty. As was envisioned by the Congress, more tribes qualify for funding every year. Paradoxically, the more successful the program becomes, the less each tribe receives to maintain professional services, ultimately crippling the programs. In fiscal year 2001, there were 27 THPOs with an average award of \$154,000. Currently there are 132 tribes operating the program, each receiving less \$51,000. We join the National Congress of American Indians and the National Organization of Tribal Historic Preservation Officers in supporting the requested \$15 million increase in funding for this program.

## ENVIRONMENTAL PROTECTION AGENCY

The Skokomish Tribe urges the subcommittee to maintain funding for key environmental programs, in particular, funding for Puget Sound restoration efforts. This funding is critical to the collaborative efforts to restore the health of the Puget Sound, and in particular the Hood Canal—the Jewel of the Puget Sound. The program is vital to the tribe's efforts to manage and protect our treaty protected resources in the Hood Canal.

## CONCLUSION

The tribe thanks the subcommittee for the opportunity to present testimony on these important issues.

## PREPARED STATEMENT OF THE SOCIETY OF AMERICAN FORESTERS

Good morning Chairman and members of the subcommittee. My name is Robert W. Malmsheimer, and I am a professor of forest policy and law at the SUNY College of Environmental Science and Forestry. I am here today to testify on behalf of the Society of American Foresters (SAF).

The Society of American Foresters (SAF), with more than 12,000 forestry professionals across the country in all segments of the profession, believes in sound management and stewardship of the Nation's public and private forests. Funding for the Department of the Interior (DOI) and the USDA Forest Service (USFS), both contained in the Interior, Environment, and Related Agencies Appropriations bill, are particularly important to maintaining and improving the Nation's forests.

We would like to begin by thanking the administration for recognizing the importance of the USFS and forestry components of the DOI and maintaining funding at approximately fiscal year 2012 enacted levels for USFS and the Bureau of Land Management (BLM). That said, the 751 million acres of forests in the United States are subject to tremendous pressures from wildfires, insects, disease, invasive species, changing climates, and more. At the same time, people are relying on forests more and more for clean water and air, recreational opportunities, hunting, fishing, forest products, and scenic values. These pressures and harsh economic times force Federal agencies to look for innovative ways to complete more work with limited resources.

SAF remains deeply concerned about these issues and the overall sustainability of the Nation's forests. To that end, SAF urges a focus on several key areas that directly impact the range of programs within the DOI and USFS budgets. Key areas include:

- Forest health on public and private forestlands;
- addressing barriers to active forest management; and
- SAF budget recommendations.

## FOREST HEALTH

As the largest professional society for foresters in the world, SAF represents the forest managers of both public and private forests in the United States. Across the country, our forests are reaching a critical threshold that, if passed, could lead to even further negative impacts including:

- continued closures of established infrastructure;
- job losses to rural communities;
- pressure of invasive species;
- expanded areas of insects and disease;
- overstocked stands; and

—increased risk of wildfire.

Since 1910, the U.S.'s forest area has been relatively stable, with a slight increase in the last two decades.<sup>1</sup> The current volume of annual timber growth is 32-percent higher than the volume of annual removals. This, in part, has led to the need for restoration on 65 to 82 million acres of the National Forest System (NFS), as Chief Tidwell mentioned in his testimony to the subcommittee on February 17, 2012.<sup>2</sup> In 2012, the USFS is proposing to complete only 4 million acres of restoration on NFS lands, yielding 2.6 BBF in forest products.<sup>3</sup> This is not enough to combat our Nation's declining forest health, especially in light of the current bark beetle epidemic in the west that has led to unprecedented numbers of dead and dying trees. This low production level on public lands pressures private forestlands, which already provide 91 percent of wood production, to meet demand.<sup>4</sup>

Constraints on forests and forest management have led to a steady decline in the forestry-related job sector. From 2005 to 2010 primary (forestry and logging, paper, wood manufacturing, etc.) and secondary (residential construction, furniture, etc.) employment have seen a combined reduction of 920,507 total jobs. In fact, total U.S. annual timber harvests are at their lowest levels since the 1960s. This lack of production led to the closure of more than 1,000 mills from 2005 to 2009, which decreased overall sawmilling capacity by 15 percent, and lowered production levels less than 50 percent of capacity at the remaining mills.<sup>5</sup>

#### BARRIERS TO ACTIVE FOREST MANAGEMENT

SAF understands that the economic downturn has impacted forest industries. However, in recent decades other factors have developed that also negatively affect the forestry profession and create barriers to active forest management. One of those barriers is the Equal Access to Justice Act (EAJA).

Last year the House Appropriations Subcommittee included report language in its budget recommendation that addressed the complexity and conflicts often associated with EAJA. The subcommittee requested detailed reports on the disposition of EAJA applications, the amount of agency funds paid as the result of the Act, the names of the fee recipients and Federal judges involved in EAJA cases, and the hourly rates of attorneys and expert witnesses.<sup>6</sup>

In 2011, Dr. Michael J. Mortimer, Director, College of Natural Resources at Virginia Tech University, and I completed a study on EAJA that examined concerns raised by interest groups, stakeholders, and congressional members. The study, published as a peer-reviewed article in the *Journal of Forestry*, examined EAJA fees paid by USFS in litigation from 1999 to 2005. Our results, which analyzed data obtained through Freedom of Information Act (FOIA) requests and the analysis of public records, documented that Federal agency EAJA fee records differed considerably. As Table 1 reflects, there was nearly a \$1 million difference between the data provided in 2006 by the Secretary of Agriculture to the U.S. Senate Committee on Energy and Natural Resources (SCENR) and the records we obtained from the USFS, and the Secretary's response was nearly double the total amount Department of Justice (DOJ) records indicate were paid.

<sup>1</sup>U.S. Forest Service (USFS). 2007. *U.S. Forest Resource Facts and Historical Trends*. Available online at <http://fia.fs.fed.us/library/brochures/docs/Forest%20Facts%201952-2007%20English%20rev072411.pdf>; last accessed March 2012.

<sup>2</sup>Tidwell, T. 2012. *Statement of Tom Tidwell, Chief, U.S. Forest Service before the Senate Committee on Energy and Natural Resources concerning the President's budget request for the U.S. Forest Service in fiscal year 2013*. March 6, 2010. Available online at [http://www.energy.senate.gov/public/index.cfm/files/serve?File\\_id=8f60d724-f8e5-4d57-9f01-b8a6837d9f5d](http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=8f60d724-f8e5-4d57-9f01-b8a6837d9f5d); last accessed March 2012.

<sup>3</sup>U.S. Forest Service (USFS). 2012. *Increasing the Pace of Restoration and Job Creation on Our National Forests*. Available online at <http://www.fs.fed.us/publications/restoration/restoration.pdf>; last accessed March 2012.

<sup>4</sup>U.S. Forest Service (USFS). 2010. *National Report on Sustainable Forests—2010*. Available online at [http://www.fs.fed.us/research/sustain/2010SustainabilityReport/documents/2010\\_SustainabilityReport.pdf](http://www.fs.fed.us/research/sustain/2010SustainabilityReport/documents/2010_SustainabilityReport.pdf); last accessed March 2012.

<sup>5</sup>Smith, B.W., and Guldin, R.W. 2012. *Forest Sector Reeling during Economic Downturn*. The Forestry Source January, 2012. Available online at [http://www.nxtbook.com/nxtbooks/saf/forestrysource\\_201201/index.php](http://www.nxtbook.com/nxtbooks/saf/forestrysource_201201/index.php); last accessed March 2012.

<sup>6</sup>U.S. Congress. 2012. Department of the Interior, Environment, and Related Agencies Appropriations Bill 112th Congress First Session Report 112–151. Available online at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt151/pdf/CRPT-112hrpt151.pdf>; last accessed March 2012.

TABLE 1.—COMPARISON OF U.S. FOREST SERVICE EQUAL ACCESS TO JUSTICE ACT PAYMENTS, 1999 TO 2005<sup>1</sup>

	Amount
United States Forest Service FOIA Information .....	\$6,137,583
DOJ FOIA Information .....	3,526,632
Information provided to SCENR .....	7,002,530

<sup>1</sup>Mortimer, M.J., and R.W. Malmshiemer. 2011. The Equal Access to Justice Act and U.S. Forest Service Land Management: Incentives to Litigate? *Journal of Forestry* 109(6): 352–358.

Given these inconsistencies and the controversy surrounding EAJA payments, SAF supports the inclusion of EAJA reporting requirements in this year's budget. We believe that doing so will greatly improve the transparency of EAJA payments and provide policymakers and stakeholders with standardized information that they can use to assess the Act's performance.

#### SAF BUDGET RECOMMENDATIONS

SAF understands that the subcommittee has to make difficult decisions when funding Federal agencies. We would like to commend the members of the subcommittee for your continued focused efforts on forest sustainability. With this in mind, we will not give recommendations for all of the programs we support. Instead, we will focus on several of our top priorities and ask that the committee recognize that our support is not limited to the recommendations that follow.

SAF supports the fiscal year 2012 budget language to increase the NFS timber harvest from 2.4 BBF to 3 BBF this fiscal year. While SAF is encouraged by USDA Secretary Vilsack's announcement to increase harvest levels to 2.6 BBF in fiscal year 2012,<sup>7</sup> we support increased restoration efforts by the administration to restore priority watersheds. We look forward to continuing to work with the Congress and the administration to see increased restoration work.

USFS Research and Development (R&D) provides for essential research on priority areas such as disturbances (including wildfire), watershed restoration needs, local level emphasis, and strategic programs. R&D's Forest Inventory and Analysis (FIA) program is the backbone of U.S. forestry knowledge, providing the only national census of forests across all ownerships. Through FIA, USFS (partnering with State forestry agencies and the private sector) collects and analyzes forest data to assess trends on issues such as forest health and management, fragmentation and parcelization, and forest carbon sequestration. FIA data also evaluates forest disturbance risks, such as wildfire, insects and disease, and spread of invasive species. SAF requests that the Congress support FIA at no less than \$69 million in fiscal year 2013.

More than 50 percent of our Nation's forests are privately owned. This makes USFS State and Private Forestry (S&PF) allocations, used in part to assist in managing these lands, essential to the health of our forests. SAF strongly supports S&PF funding including the Forest Health Management (FHM) Budget Line Items (BLI) for both Federal and cooperative lands. We recommend funding FHM BLI's at fiscal year 2012 enacted funding levels of \$112 million. These dollars are critical for monitoring conditions of forest health on Federal and non-Federal lands. Funds provide the assistance to prevent and mitigate insect and disease outbreaks as well as the spread of invasive species.

SAF strongly supports the administration's request to permanently reauthorize Stewardship Contracting within the USFS budget. The Stewardship Contracting authority is a successful tool used by the USFS and BLM to accomplish restoration work on multiple restoration projects simultaneously using funds provided by projects' timber revenues. It is also an important tool to carry out the administration's priority Collaborative Forest Landscape Restoration Program. Without this authority, these programs would be unable to complete the work outlined in collaborative proposals. From 2006 to 2011 approximately 900 Stewardship contracts, which treated 545,625 acres, were awarded, including 208 contracts in 2011.<sup>8</sup>

<sup>7</sup>U.S. Forest Service. 2012. *U.S. Forest Service highlights expansion of restoration of national forests and funding for Collaborative Forest Landscape Restoration projects*. U.S. Forest Service Press Release Feb. 2, 2012. Available online at <http://www.fs.fed.us/news/2012/releases/02/restoration.shtml>; last accessed March 2012.

<sup>8</sup>Pinchot Institute for Conservation. 2012. *The Role of Communities in Stewardship Contracting: Fiscal Year 2011 Programmatic Monitoring Report to the USDA Forest Service*. Available online at <http://www.fs.fed.us/forestmanagement/stewardship/reports/documents/2011/FinalFY11USFSMonEvalReport.pdf>; last accessed March 2012.

SAF also commends the administration for their request to fully fund the Collaborative Forest Landscape Restoration Program (CFLR). CFLR encourages collaborative, science-based ecosystem restoration of priority forest landscapes.<sup>9</sup> In 2 years, the projects selected in 2010 created 2,100 jobs and supplied approximately 2.3 MMBF.<sup>10</sup> To ensure CFLR's continued success, SAF and five other Steering Committee members along with approximately 140 members of other organizations, participate in the CFLR Coalition to support continued funding at \$40 million.

Hazardous Fuels funding is a critical component to USFS and DOI hazardous fuels reduction efforts. Funds are used to restore forest health and resilience and reduce the cost of suppressing wildfires. In 2011, more than 74,000 wildland fires burned more than 8.7 million acres.<sup>11</sup> These funds are also used to assist the 66,700 communities across the country currently at risk of wildland fire. SAF recommends maintaining the fiscal year 2012 funding levels of \$318 million for the USDA Forest Service and \$184 million for the Department of the Interior.

One of the significant changes to the fiscal year 2013 budget proposal includes the merger of seven BLIs into the proposed Integrated Resource Restoration (IRR) Line item that was enacted as a pilot program in three regions in the fiscal year 2012 budget. SAF recommends funding the seven BLIs at fiscal year 2012 levels if the subcommittee does not enact IRR nationally.

I would like to close by discussing the decrease in the BLM's Public Domain Program found in the fiscal year 2013 budget justification. The proposed \$3.5 million is a 41-percent decrease in the program. This would reduce the number of employees managing 60 million acres from 80 employees to approximately 50. SAF recommends funding BLM's Public Domain Program at enacted fiscal year 2012 levels.

On behalf of the Society of American Foresters, I thank you for this opportunity.

[From the Journal of Forestry, September 2011]

#### THE EQUAL ACCESS TO JUSTICE ACT AND U.S. FOREST SERVICE LAND MANAGEMENT: INCENTIVES TO LITIGATE?

(Michael J. Mortimer and Robert W. Malmshemer<sup>1</sup>)

The Equal Access to Justice Act (EAJA) provides for attorneys fees and court costs to be awarded to parties prevailing in litigation against U.S. federal agencies. We examined EAJA awards paid by the U.S. Forest Service from 1999 to 2005, finding more than \$6 million awarded to various plaintiffs. Awards were most commonly paid to environmental litigants, although all categories of litigant stakeholders made use of the law. Although it remains uncertain whether EAJA provides an incentive to sue the U.S. Forest Service in any specific instance, because litigation against the U.S. Forest Service generally has a low probability of success, EAJA one-way fee shifting does alter litigation risks among potential plaintiffs. Frequent EAJA claimants often possess considerable financial resources calling into question how the purposes of the law have evolved in the last 20 years.

Keywords: national forest, litigation, fees, interest groups, courts.

"Paying litigants to sue certainly encourages legal action" (Thomas 2000, p. 9). This quote by former chief of the U.S. Forest Service, Jack Ward Thomas, expresses concerns that the Equal Access to Justice Act (EAJA; codified at 28 U.S.C. § 2412 and 5 U.S.C. § 5045) may be an incentive for litigation against the U.S. Forest Service and other Federal land-management agencies. The EAJA is a fee-shifting statute that allows litigants to recover attorney fees and other legal expenses (such as court filing fees) from the Federal Government when they successfully sue an administrative agency.

Numerous scholars have described the increasing use of litigation as a tool to influence U.S. Forest Service land-management decisions. Jones and Taylor (1995)

<sup>9</sup>U.S. Forest Service. 2012. *Collaborative Forest Landscape Restoration Program*. U.S. Forest Service Website. Accessible online at <http://www.fs.fed.us/restoration/CFLR/index.shtml>; last accessed March 2012.

<sup>10</sup>U.S. Forest Service 2012. *Fiscal Year 2013 President's Budget Justification*. Available online at <http://www.fs.fed.us/aboutus/budget/2013/fy2013-justification.pdf>; last accessed March 2012.

<sup>11</sup>National Interagency Fire Center, *Historical Wildland Fire Summaries*, p. 9. Accessible online at [http://www.predictiveservices.nifc.gov/intelligence/2011\\_statsumm/intro\\_summary.pdf](http://www.predictiveservices.nifc.gov/intelligence/2011_statsumm/intro_summary.pdf); last accessed February 2012.

<sup>1</sup>Michael J. Mortimer ([mortimer@vt.edu](mailto:mortimer@vt.edu)) is director of Graduate Programs, Virginia Tech, College of Natural Resources and Environment, 7054 Haycock Road, Room 411, Falls Church, VA 22043. Robert W. Malmshemer ([rwmalmsh@esf.edu](mailto:rwmalmsh@esf.edu)) is professor, SUNY College of Environmental Science and Forestry, 1 Forestry Drive, Syracuse, NY 13210.

completed the first study, examining cases decided between 1971 and 1993. They found that the frequency of U.S. Forest Service lawsuits increased during these 20 years and concluded that litigation was used as a tool to effect change within the agency. Malmshiemer et al. (2004) examined all published Federal Court of Appeals cases from 1970 through 2001 in which the U.S. Forest Service was a defendant. They found that the number of lawsuits involving the agency had increased since 1970 and that “judicial review of national forest management is intensifying” (Malmshiemer et al. 2004, p. 20). In the most recent and thorough examination of U.S. Forest Service litigation, Keele et al. (2006) examined the final outcome of all cases, both published and unpublished, initiated from 1989 through 2002 in which the U.S. Forest Service was a defendant, again finding that litigation directed against the agency had generally increased. Others have confirmed these observations (Mortimer 2002, Broussard and Whitaker 2009). For example, the Council on Environmental Quality’s (2009) records indicate that the U.S. Forest Service is the most common Federal agency defendant in National Environmental Policy Act litigation. These studies suggest that litigation has become an integral aspect of U.S. Forest Service decisionmaking and land management: “The legal environment is as important to national forest . . . management as the ecological and economic environments” (Malmshiemer et al. 2004, p. 25). The payment of attorney fees is an important component of this legal environment.

The U.S. legal system operates under what is known as the American rule, which provides that each party in a lawsuit must bear its own legal expenses (Sisk 1993). This differs from the English rule under which the losing party pays the winner’s legal costs. Fee-shifting statutes in the United States are a relatively rare exception to the American rule, providing for the recovery of legal expenses in a manner similar to the English rule. Although some criticize the economic incentives created by fee-shifting statutes and citizen suit provisions (Benson 2006, Greve 1990), others believe that subsidizing litigation against land-management agencies through the EAJA is a socially valuable use of public resources (Nie 2008). In either case, it is indisputable that citizen suits are an important aspect of modern public natural resource management.

The EAJA is a one-way fee-shifting statute that specifically allows parties who bring successful lawsuits against Federal land-management agencies to recover their costs, such as attorney fees and filing costs, directly from the agencies’ budgets. The EAJA was originally intended to:

- make the Federal justice system more accessible to parties defending themselves against what the Congress perceived as unreasonable Government action;
- provide an incentive for citizens to contest excessive Government regulation;
- supply additional compensation for citizens who were injured by Government actions; and
- deter overreaching regulation by Federal agencies (Hogfoss 1985, Sullivan 1984, Mezey and Olson 1993, Sisk 1993).

By providing attorney and other fees, the Act removed some of the economic obstacles citizens face when contesting Government regulation. Table 1 lists EAJA process and eligibility requirements. Although it was recognized, at the dawn of environmental public interest litigation, that a bevy of institutional obstacles existed preventing access to the Federal court system (Large 1972), the EAJA was not established with that particular set of litigants in mind. It has, however, over the last 20 years evolved to address a broader class of litigant stakeholder.



TABLE 1.—*The Equal Access to Justice Act fee recovery requirements (28 U.S.C. 2412(d)(2)(B) and 5 U.S.C. 504(b)(1)(B))*

<p>Process requirements (Plaintiff must meet all)</p> <ul style="list-style-type: none"> <li>Plaintiff must have incurred legal expenses.</li> <li>Plaintiff must have prevailed in some aspect of the case.</li> <li>Plaintiff must submit an application for a fee award to the court within 30 days of the final judgment.</li> <li>Plaintiff must allege that the Government's position was not "substantially justified."</li> </ul> <p>Eligibility requirements (Plaintiff must meet one)</p> <ul style="list-style-type: none"> <li>Individuals with a net worth of \$2 million or less.</li> <li>Businesses with no more than 500 employees and a net worth of \$7 million or less.</li> <li>Charitable or other tax-exempt 501(c)(3) organizations with no more than 500 employees.</li> <li>Agricultural cooperative associations with no more than 500 employees.</li> <li>Other partnerships, corporations, associations, units of local government, or organizations with a net worth of not more than \$7 million and no more than 500 employees.</li> </ul>
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Although little empirical research has been conducted regarding the EAJA's impact on land-management agencies, the law's role in potentially spurring litigation has been a topic of press and congressional investigation and speculation for nearly 10 years. Pulitzer Prize winning reporter Knudson's 2001 series in the Sacramento Bee entitled "Environment, Inc." presented a high-profile discussion of the environmental movement's reliance on litigation and attorney fees. In the series, Knudson focused primarily on litigation directed against the Fish and Wildlife Service's administration of the Endangered Species Act. Knudson (2001) found that during the 1990s, 434 environmental cases were brought against the Federal Government and the Government paid out more than \$31.5 million in attorney fees. In 2006, Senator Jeff Bingaman (D-NM) requested agency information on the amount of EAJA fees paid out by USFS from 1999 through 2005. An editorial on USFS litigation in *The Missoulian*<sup>2</sup> concluded that the EAJA "has become a self-funding mechanism for environmental groups fundamentally opposed to prevailing national forest management direction" (*Missoulian* 2007). Most recently, a Wyoming attorney and former Department of the Interior employee claimed that the Government paid environmental law firms more than \$1.6 million between 2003 and 2005 for litigation involving national forests in six USFS regions<sup>3</sup> (*Budd-Falen* 2009). Despite persistent interest and allegations surrounding the EAJA and USFS litigation, no comprehensive empirical study and analysis (with the exception of the response to Senator Bingaman's request) has systematically examined the issue.

The effects of a particular fee-shifting policy are highly dependent on contextual variables. Characteristics of the adversaries, the relative value of the fee awards to the parties, and the parties' respective views of the strength of their cases make empirical examinations inherently challenging (*Rowe* 1984). This should not be surprising, because work to date has noted the complexity and uncertainty in predicting the potential effects of fee arrangements on litigation behavior as well as the unsettled state of understanding of these effects (*Kritzer* 2002). This study attempts to quantify and contribute to an understanding of the role of one-way fee shifting in USFS litigation.

#### *Methods*

Since EAJA payment figures are not generally publicly available, we used the Freedom of Information Act (FOIA)<sup>4</sup> to compile EAJA payment data from the USFS and the Department of Justice (DOJ). We asked DOJ for payment information because it defends the USFS in the Federal court system and we believed its EAJA payment records would supplement USFS records. Written FOIA requests were made to the USFS on October 3, 2006 and to the DOJ on October 11, 2006. We received responses from the USFS on November 27, 2006 and from the DOJ on April 11, 2007. We requested a list of all EAJA fees paid by the USFS from 1990 to 2005,

<sup>2</sup>A newspaper in one of the most litigious National Forest System Regions (see *Keele et al.* 2006).

<sup>3</sup>Regions 1–6.

<sup>4</sup>5 U.S.C. 552.

including the amount of EAJA fees paid, litigants' names, court decision dates, and judicial decision citations. We also requested copies of all documents containing any information regarding the payment of EAJA fees during this time.

### Results

USFS and DOJ supplied differing information to our FOIA requests. USFS provided records from 1999 through 2005. The DOJ provided USFS-based EAJA records from 1989 through 2006—including data from 1989 to 1998 that the USFS was unable to provide. As Table 2 indicates, EAJA fee records differ considerably. For example, in 2006 the Secretary of Agriculture provided the U.S. Senate Committee on Energy and Natural Resources with information about EAJA fees paid by the USFS (Senate Hearing 2006). As Table 2 reflects, there is nearly a \$1 million difference between the data provided in the 2006 by the Secretary and the records we obtained from the USFS, and the Secretary's response is nearly double the total amount DOJ records indicate were paid. The EAJA has no agency recordkeeping or reporting requirements, and the inconsistencies we found in the agency's and DOJ's records substantiate ongoing congressional concerns that EAJA payments are being inadequately tracked by Federal agencies (Western Congressional Caucus 2009). These concerns have manifested as proposed bipartisan legislation in the prior sessions of Congress.<sup>5</sup>

DOJ provided EAJA award records for 17 years (1989 through 2006)—10 more years than USFS. These records indicate that during this time the USFS paid more than \$6 million in EAJA payments. Focusing on the overlapping years (1999 through 2006), the USFS data differed considerably from the DOJ records—USFS records indicated it paid an additional \$2.5 million in this 6-year period (see Table 2).

TABLE 2.—COMPARISON OF THE U.S. FOREST SERVICE EQUAL ACCESS TO JUSTICE ACT FEES, BY YEAR

Year	EAJA payments		Secretary of Agriculture response to the U.S. Senate Committee on Energy and Natural Resources's request
	U.S. Forest Service FOIA data	DOJ FOIA data	
1999 .....	\$794,774	\$498,406	\$814,774
2000 .....	232,348	240,710	602,698
2001 .....	999,938	457,535	581,567
2002 .....	626,741	704,230	1,077,441
2003 .....	794,414	586,649	1,236,668
2004 .....	1,412,804	571,676	1,557,804
2005 .....	1,276,564	467,427	1,131,578
Total .....	6,137,583	3,526,632	7,002,530

FOIA, Freedom of Information Act.

SOURCE: Data provided by the U.S. Forest Service, DOJ, and Congressional Research Service.

### Payments

USFS records indicated that EAJA fees were awarded in 149 instances from 1999 to 2005, resulting in the agency paying more than \$6 million in fees during this 7-year period (Table 3).<sup>6</sup> To put these numbers in context, between 1982 and 1994 all Federal agencies reported court EAJA decisions awarding \$29.6 million, with an average award size of \$5,250 (U.S. Government Accountability Office [GAO] 1998). The number of cases per year in which the agency paid fees ranged from 9 cases in 2002 to 29 cases in both 2001 and 2004, with an average annual number of cases of 21. Total fee awards per year ranged from \$232,348 in 2000 to \$1,412,804 in 2004, with annual awards averaging \$876,798. The average award per case during the 7 years was \$41,192, although 18 payments exceeded \$100,000 (Table 4). It is unclear whether average annual fees are increasing.

<sup>5</sup>H.R. 4717, 111th Congress.

<sup>6</sup>One case, which resulted in a \$75,000 payment, did not list a year of payment. We omitted that case from our inventory and subsequent analysis.

TABLE 3.—U.S. FOREST SERVICE'S EQUAL ACCESS TO JUSTICE ACT AWARD PAYMENTS BY YEAR FROM 1999 TO 2005

Year	EAJA payments	Number of cases/payments	Average payment
1999 .....	\$794,774	21	\$37,846
2000 .....	232,348	12	19,362
2001 .....	999,938	29	34,481
2002 .....	626,741	9	69,638
2003 .....	794,414	23	34,540
2004 .....	1,412,804	29	48,717
2005 .....	1,276,564	26	49,099
Total .....	6,137,583	149	41,192

SOURCE: Data provided by the U.S. Forest Service.

TABLE 4.—FREQUENCY OF U.S. FOREST SERVICE EQUAL ACCESS TO JUSTICE ACT AWARDS FROM 1999 THROUGH 2005

Award/payment amount	Frequency (number of payments)
Less than \$500 .....	3
\$501–1,000 .....	.....
\$1,001–5,000 .....	28
\$5,001–10,000 .....	16
\$10,001–20,000 .....	21
\$20,001–30,000 .....	20
\$30,001–50,000 .....	23
\$50,001–75,000 .....	14
\$75,001–100,000 .....	6
\$100,001–150,000 .....	12
\$150,001–200,000 .....	3
\$200,001–300,000 .....	3
Over \$300,000 .....	.....

SOURCE: Data provided by the U.S. Forest Service.

#### Payment Location and Recipients

We used the information from the USFS records to understand where the cases supporting EAJA payments were located. These records also allowed us to learn the types and names of plaintiffs receiving EAJA fees.

We categorized the responses to our FOIA request by USFS region (Figure 1). Payments per region ranged from \$114,310 in Region 9 (Eastern Region) to \$1,408,140 in Region 1 (Northern Region; Table 5). The number of cases ranged from 4 in Region 9 to 30 in Region 1. It is important to note that Region 2 did not provide data for 1999 and 2000 and that Region 8 did not provide data for 2005. This suggests that our results underestimate the number of fees paid and their total amount.

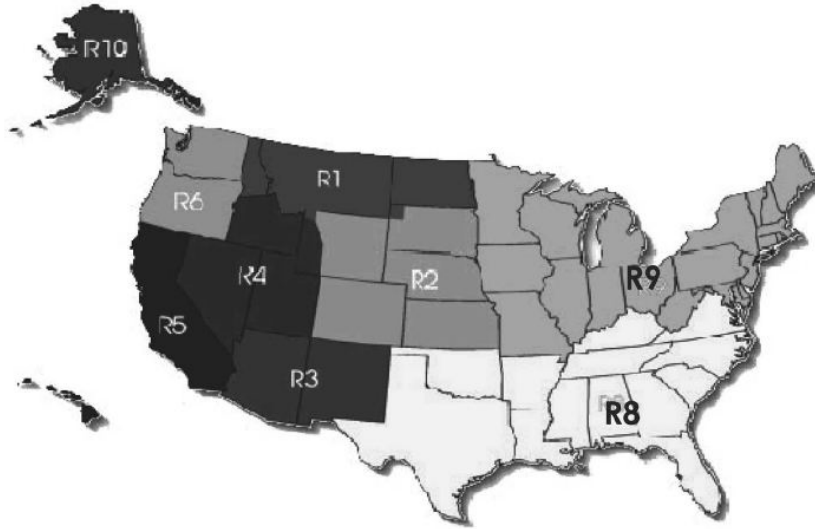


TABLE 5.—U.S. FOREST SERVICE EQUAL ACCESS TO JUSTICE ACT AWARDS BY REGION FROM 1999 THROUGH 2005

Region <sup>1</sup>	EAJA payments	Number of cases/ payments
1 .....	\$1,408,140	30
2 <sup>2</sup> .....	360,776	19
3 .....	632,908	21
4 .....	698,645	20
5 .....	999,239	13
6 .....	850,584	22
8 <sup>3</sup> .....	347,943	5
9 .....	114,310	4
10 .....	406,350	5
WO .....	318,689	10
<b>Total</b> .....	<b>6,137,584</b>	<b>149</b>

<sup>1</sup>There is no Region 7.

<sup>2</sup>Region 2 did not provide 1999–2000 data.

<sup>3</sup>Region 8 did not provide 2005 data.

WO, Washington Office.

SOURCE: Data provided by the U.S. Forest Service.

USFS records were also used to categorize the litigants receiving EAJA fee awards. We organized the fee recipients into five categories:

*Attorney/Law Firm.*—Fee recipients who could be easily identified as an attorney or a law firm.<sup>7</sup>

*Commodity Interests.*—Fee recipients involved in commodity production, such as ranching and grazing operations, timber companies, and mining organizations.

*Environmental Organizations.*—Fee recipients whose stated organizational goal was to protect some aspect of the environment.

*Individuals.*—Fee recipients who were individuals and not readily identifiable as attorneys (but who may include attorneys).

<sup>7</sup>It is important to note that the fee recipients in the attorney category represented clients that can be categorized into one of the other categories—all attorneys and law firms represented clients in these cases.

*Other.*—Fee recipients, such as Native American tribes, who could not be classified into another category.

USFA records listed a fee recipient for 120 of the 149 EAJA awards the agency reported (Table 6). Eighty-three (69.2 percent) of these 120 recipients were environmental organizations, and more than two-thirds (\$3.2 million) of EAJA fees were paid to these organizations. The agency records did not allow us to determine whom attorneys or law firms represented. Thus, the number and percentage of fee recipients in the other four categories may vary from the results presented in Table 6.

TABLE 6.—NUMBER AND DOLLAR AMOUNT OF U.S. FOREST SERVICE EQUAL ACCESS TO JUSTICE ACT AWARD PAYMENTS FROM 1999 THROUGH 2005, BY TYPE OF FEE RECIPIENT

[Percentages may not equal 100 percent because of rounding]

Type of fee recipient	Number of Equal Access to Justice Act awards received	Dollar amount of Equal Access to Justice Act awards	Percentage of Equal Access to Justice Act award dollars
Environmental .....	83	\$3,219,447	69.4
Commodity .....	6	400,932	8.6
Attorney/law firm .....	9	308,627	6.7
Individuals (may include attorneys) .....	11	426,124	9.2
Other .....	11	286,286	6.2

SOURCE: Data provided by the U.S. Forest Service.

USFS data allowed us to determine the litigants that repeatedly received EAJA awards. All the litigants awarded fees in more than one case were environmental groups (Table 7). Nine of these 14 groups are listed by Gambino Portuese et al. (2009) in their list of 12 most frequent parties opposing USFS in land-management cases from 1989 to 2005. In fact, The Wilderness Society is the only “high frequency party”—parties Gambino Portuese et al. (2009) found averaged two or more cases per year—that was not involved in more than one of the EAJA cases. This raises questions, which our data can not conclusively answer: do these groups litigate more because their legal costs are reimbursed, and/or do they request EAJA fees so often because they litigate often? A lack of risk to plaintiffs operating under one-way fee shifting, like the EAJA, where the plaintiff bears no possibility of having to pay the agency defendant’s legal costs can theoretically favor litigation, particularly over less expensive conflict settlement options (Rowe 1984, Gambino Portuese et al. 2009).

TABLE 7.—ORGANIZATIONS LISTED AS A PLAINTIFF IN MORE THAN ONE LAWSUIT AGAINST THE U.S. FOREST SERVICE THAT RESULTED IN AN EQUAL ACCESS TO JUSTICE ACT PAYMENTS FROM 1999 THROUGH 2006, BY NUMBER OF TIMES LISTED

Organization name	Number of times listed as plaintiff in EAJA suit
American Wildlands .....	6
Center for Biological Diversity .....	6
Earthjustice .....	3
Forest Guardians .....	8
Heartwood (includes Kentucky Heartwood) .....	7
Idaho Sporting Congress .....	8
Kettle Range Conservation Group .....	4
Klamath Siskiyou Wildlands Center .....	2
League of Wilderness Defenders .....	4
Native Ecosystems Council .....	7
Oregon Natural Resources Council .....	5
Sierra Club/Sierra Club Legal Defense Fund .....	12
Swan View Coalition .....	4
The Ecology Center .....	9
Total .....	85

SOURCE: Data provided by the U.S. Forest Service.

### Discussion

The challenge in analyzing our results is that we are left with perhaps more questions than with which we began. Although we can contribute to the empirical under-

standing of fee shifting and land-management litigation, we cannot resolve the entirety of questions surrounding EAJA with any degree of certainty.

In terms of what our study can definitively tell us, we know this much. We can establish that USFS faces a formidable litigation environment and that the number of lawsuits is increasing. We found that lawsuits against the agency are accompanied by requests for legal fees under the EAJA and that the agency has paid out approximately \$6 million over a 7-year period—although we acknowledge that this dollar total is imprecise. This is a relatively small percentage of USFS’s annual budget,<sup>8</sup> and that is not surprising because only a small percentage of the thousands of projects proposed by USFS are ultimately litigated. We also found that the most common USFS EAJA fee recipients, environmental groups, are also the organizations that file the most lawsuits against the agency (Gambino Portuese et al. 2009). Finally, although not homogenous, most of these frequent environmental litigants possess substantial financial resources (Table 8).

By using the example of national forest litigation and of the litigants from our study, we can also establish that current use of EAJA by these plaintiffs diverges from the law’s initial purpose on its passage nearly 30 years ago. As discussed earlier, the congressional intent behind the EAJA appears focused. The overarching theme behind the statute’s passage was the prevention of “excessive Government” regulation. The three goals of the EAJA were to “(1) encourage parties that are the subject of unreasonable Federal Government action to seek reimbursement for attorney’s fees and other costs, (2) restrain overzealous regulators, and (3) ensure that the Government pays for the costs of refining and formulating public policy” (GAO 1998, p. 8). Bill sponsor Senator Pete V. Domenici stated that the EAJA’s purpose was “to redress the balance between the Government acting in its discretionary capacity and the individual” (House Hearing 1980). The EAJA was intended to allow plaintiffs access to the legal system to challenge excessive regulation by the Federal Government, particularly where such regulations caused economic harm to members of the public. Although agencies such as the Environmental Protection Agency (EPA) typically engage in public regulation, land-management agencies, such as USFS, do not. Legal actions directed against land-management agencies are rarely brought by individuals or small businesses contesting excessive Government regulation. Rather, litigation against USFS usually challenges discretionary land-management decisions.<sup>9</sup> The Congress was informed that EAJA could be used in lawsuits contesting agency decisions. For example, during EAJA’s legislative hearings Federal agencies, including the EPA, warned the Congress of the bill’s potential to encourage excessive interference with agency decisionmaking (Mezey and Olson 1993). Whether the Congress disregarded or underestimated these concerns is difficult to discern; however, recent events, such as the Western Congressional Caucus members’ (Western Congressional Caucus 2009) and Idaho Senate Delegation’s (2009) letters to DOJ, indicate that some legislators believe EAJA may not be addressing its original purposes. The Congress’s intention when it enacted EAJA was to address the resource disparity between private litigants and the Government—the ultimate “repeat player” (see Galanter 1974). However, our findings suggest EAJA’s legal eligibility requirements may not be restricting its use to groups with limited financial resources. For example, we found the organizations involved in more than one EAJA case collectively reported net assets in 2005 of more than \$88 million and annual revenues of more than \$116 million (Table 8).

TABLE 8.—DESCRIPTION AND 2005 FINANCIAL SUMMARY OF THE ORGANIZATIONS LISTED AS A PLAINTIFF IN MORE THAN ONE LAWSUIT AGAINST THE U.S. FOREST SERVICE, WHICH RESULTED IN EQUAL ACCESS TO JUSTICE ACT AWARD PAYMENTS FROM 1999 THROUGH 2006, BY NUMBER OF TIMES LISTED

Organization name	Net assets	Revenues
American Wildlands .....	\$438,600	\$521,833
Center for Biological Diversity .....	2,347,991	3,477,044
Earthjustice .....	28,261,755	21,086,300
Forest Guardians .....	511,326	764,626
Heartwood .....	86,539	159,435
Idaho Sporting Congress .....	31,657	60,428
Kettle Range Conservation Group .....	( <sup>1</sup> )	( <sup>1</sup> )
Klamath Siskiyou Wildlands Center .....	73,199	350,684

<sup>8</sup>For example, the fiscal year 2009 U.S. Forest Service budget for the National Forest System was \$1.51 billion (USDA 2009).

<sup>9</sup>For example see Figure 5 of Keele et al. (2006), which illustrates the types of management activities most often challenged in U.S. Forest Service land-management litigation.

Organization name	Net assets	Revenues
League of Wilderness Defenders .....	16,171	82,996
Native Ecosystems Council .....	( <sup>2</sup> )	( <sup>2</sup> )
Oregon Natural Resources Council (now Oregon Wild) <sup>3</sup> .....	1,181,477	1,214,995
Sierra Club <sup>4</sup> .....	54,604,888	85,183,435
Swan View Coalition .....	84,040	37,891
The Ecology Center .....	1,166,694	3,158,765
<b>Total</b> .....	<b>88,804,337</b>	<b>116,098,442</b>

<sup>1</sup> Tax extension filed.

<sup>2</sup> Information not available on Guidestar.

<sup>3</sup> Guidestar data from 2004.

<sup>4</sup> Agency records repeatedly list the Sierra Club as an EAJA fee recipient. Because the Sierra Club is ineligible to receive fees as a 501(c)(4) organization, the court awards were most likely awarded to the Sierra Club Legal Defense Fund.

SOURCE: Guidestar.org., n.d.

We can also draw some informed conclusions from both the fee-shifting literature and from our findings. We recognize immediately that the behavior of any particular litigant is highly context specific and the effects of fee-shifting legislation such as EAJA are difficult to predict. Additionally, the rationale to litigate is multivariate; Armstrong (2008), e.g., lists nine plausible reasons why a party would choose litigation over alternative dispute resolution. That said, the literature is consistent in suggesting that fee shifting reduces the risk of choosing litigation for would-be plaintiffs (e.g., Rowe 1984). Litigation under the American Rule is an inherently risky conflict resolution alternative because failure to prevail can be financially costly to the parties. It is even more risky under a fee-shifting arrangement, such as the English Rule, wherein the loser pays the winners' legal expenses. This risk is shared symmetrically only if both parties are potentially liable for prevailing opponent's legal costs—known as two-way fee shifting—something EAJA does not require. If USFS prevails, the losing plaintiffs are not required to pay the Government's legal fees and costs associated with defending the action. In turn, this may reduce the perceived risk of commencing litigation (Rowe 1984). Kagan (2001) suggests that the number of lawsuits brought to trial is a function of how plaintiffs perceive the "stakes" in those lawsuits. That is to say, the likelihood of success and the expected value of winning lawsuits are related directly to the number of lawsuits. Exposure to unfavorable rulings, the costs of bringing the lawsuit, and the threat of having to pay other party's legal costs all contribute to the decision to litigate. However, EAJA influences this decision process by providing for partial fee shifting.

Additionally, because lawsuits against USFS are unlikely to succeed in general, these suits could subsequently be classified as low-probability litigation.<sup>10</sup> It has been noted that "plaintiffs in . . . low-probability litigation . . . are likely to be risk seeking" (Guthrie 2000 p. 187), and more likely to prefer judicial outcomes to negotiated settlement options. Partial fee shifting's distortion of lawsuit risk presumably encourages both repeat plaintiffs and an increasing number of lawsuits. Our EAJA litigation findings—that frequent USFS litigators are also frequent EAJA claimants—provide evidence of this, although as we have noted several times this relationship is not well defined or understood. The potential to avoid paying their own fees (and never having to pay their opponent's fees) means that EAJA-eligible plaintiffs do not face the same risks as do typical defendants under the American Rule (Rowe 1984). Frequent USFS plaintiffs as rational, self-interested litigators would likely have some sensitivity to the monetary costs of lawsuits (Fein 1984, Greve 1990, Adler 1996, Barnett and Terrell 2001). The financial risk asymmetry created by EAJA would not be lost on such plaintiffs. Other factors must be considered as well: Malmshemer et al. (2004, p. 24) hypothesized that groups secure other benefits from litigation ". . . such as publicity and delay of U.S. Forest Service action . . ." and Juni (2002, p. 93–94) likewise noted that "environmental groups' donations may suffer if [they use a nonlitigation] . . . approach [that can be viewed as less 'splashy.']. Alternatively, it has been suggested that litigation is actually an effective means to facilitate cooperative bargaining and agreements between plaintiffs and agency defendants (Coglianese 1996). Regardless of the specific set of motivations facing a particular plaintiff—and on which we can only ponder—one-

<sup>10</sup> During a 20-year period from 1989 to 2009, plaintiffs suing the U.S. Forest Service prevailed on the merits in only 19.3 percent of the cases (based on an analysis of the database described at Keele et al. 2006). Although the effects of any one suit may be extensive, for purposes of this article, we generally consider such litigation to have a low probability of success.

way fee shifting under the EAJA decreases the potential financial risk associated with national forest litigation.

Finally, there are various questions about which we can only speculate. We have previously mentioned the riddle of whether more frequent litigants naturally make more frequent EAJA requests for legal fees or whether more frequent EAJA awards facilitate more frequent litigation. This we cannot answer. Likewise, we cannot address whether the EAJA has incentivized any particular lawsuit. Nor can we quantify the role that EAJA fees might play in the overall operating budgets of potential plaintiffs—thereby framing EAJA's relative potential as an incentive—because we do not have access to these organizational finances. What little information we do have access to (Internal Revenue Service Form 990s) is inconsistent and lacking in detail among the various plaintiffs in this study. Likewise, we cannot conclude that in the absence of the EAJA the number of lawsuits against the U.S. Forest Service would subside. Finally, we cannot make any claims to how paying \$6 million in legal fees has affected the U.S. Forest Service, apart from noting that, generally, the specter of lawsuits does affect agency perceptions and behaviors (Mortimer et al. 2011). In keeping with what prior scholarship has noted (see Kritzer 2002), there are formidable empirical challenges to making concrete claims on the effect of fee shifting, and it is no less the case in this instance.

#### Conclusion

The increasing use of litigation as a tool to influence Federal public land-management agency decisions remains controversial and politically charged. Our investigation of EAJA's interaction with the U.S. Forest Service suggests several findings important to future policy discussions and to understanding the relationships among the litigants:

- The EAJA creates a litigation risk asymmetry that may cause stakeholders dissatisfied with U.S. Forest Service land-management decisions to embrace litigation. Enabling this behavior through one-way fee shifting is, of course, a public policy decision, but statutory reform of any perceived inequities or undesirability associated with EAJA and one-way fee shifting would necessarily require plaintiffs to face some “. . . real prospect of out-of-pocket loss” (Guthrie 2000, p. 211).
- There remains insufficient evidence to conclude that the EAJA is a driver for any particular plaintiff to challenge any particular U.S. Forest Service project. Decisions to litigate are likely driven by multiple factors and policymakers should realize that EAJA reform might not eliminate or reduce U.S. Forest Service land-management litigation. For example, some organizations' *raison d'être* is to initiate “public interest litigation.” Even if EAJA were completely repealed, these organizations would likely continue to sue land-management agencies. Also, some national forest management decisions are so offensive to some stakeholders that litigation is probably inevitable. Additionally, as Gambino-Portuese et al. (2009, p. 22, emphasis in original) noted, “the vast majority of parties (74.4 percent) are only involved in one lawsuit. These are groups and individuals whose interest is in a specific U.S. Forest Service project or activity and who use litigation to try to change *that particular* . . . land management decision.” It is doubtful that these “one-timers” take EAJA's distortion of litigation risk into account when they make litigation decisions. Most importantly, many organizations have found that litigation provides an effective policy forum. It is often a more effective and less costly alternative to the resources required to effect policy changes in administrative and legislative branches or participate in collaborative public land-management efforts.
- The original intent of the EAJA has drifted with its use in national forest management litigation. In our study, most EAJA payments were made to environmental interest groups with widely varying financial capabilities. We note that many are quite well financed and therefore not the class of plaintiffs for which the law was designed to provide access to the expensive federal litigation system. The increasing capabilities and sophistication of such public interest litigants, their relative financial resources, and the social desirability of an evolution in the usage of the EAJA might be related topics of inquiry for future policy studies of fee shifting and the EAJA.

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PREPARED STATEMENT OF THE SOUTH EASTERN WILDLIFE & ENVIRONMENT  
EDUCATION ASSOCIATION, INC.

Mr. Chairman and members of the subcommittee, on behalf of the more than 1,100 members of the South Eastern Wildlife & Environment Education (SEWEE) Association, Friends Group for Cape Romain, EFH ACE Basin and Waccamaw National Wildlife Refuges in South Carolina, I would like to thank you for your commitment to the National Wildlife Refuge System (NWRS) through increased funding over the past few years. We realize that in this time of budget cuts, it may be difficult to justify increasing the NWRS funding, but once the Refuges start to decline it will cost many times more than these small increases to return them to a condition that will fulfill their mandates. We respectfully request that you consider the following in your appropriations:

- Fund NWRS \$495 million in fiscal year 2013, essentially keeping level funding from fiscal year 2012.
- Fund the Land and Water Conservation Fund (LWCF) at \$700 million for fiscal year 2013.
- Fund Visitor Services for the NWRS at \$80 million for fiscal year 2013.
- Support \$3.8 million in fiscal year 2013 for Challenge Cost Share (CCS).

Our partner refuges are located along coastal South Carolina in five counties, from Myrtle Beach through Georgetown and Charleston and into the nationally acclaimed ACE Basin area. The budget increases in the past few years have helped them to increase management, protection, and restoration of the Refuges and given them the ability to better meet their Comprehensive Conservation Plan (CCP) goals. For example, in 2010 the Cape Romain Refuge Manager left for another position in Florida and in early 2011 the resident biologist was promoted to this position. We were so excited to have this happen, as this person has worked on this refuge for several years and had a great perspective of the needs and challenges. However, with delays in budget approvals, they were not able to fill the now vacant position of the biologist that year. This was a major problem as Cape Romain has the most active Loggerhead Sea Turtle nest protection program in South Carolina, which is a major project for the biologist. Our dedicated refuge manager made sure this project was able to continue while more than 1,200 nests were laid in the refuge that summer. With your support of continued Operations and Maintenance funding for fiscal year 2012, Cape Romain will now be able to hire a biologist this year as we prepare for a new nesting season. This has become even more critical as Hurricane Irene had major impacts on the refuge islands last year and new procedures will be needed to monitor and protect all the nests laid in the refuge this year. All of our refuges operate with very small staffs, so they would not be able to handle any staff reductions. They have already participated in staffing reviews and reductions and are at their minimum level, so we ask that you allow them to keep their current levels.

Another major need in Operations and Maintenance is for dredging of the Cape Romain docks and landing at Garris Landing and on Bulls Island. Between natural silting action and extreme high tides, the dock basins at these sites are almost unusable at low tide. Their boats cannot be subjected to potentially “bottoming” over-

night as the repairs would be very expensive. Also, the boat landing has filled in as well and is almost inaccessible at low tide. This not only impacts the refuge staff, but all the recreational and commercial boaters who use this facility. As no one can control the extremes in tides that we are experiencing, the only option is to dredge this area to allow it to be used by the public and by refuge staff. We appreciate your support of the funding levels for fiscal year 2012 and ask that you support the continuation of that level for fiscal year 2013 so that projects like this can be done before they become more expensive.

Our partners are also involved in land acquisitions that are funded in part by the Land and Water Conservation Fund. These oil and gas revenues have allowed Waccamaw NWR to work with The Nature Conservancy to protect valuable lands within their boundaries that were offered for sale by International Paper as they scaled back their holdings. These floodplain areas are now protected for various species and have water and land trails for use by the public to explore. Cape Romain NWR is working with Francis Marion National Forest and the National Park Service to protect lands along the Gullah Geechee National Historic Corridor and to protect long-leaf pine habitat from the coast to the midlands as part of the America's Great Outdoors project. Funding of LWCF at the requested levels will allow this valuable work to continue.

SEWEE Association has been the Friends Group for Cape Romain NWR since 1996 and in 2002 we added EFH ACE Basin NWR and Waccamaw NWR as our partners. We have been able to provide Environmental Education to more than 100,000 students and teachers through our staff and volunteers on these refuges and gain tremendous support for our partners through this work. We also have provided interns and technicians to the refuges to help with special projects, such as the Loggerhead Sea Turtle nest protection; eradication of invasive species; water quality monitoring and shorebird surveys. We also were able to supply major funding to help with the exhibits of the new Waccamaw Environmental Education Center and with upgrades to audio-visual equipment at Cape Romain's Sewee Visitor and Environmental Education Center. Our association members are passionate about our refuges and want to see them have a chance to meet their mission. Therefore we ask you to help us through these requests:

- The Cooperative Alliance for Refuge Enhancement (CARE) estimates that the NWRS needs a budget of at least \$900 million annually in operation and maintenance funding in order to properly administer its 150 million acres as mandated in the Refuge Improvement Act. The current budget is far short of the amount actually required to effectively operate and maintain the Refuges. In this time of tightening budgets, we respectfully request that you keep the NWRS budget at the same level as fiscal year 2012 (\$495 million) so that the Refuges do not backslide even further in protecting these valuable lands and ecosystems.
- The Land and Water Conservation Fund was created in 1965 and authorized at \$900 million. We ask that you fund the LWCF at \$700 million for fiscal year 2013. These funds are used for land acquisition to protect wildlife and their habitats. With the effects of a changing climate, it is more important now than ever to establish key wildlife corridors between protected areas so wildlife can migrate to more suitable habitat as their historic ones changes. These landscape level conservation efforts through conservation easements and land purchases are the best way to protect the diversity of flora and fauna. The price of real estate is low at this time and the \$700 million can go much further in protecting habitats than it can in a higher market. When we start to lose species due to lack of food, water, shelter, or space, we are changing the balance of nature. We urge you to fund the LWCF at \$700 million for fiscal year 2013. The LWCF is not funded by taxpayer money.
- The refuges give the American people places to connect with nature and get involved. In 2011 refuge Friends and volunteers contributed 1.5 million hours of work for the refuge system. This is about eight volunteers for every one refuge system employee. These Friends and volunteers do approximately 20 percent of all work on refuges for free. Without a refuge system employee to guide them, the volunteers can't perform these valuable free services. We request \$80 million for Visitors Services for the NWRS.
- Please support the Challenge Cost Share (CCS) with \$3.8 million in fiscal year 2013. Partners are the key to successful conservation. The Federal Government doesn't need to foot the bill alone. Through programs that leverage Federal dollars (such as the CCS program), partner organizations such as our Refuge Friends groups can get matching dollars from other entities to give the American taxpayers more for their dollars. Projects such as trails, education, board-

walks, and habitat restoration give the American public places to connect with nature and relax.

In conclusion, the SEWEE Association believes the National Wildlife Refuge System can meet its important conservation objectives only with strong and consistent funding leveraged by the valuable work of refuge staff and volunteers. We again extend our appreciation to the subcommittee for its ongoing commitment to our NWRs. We encourage you to approve a \$495 million for the fiscal year 2013 NWRs operations and maintenance budget managed by FWS and to approve \$700 million for fiscal year 2013 for the LWCF land acquisition budget as well as funding refuge Visitor Services at \$80 million and the CCS at \$3.8 million.

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PREPARED STATEMENT OF THE SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM

My name is Charles Clement and I am the President and CEO of the SouthEast Alaska Regional Health Consortium (SEARHC). Chairman Simpson, Ranking Member Moran, and members of the subcommittee, it is a pleasure to be here and I thank you for the opportunity to testify before this Committee.

I have been involved in the provision of Alaska Native healthcare for 15 years. Prior to my employment at SEARHC I worked for the Southcentral Foundation in Anchorage, Alaska, as the vice president/chief operating officer; vice president—operations; director of information technology/chief information officer; and special assistant to the president. As the new president/CEO of SEARHC, I am amazed at the positive impact the consortium has on the health spectrum of Alaska Natives.

SEARHC is an inter-tribal consortium of 18 federally recognized tribes situated throughout the southeast panhandle of Alaska. Our considerable service area encompasses more than 35,000 square miles, an area larger than the State of Maine. With no road system connecting our communities, the challenges to deliver robust health services are considerable.

I am proud to say that SEARHC meets these challenge through a network of community clinics and through the Mount Edgecumbe Hospital. We provide an array of health services that includes medical, dental, mental health, physical therapy, radiology, pharmacy, laboratory, nutritional, audiology, optometry and respiratory therapy services. In addition we provide supplemental social services, substance abuse treatment, health promotion services, emergency medical services, environmental health services and traditional Native healing.

We administer more than \$42 million in IHS facilities and related programs and services and have had more than 115,040 encounters in the last fiscal year. These are Federal services which we operate on behalf of the Federal Government through a self-governance compact and associated funding agreement.

To carry out IHS programs under this contract requires us to incur certain fixed costs, including a number of costs mandated by the Federal Government. These costs include substantial annual audit costs, insurance costs and an array of administrative costs to operate our personnel and financial management systems.

Only a portion of the contract support costs for the above health services are covered in the direct service budget which IHS contracts to pay for under our funding agreement. This is because IHS either does not incur these costs at all (in the case of audit expenses and insurance costs), or because IHS receives resources to carry out these functions from other portions of the IHS budget, other divisions of the Department of Health and Human Services, or even other departments of the Federal Government. Still, these are mandatory fixed costs which SEARHC must incur every year, and—for SEARHC—these costs are negotiated annually by the DHHS Division of Cost Allocation, Western Field Office.

Decades ago SEARHC was required to accept a contract that did not provide for the payment of these contract support costs. Over the years, through amendments to the Indian Self-Determination Act, the Congress changed the law to require that full contract support costs be added to the negotiated budget for our direct services. Thus today, both the law, as well as our compact and funding agreement, require that contract support costs be added in full.

IHS, however, has not paid the full amount owed under our contract. In fact, it is not clear how much IHS will honor under the contract until it is fully performed. Even this year—nearly half way through the year—we have no idea what IHS will pay us because IHS has not announced how it will distribute this year's contract support cost funding, which was an increase of \$74 million increase.

As an example of the impact contract support cost underfunding has on SEARHC, last fiscal year SEARHC was underpaid approximately \$2.8 million in fixed contract support costs. SEARHC has no tax base and, thus, has no way to make up for the difference other than to use resources that would otherwise support the delivery of

services. This shortfall severely impacted on our ability to fully aid the Alaska Native community and our ability to provide the maximum level of care to our beneficiaries. Interestingly, in other areas of Government contracting, the United States does not fail to pay for its contracted for services.

SEARHC is a member of the National Tribal Contract Support Cost Coalition, and we fully endorse the NTCSCC's testimony. Full funding of support costs in fiscal year 2013, at \$100 million increase more than the President's request would impact SEARHC daily operations by allowing for our contract support costs to be fully paid and preventing the need to use direct service funds to supplement contract support costs normally unpaid by IHS.

It has been almost 8 years to the day since the Supreme Court required that the Government honor its self-determination contracts with tribal healthcare providers in the landmark case *Cherokee Nation of Oklahoma v. Leavitt*, 543 U.S. 631 (2005). Honoring these contract support costs obligations is inimical to SEARHC's ability to provide robust health services to our community.

I thank you for the opportunity to testify before the subcommittee and would be happy to answer any questions you have for SEARHC.

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#### PREPARED STATEMENT OF THE SOUTHCENTRAL FOUNDATION

Southcentral Foundation (SCF) is a tribal organization that compacts with the Secretary of Health and Human Services under title V of the Indian Self-Determination Act. Under SCF's compact we carry out various Indian Health Service programs across our region. In doing so, SCF acts pursuant to tribal authority granted by Cook Inlet Region, Inc., an Alaska Native regional corporation designated by the Congress as an Indian tribe for purposes of Indian Self-Determination Act activities. As my testimony reflects, SCF requests that in fiscal year 2013 the Congress:

- fully fund our Mat-Su Clinic joint venture staffing requirements, as required by our joint venture contract agreement with IHS; and
- fully fund SCF's and all other contract support cost requirements at \$572 million, as required by more than 330 self-determination contracts with IHS.

SCF has carried out IHS programs under Self-Determination Act agreements for more than 25 years. In accordance with its compact with the DHHS, SCF currently provides medical, dental, optometric, behavioral health, and substance abuse treatment services to more than 45,000 Alaska Native and American Indian beneficiaries living within the Municipality of Anchorage, the Matanuska-Susitna Borough, and nearby villages. SCF also provides services to an additional 13,000 residents of 55 rural Alaska villages covering an area exceeding 100,000 square miles and larger than the State of Oregon. To administer and deliver these critical healthcare services, SCF employs more than 1,400 people.

Today I will focus my remarks on two issues, joint venture funding and contract support cost funding.

#### *Joint Venture Funding*

The first issue I need to address concerns our joint venture (JV) contract with IHS. Under section 818(e) of the Indian Health Care Improvement Act, IHS is authorized to enter into JV contracts under which a tribe borrows funds to build a facility to IHS specifications, and IHS agrees "to provide the equipment, supplies, and staffing for the operation and maintenance of such health facility." The agreements are contracts and they are enforceable as such.

Two years ago SCF and IHS entered into a binding JV contract. SCF agreed to construct a new 88,451 square-foot Primary Care Clinic in the Mat-Su Valley of Alaska, using borrowed funds from non-IHS sources. In return, IHS agreed that it "shall provide the supplies and staffing for the operation and maintenance of the Facility . . . subject to appropriations by the Congress." Art. VIII.A. See also Art. VIII.G ("IHS will staff, operate and Maintain the Facility in accordance with Articles XI through XIV of this Agreement."); Art. XI ("As authorized by Section 818(e)(2) of Public Law 94-437 ('subject to the availability of appropriations for this joint venture project, commencing on the beneficial occupancy date IHS agrees to provide the supplies, and staffing necessary for the operation and maintenance of the Facility. IHS will request funding from the Congress on the same basis as IHS requests funding for any other new Facility.')

Our concern arises out of the fact that, while we will receive our certificate of beneficial occupancy on July 15, 2012, and thus be operational during all of fiscal year 2013 at an IHS-calculated staffing cost of \$27 million, IHS's budget only requests 50 percent of the staffing requirement for the Clinic (or \$13.5 million). We are gravely concerned over this gap, all the more because the original \$27 million which

IHS committed to pay already reflects a 15-percent reduction of our total staffing costs. (This is because, as a matter of policy, IHS will not staff any new facility at more than 85 percent of the facility's staffing requirement.) If IHS does not receive additional funds to fully meet its contract commitment to SCF, IHS would be forced to reprogram other funds to make up for the difference.

We are not alone in this situation, and some of the other staffing packages which IHS is committed to provide are similarly underbudgeted. We calculate that to fund the staffing packages will require \$95.2 million, not the \$49.2 million requested. Before IHS requests, and before the Congress funds, discretionary increases in other IHS accounts, contractually committed staffing packages should be paid in full.

#### *Contract Support Cost Funding*

The second problem is the budget's inadequate request for contract support cost funding—another contractually required payment to Indian Self-Determination Act contractors like SCF. The budget requests a mere \$5 million increase for fiscal year 2013, despite the fact that IHS's former contract support cost expert Ron Demaray projects a \$99 million shortfall in fiscal year 2013 (calculated at the President's proposed budget level). Here, we have developed our own projection because, for the first time in some 20 years, the IHS budget justification does not include a shortfall projection.

Contract support cost funding reimburses SCF's fixed costs of running its contract with IHS. If IHS fails to reimburse these costs, SCF has no choice but to cut positions, which in turn cuts services, which in turn cuts down our billings and collections from Medicare, Medicaid and private insurers (billings which would otherwise go into additional staff and services for our people). The reverse is also true. When in fiscal year 2010 congressionally appropriated an historic increase in contract support cost funding, SCF opened 97 positions to fill multiple healthcare provider teams and support staff.

Our fixed contract support costs are largely "indirect costs" that are set by the HHS Division of Cost Allocation. The remainder of our contract support costs (about 20 percent) are set directly by IHS. These costs include federally mandated audits, and such items as liability and property insurance, workers' compensation insurance, and payroll and procurement systems. We have to buy insurance. We need to make payroll. We have to purchase supplies and services, and we have to track property and equipment. All of our costs are independently audited every year by Certified Public Accountants, as required by law.

Last year this subcommittee reiterated the binding nature of these contracts and directed IHS and the BIA to fully fund all contract support cost requirements. The BIA has done this, but the IHS budget justification defies the Committee's direction and insists that these contracts are not binding at all. So far as we can tell, no other contractors are treated this way. HHS, including IHS, only treats its contracts with Indian tribes this way—as optional, discretionary agreements that it can choose not to pay. We provide a contracted service for a contracted price, but IHS only pays us what it chooses to pay.

This has to stop. In fiscal year 2013 IHS should finally pay its contract obligations in full. The contract support cost line-item should be fully funded at a minimum \$571 million.

As SCF said last year before this Committee, underfunding contract support costs disproportionately balances budgetary constraints on the backs of tribal contractors. Worse yet, it punishes the people being served by forcing reductions in contracted programs. If the Congress is going to cut budgets or limit budget increases, fairness demands that such actions occur in portions of the budget that are shouldered equally by IHS and the tribes and tribal organizations (like the contract health services line).

Again, SCF respectfully calls upon the Congress to provide at least \$571 million in contract support cost funding for fiscal year 2013, so that the Department can finally honor these contracts in full. Remember, every tribe has contracts with IHS to carry out some of the agency's healthcare services, and most of those tribes are being penalized for taking that initiative. Closing the contract support cost gap will eliminate that penalty and directly benefit the vast majority of Indian and Alaska Native communities served by IHS.

On a related note, SCF requests that the Congress direct IHS to resume promptly disclosing to tribes all IHS data on contract support cost requirements and payments. Up until last year, IHS was doing this regularly. Then suddenly IHS stopped—we think because IHS may have been embarrassed by errors in its data. Now, IHS claims that releasing its data may be opposed by some tribes—even though the release of data is mandated by section 106 of the ISDA. IHS also claims that because the data is also used in a report to the Congress, releasing the data

violates OMB clearance procedures, and that there is some kind of embargo on data regarding the expenditure of Federal funds (similar to the embargo applicable to the development of the President's Annual Budget). This is simply not so, and in prior years OMB participated in the disclosure of IHS data to the tribes. Contract support cost appropriations belong to the tribes, and tribes have a right to know what is happening to these funds on a timely basis. Waiting for a report to the Congress that includes other information is not helpful, since most reports never get to the Congress. The few that do are interminably delayed. In fact, the CSC Report Congress just received from IHS regarding 2009 data was 2 years late. We ask that the Committee add appropriate language to the appropriations Act directing IHS to disclose its data promptly.

Thank you for granting me the opportunity to testify on behalf of the Southcentral Foundation and the 58,000 Native American people we serve.

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PREPARED STATEMENT OF THE SQUAXIN ISLAND TRIBE

On behalf of the tribal leadership and members of the Squaxin Island Tribe, I am honored to submit our funding priorities and recommendations for the fiscal year 2013 budgets for the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). The fiscal year 2013 President's proposed budget presents a renewed opportunity for the U.S. Government to live up to the promises made to American Indian/Alaska Native (AI/AN) Tribal governments. We want to thank this subcommittee for their longstanding support and urge your consideration of the following requests:

*Tribal Specific Requests*

\$1.2 million increase for Northwest Indian Treatment Center (NWITC) residential program in IHS.

\$650,000 for law enforcement and public safety; four full-time police officers in BIA.

*Regional Requests and Recommendations*

The Squaxin Island Tribe is actively involved in the collective Northwest Tribal efforts and supports the requests and recommendations of:

- Northwest Portland Area Indian Health Board;
- Affiliated Tribes of Northwest Indians; and
- Northwest Indian Fisheries Commission.

*Self-Governance and National Requests/Recommendations*

*Bureau of Indian Affairs*

- + \$8.8 million to Fully Fund Contract Support Costs.
- + \$30 million Law Enforcement.
- Fully Fund All Provisions of Tribal Law and Order Act of 2010.
- + \$13.7 million to fully Fund Fixed Costs/Pay Costs.
- + \$89 million Tribal Priority Allocations (10 percent increase more than fiscal year 2012 enacted).

Increase funding to the Office of Self-Governance to fully staff the office for the increase of tribes entering Self-Governance and do not consolidate this office within Indian Affairs

*Indian Health Service*

- + \$100 million to Fully Fund Contract Support Costs.
- + \$200 million for Contract Health Services.
- + \$40 million for Alcohol and Substance Abuse Programs.
- + \$304 million for Mandatory Costs to Fully Fund Current Services.
- + Fully Fund the Implementation of the Indian Health Care Improvement Act.
- + \$5 million for the Indian Health Service Office of Tribal Self-Governance.

*Squaxin Island Tribe Background*

We are native people of South Puget Sound and descendants of the maritime people who lived and prospered along these shores for untold centuries. We are known as the People of the Water because of our strong cultural connection to the natural beauty and bounty of Puget Sound going back hundreds of years. The Squaxin Island Indian Reservation is located in southeastern Mason County, Washington and is a signatory to the 1854 Medicine Creek Treaty. We were 1 of the first 30 federally recognized tribes to enter into a Compact of Self-Governance with the United States. We establish our own priorities and budgets for funds previously administered by BIA and IHS.

Our treaty-designated reservation is approximately 2.2 square miles of uninhabited forested land. Because the Island lacks fresh water, the tribe has built its community on roughly 26 acres at Kamilche, Washington purchased and placed into trust. The tribe also owns 6 acres across Pickering Passage from Squaxin Island and a plot of 36 acres on Harstine Island, across Peale Passage. The total land area including off-reservation trust lands is 1,715.46 acres. In addition, the tribe manages roughly 500 acres of Puget Sound tidelands.

The tribal government and our economic enterprises constitute the largest employer in the county with more than 1,250 employees. The tribe has a current enrollment of 1,017 and an on-reservation population of 426 living in 141 homes. Squaxin has an estimated service area population of 2,747; a growth rate of about 10 percent, and an unemployment rate of about 30 percent (according to the BIA Labor Force Report).

*Tribal Specific Requests Justifications*

*\$1.2 Million Increase for the Northwest Indian Treatment Center residential program in Indian Health Service*

“D3WXbi Palil” meaning “Returning from the Dark, Deep Waters to the Light”—Northwest Indian Treatment Center (NWITC) has not received an adequate increase in its base IHS budget since the original congressional set-aside in 1993. An increase of \$1.2 million would restore lost purchasing power and meet the need to add mental health and psychiatric components to the treatment program. This increase would allow NWITC to continue its effective treatment of Native Americans.

The Squaxin Island Tribe operates the NWITC, which is located in Elma, Washington. NWITC is a residential chemical dependency treatment facility designed to serve American Indians from tribes located in Oregon, Washington, and Idaho who have chronic relapse patterns related to unresolved grief and trauma. NWITC is unique in its integration of tribal cultural values into a therapeutic environment for co-occurring substance abuse and mental health disorders.

NWITC has nearly 20 years of experience providing residential treatment with culturally competent models and is accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), an international accrediting organization for behavioral health programs. The NWITC is also certified by Washington State Division of Alcohol and Substance Abuse (DASA) Division of Behavioral Health and licensed by the Department of Health.

In 2011, NWITC served 212 patients from 28 tribes and added intensive case management and crisis support to alumni in order to continue to promote positive outcomes for clients. This is a 10-percent increase more than 2010 service levels. Our base allocation in 1994 was \$850,161. In 2010 it was \$994,877. If value equity to the 1994 baseline were maintained, the 2010 allocation would have been \$1,250,895. Despite funding challenges, NWITC has continued to develop and deliver innovative, culturally appropriate services to meet increasingly complex demands.

It is critical to increase the NWITC’s annual base allocation from IHS in order to sustain the current services to the tribes of the Northwest. We respectfully request the subcommittee increase the annual base allocation for the NWITC by an additional \$1.2 million to guarantee that patients can be admitted based on need, not State funding streams, and that culturally infused, integrated, and comprehensive treatment services and recovery support services will be maintained.

*\$650,000 for Law Enforcement and Public Safety; Four Full-Time Police Officers*

The Squaxin Island Tribal Public Safety and Justice Department is dedicated to protecting lives, maintaining peace and ensuring that the property and resources of the Squaxin Island Tribe are protected. The Department includes a 12-member police force, Tribal court, and emergency management center.

For a number of years, the tribe has requested an increase in baseline BIA funding to ensure that the public safety and justice needs of our community are fully met. In the intervening years, the tribal community and the surrounding area has grown considerably, more than challenging our public safety and Justice Department’s ability to ensure public safety and fulfill our responsibility as managers of our natural resources. The need for additional funding is greater now than ever before.

We have enhanced the shellfish habitat and production programs which increased the demand on water enforcement to address issues of illegal harvesting. Growth in the region’s commercial and recreational fin and shell fisheries present increasing threats and challenges to enforcement of our treaty rights and protection of our natural resources. It is vitally important to ensure that natural resources are protected.





Currently, the tribe only has funding sufficient for two public safety and justice officers to be assigned to natural resources protection, although patrols are needed to monitor clam digs, geoduck diving and fishing areas during the respective seasons, as well as patrol closed areas to prevent poaching or other encroachment. Frequently, hunting and fishing seasons overlap, dividing available human resources between land and water patrols, though the need for law enforcement presence in both habitats are critical to public safety and protection of our treaty rights and trust responsibility. Squaxin hunters depend on harvesting deer and elk from our hunting areas in the foothills of the Cascade Mountains, more than 115 miles southeast of the reservation. Our usual and accustomed hunting lands are located near Randle and Packwood, Washington, a 2+ hour drive from the reservation for both treaty hunters and law enforcement patrols.

The tribe has been successful in obtaining Department of Justice (DOJ) Community Oriented Policing Services (COPS) grant funding for new or enhanced programs. However, increased baseline funding is needed to meet the ongoing public safety, enforcement and justice needs of the tribe. DOJ grant funds can only be used to enhance public safety, including domestic violence and crime prevention, not for basic operations.

The Squaxin Island Tribe is seeking long- and short-term assistance. In the short term, the tribe needs immediate funding for four full-time police officers to achieve full 24/7 water patrol coverage. In the long term, BIA funding for law enforcement and public safety programs needs to be significantly increased to meet the need for expanded protection of our natural resources, particularly water patrol. The budget for four officers, equipment, supplies, and training is:

	Amount
Salaries .....	\$230,170
Fringe .....	100,910
Space costs .....	3,600
Telephone and cellular .....	4,000
Noncapital equipment .....	6,000
Travel and training .....	4,000
Supplies .....	12,000
Vehicle maintenance .....	40,000
Insurance .....	10,000
Subtotal .....	410,688
Indirect costs at 44.14 .....	179,312
Equipment > \$5,000/month .....	60,000
Total .....	650,000

The Squaxin Island Tribe's Public Safety department would benefit greatly by increased short-term funding as well as long-term base funding needed to operate a full-fledged water patrol program to provide the 24-hour, 7 days week coverage needed to ensure that the community, property and resources are being protected effectively.

The Squaxin Island Tribe envisions a culturally and economically strong community of self-governing, resilient people, united by shared values and traditions . . . by protecting life and maintaining the peace, protecting tribal property and resources, serving in a reasonable and prudent manner, and carrying out these responsibilities diligently, courteously, and with pride.

We support all requests and recommendations of the National Congress of American Indians and the National Indian Health Board.

Thank you.

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PREPARED STATEMENT OF SUSTAINABLE NORTHWEST

Mr. Chairman and members of the subcommittee, thank you for this opportunity to provide testimony before the subcommittee on Interior, Environment, and Related Agencies on the subcommittee's fiscal year 2013 funding priorities. On behalf of Sustainable Northwest, I would like to take this opportunity to highlight programs, funds and tools that are important to the people and communities of the rural West and that we believe should receive full congressional funding in fiscal year 2013.

My name is Martin Goebel and I am the President of Sustainable Northwest. We are a nonprofit organization that promotes collaborative, community-based solutions to natural resource management issues. We work in rural communities throughout the West, bringing together multiple, often opposing, stakeholders to create and promote solutions through a collaborative process.

Today, I am going to address two agency budgets—the United States Department of Agriculture (USDA) United States Forest Service (USFS) budget and the Department of the Interior (DOI) Fish and Wildlife Service (FWS) budget.

SUSTAINABLE NORTHWEST'S RECOMMENDATIONS FOR FISCAL YEAR 2013

Fully fund the Collaborative Forest Landscape Restoration Program at \$40 million.

Enact and fully fund the national Forest Service Integrated Resource Restoration line item at \$793 million.

Create permanent authority for the use of stewardship end-result contracting to restore our national forests and provide local jobs.

Invest in programs that support the capacity of community-based partners who work directly with the land management agencies, including USFS, FWS, and Bureau of Land Management.

Fully fund the Community Wood to Energy Program at \$4.25 million and the Woody Biomass Utilization Grant Program at \$5 million.

Fully fund the FWS Partners for Fish and Wildlife Program at \$55 million.

Allocate \$1.6 million from the FWS Fisheries and Aquatic Resource Conservation activity area to conservation and planning within the Klamath Basin.

UNITED STATES DEPARTMENT OF AGRICULTURE UNITED STATES FOREST SERVICE FISCAL YEAR 2013 BUDGET

*Collaborative Forest Landscape Restoration Program*

The bipartisan Collaborative Forest Landscape Restoration Program (CFLRP) was established in 2009 to encourage the collaborative, science-based restoration of priority landscapes. The purposes of this program are to:

- create job stability;
- achieve a reliable wood supply;
- restore forest health; and
- reduce costs of wildfire suppression in overgrown forests.

CFLRP received \$10 million in fiscal year 2010, \$25 million in fiscal year 2011, and \$40 million in fiscal year 2012. The President's fiscal year 2013 budget proposal recommends maintaining funding at \$40 million, and Sustainable Northwest respectfully encourages the subcommittee to allocate full funding.

CFLRP has already proven itself to be a highly successful and accessible program. Interest in this program is very high, with increasing numbers of applicant sites each year. Further, CFLRP produces tangible, documented results. In the first year alone, CFLRP projects generated and maintained 1,550 jobs; produced 107 million board feet of timber; generated \$59 million of labor income; removed fuel for de-

structive mega-fires on 90,000 acres near communities; reduced mega-fire on an additional 64,000 acres; improved 60,000 acres of wildlife habitat; restored 28 miles of fish habitat; and enhanced clean water supplies by remediating 163 miles of eroding roads. Since then, the program has expanded to include 10 new projects, for a total of 20 projects across 13 States, across 7 USFS regions<sup>1</sup>. These projects represent an incredible opportunity for advancing public-private approaches to landscape and watershed restoration.

#### *Integrated Resource Restoration Budget Line Item*

Sustainable Northwest strongly supports the national Integrated Resource Restoration (IRR) budget line item (BLI) included within administration's fiscal year 2013 budget recommendations. IRR takes a broad, multifaceted funding approach to restoration of our national forests. The goal of the IRR line item is to increase funding efficiency by combining funding for forest management activities previously funded under wildlife & fisheries habitat management; forest products; vegetation & watershed management; legacy roads and trails, and roads; hazardous fuels non-wildland urban interface; and rehabilitation and restoration budget line items.

This BLI was included in USFS's budget as a pilot program in fiscal year 2012. It was limited to USFS Regions 1, 3, and 4. The President's budget recommends expanding the IRR to a national program covering all USFS regions in fiscal year 2013 and fully funding it at \$793 million. We support this expansion because we believe IRR is an important tool in building a forest restoration economy that will create new jobs in rural communities. It will better integrate funding and authorities related to forest restoration and water quality, while reducing administrative costs. This is a forward-thinking approach to budgeting within USFS, and we urge you to support this approach by fully funding IRR at \$793 million in fiscal year 2013.

#### *Permanent Stewardship End-Result Contracting Authority*

Stewardship end-result contracting is one of the best tools available for funding stewardship and restoration on our national forestlands. It increases the ability of districts and field offices to carry out high quality restoration projects by lowering project administration costs. It helps achieve land management goals and improve the collaborative atmosphere on our national forests. With its best value contracting authority, stewardship contracting helps improve the quality of work on the ground and increases economic opportunities and jobs in communities located near public lands.

Between fiscal year 1999 and fiscal year 2010, USFS awarded 874 contract and agreements for restoration treatments on more than 558,020 acres nationwide. Current legislation authorizes USFS and Bureau of Land Management to enter into stewardship end result contracts until September 30, 2013. The President's fiscal year 2013 budget assumes that the agencies are able to secure permanent stewardship contracting authority. We believe stewardship end-result contracting is a necessary and important tool to the help our forests and our rural communities achieve ecological and economic outcomes. We strongly support permanent authorization.

#### *Strengthening Community Capacity for Collaboration and Land Stewardship*

Community capacity is the collective ability and resources rural communities have to solve diverse challenges and meet the multiple needs of their communities by drawing on human, social, cultural and physical capital. By investing in building the collaborative and stewardship capacity of rural communities, the Federal Government can support collaborative and common ground solutions to improve the delivery and effectiveness of Federal budgets; promote small business development and job creation; foster "bottom up" natural resource decisions that include the input of local citizens and governments; and save and leverage money by working through local organizations. Programs and initiatives of USFS like CFLRP, stewardship contracting, the new planning rule and the watershed condition framework all rely on effective partnerships between the Federal Government and community based locally led organizations. These investments are critical.

One example of the impact of capacity funds can be seen through the work of the Blue Mountain Forest Partners (BMFP), a collaborative organization on the Malheur National Forest. With public and private grant funds, BMFP is increasing its institutional capacity to become a self-governed entity and to serve as a catalyst for forest restoration and job creation in Grant County, Oregon. The BMFP has in-

<sup>1</sup>People Restoring American's Forests: A Report on the Collaborative Forest Landscape Restoration Program, November 2011. Available at <http://www.fs.fed.us/restoration/CFLR/index.shtml>.

creased project size, decreased the amount of time required to reach agreement, avoided litigation and appeals over the last 5 years, and have been selected to participate in the CFLRP program through a project on the Malheur National Forest. For small and emerging organizations such as BMFP, capacity programs offer the opportunity to increase skills and sophistication necessary to create and maintain capacity for collaborative decisionmaking and responsible land stewardship.

*Community Wood to Energy Program and Woody Biomass Utilization Grant Program*

The use of woody biomass to generate thermal energy provides a tremendous opportunity to reduce our dependency on petroleum, reduce carbon emissions by displacing combustion of fossil fuels, support ecologically based forest restoration, and promote a distributed energy economy which includes rural communities as part of the solution. USFS programs such as the Community Wood to Energy Program (CWEP) and Woody Biomass Utilization Grant Program (WBUG) provide support for development of woody biomass facilities and markets. If funded at the President's fiscal year 2013 request of \$4.24 million, CWEP will provide grant funds to State, tribal, and local governments to develop community wood energy plans; acquire community wood energy systems; and secure technical assistance for public facilities that use woody biomass as the primary fuel. WBUG encourages woody biomass removal through restoration activities and use of woody biomass in facilities with commercially proven technologies. Sustainable Northwest supports the President's request for full funding for CWEP at \$4.25 million and WBUG at \$5 million.

DEPARTMENT OF THE INTERIOR FISH AND WILDLIFE SERVICE FISCAL YEAR 2013 BUDGET

*Partners for Fish and Wildlife Program*

The Partners for Fish and Wildlife Program (PFW) is one of the FWS's critical conservation tools for voluntary, citizen and community-based fish and wildlife habitat restoration activities on privately owned land. PFW serves as a bridge to landowners to develop individual partnerships and habitat restoration projects for the benefit of fish and wildlife species. In many instances, restoration projects can help decrease risks and burdens associated with regulatory activity, as well as increase the underlying value of these properties. The approach is simple: engage willing partners and landowners, using direct financial and technical assistance, to conserve and protect fish and wildlife values on their property. Working with more than 44,000 private landowners from 1987–2010, PFW has successfully restored and enhanced 1,026,000 acres of wetlands; 3,235,000 acres of uplands; 9,200 miles of stream habitat; and worked with more than 3,000 partnering organizations. Sustainable Northwest supports the administration's recommendation of \$55 million for PFW in fiscal year 2013.

*Funding for Conservation in the Klamath Basin*

The Administration's fiscal year 2013 budget recommendation for the Fisheries and Aquatic Resource Conservation activity area within the FWS includes \$1.6 million for conservation, planning, and restoration within the Klamath Basin. This funding is essential, as demand on FWS in the Klamath is expected to increase dramatically in 2013 and 2014, a direct result of ongoing demand on limited water supplies and potential efforts to implement the plans outlined in the Klamath Basin Restoration Agreement. Klamath Basin funding is needed to restore high-priority stream habitats and recover listed and native fish species in the Klamath system and work cooperatively with stakeholders on natural resource management issues. Restoration of the Klamath Basin fisheries and habitat is a high priority for Sustainable Northwest, and we ask that you ensure support for this important work.

Thank you very much for this opportunity to testify.

PREPARED STATEMENT OF THE TANANA CHIEFS CONFERENCE

My name is Jerry Isaac and I am the President of the Tanana Chiefs Conference. TCC is a nonprofit inter-tribal consortium of 39 federally recognized tribes located in the interior of Alaska. TCC is a Co-Signer of the Alaska Tribal Health Compact under title V of the Indian Self Determination and Education Assistance Act, Public Law 93–638. TCC serves approximately 13,000 Native American people in Fairbanks and our rural villages. Our traditional territory and current services area occupy a mostly roadless area almost the size of Texas, stretching from Fairbanks clear up to the Brooks Range, and over to the Canadian border.

I will be testifying on two matters. First, I will provide an overview of the Joint Venture Construction Program and specifically address TCC's staffing needs. Sec-

ond, I will explain the impact suffered by TCC and others from the contract support cost shortfall and how that shortfall will have the most impact for those entities starting to operate replacement or joint venture facilities in fiscal year 2013.

TCC needs the full staffing package amount in fiscal year 2013, as agreed to in our Joint Venture Agreement.

The Joint Venture Construction Program is authorized in section 818(e) of the Indian Health Care Improvement Act, Public Law 94-437. The authorization directed the Secretary of HHS to make arrangements with Indian tribes to establish joint venture projects. The program is executed through a JVCP agreement—a contract—in which a tribal entity borrows non-IHS funds for the construction of a tribally owned healthcare facility, and, in exchange, the IHS promises to lease the facility, to equip the facility and to staff the facility.

In the Conference Report which accompanied the Department of the Interior, Environment, and Related Agencies Appropriation Act, 2010, the conferees explained the importance of the Joint Venture program. That program is a unique way of addressing the persistent backlog in IHS health facilities construction projects serving American Indians and Alaska Natives. The conferees reported, “The conferees believe that the joint venture program provides a cost-effective means to address this backlog and to increase access to healthcare services for American Indians and Alaska Natives. The conferees are aware that IHS is currently reviewing competitive applications from tribes and tribal organizations to participate in the 2010 joint venture program and encourage the Service to move forward with the process in an expeditious manner.”

IHS has followed the direction of the Congress and/or the conference report. In 2010 IHS signed a legally binding Joint Venture Construction Agreement with TCC. In the agreement IHS agreed to “request funding from the Congress for fiscal year on the same basis as IHS requests funding for any other facilities.” Given that IHS has requested full-funding for some projects and less than full for others, it appears that IHS has not requested funding on the same basis across all facilities.

TCC is concerned to say the least, at the proposed funding for our Joint Venture project. IHS requested less than 27 percent of the staffing package for TCC (or around \$8 million) even though our facility will be open for the entire fiscal year. Alaska is a unique place in which the additional costs for recruitment, training and program creation are far higher than in the lower 48. TCC will need the full \$30 million staffing package to be successful this opening year.

TCC has done everything in our power to see a successful opening in fiscal year 2013. TCC has remained in close contact with IHS throughout the construction of our projects. We are on budget and ahead of schedule. Both Secretary Sebelius and Dr. Roubideaux were able to visit with TCC last fall. Since that visit, the date of completion for the clinic has moved up. IHS’s funding requests were based on last year’s projected opening dates. But TCC’s current beneficial occupancy date for our JV clinic is September 2012. TCC’s clinic will open much earlier than what is reported in the IHS budget justification.

TCC has never before owned its own primary care medical facility. This is because the majority of our current clinic space is leased from Banner Health at Fairbanks Memorial Hospital (FMH). Additionally, in the past TCC has purchased lab, radiology, housekeeping, laundry, groundskeeping, and maintenance services from FMH. These are services that TCC will begin self performing in less than 5 months when we move into the new clinic. Already we have started the planning process for the transition and recruitment of the staff we will need.

Staff within IHS have written that our Joint Venture partnership could be characterized as a model for what can be achieved between Tribal Health Organizations and IHS to improve access to healthcare for American Indian and Alaska Native people. TCC is well on our way to upholding our end of the Joint Venture agreements. We need IHS, and the Congress, to hold up the Government’s side of the bargain.

TCC will be fully operational for all of fiscal year 2013. Our staffing packages should be provided in the full amounts proportionate to our operations. Any reduction from the full staffing amount will only result in decreasing our ability to provide services to our beneficiaries. Worse yet, it could endanger our ability to service the debt we have incurred in constructing the new clinic.

The contract support cost request by IHS will worsen the national CSC shortfall and require further program cuts for Self-Determined Tribes, and the burden will fall especially hard on those tribes which will operate new facilities in fiscal year 2013.

Related to the Joint Venture Construction Program is our concern with IHS’s requested funding for contract support costs. These costs are owed to tribes and tribal organizations like TCC performing contracts on behalf of the United States pursu-

ant to the Indian Self-Determination Act. "Contract support costs" are the fixed costs which we incur and must spend to operate IHS's programs and clinics.

The Indian Self Determination Act depends upon a contracting mechanism to carry out its goal of transferring essential governmental functions from Federal agency administration to tribal government administration. To carry out that goal and meet contract requirements, the Act requires that IHS fully reimburse every tribal contractor for the "contract support costs" that are necessary to carry out the contracted Federal activities. (Cost-reimbursable government contracts similarly require reimbursement of "general and administrative" costs.) Full payment of fixed contract support costs is essential: without it, offsetting program reductions must be made, vacancies cannot be filled, and services are reduced, all to make up for the shortfall. In short, a contract support cost shortfall is equivalent to a program cut.

Funding contract support costs in full permits the restoration of Indian country jobs that are cut when shortfalls occur. The fiscal year 2010 reduction in the contract support cost shortfall produced a stunning increase in Indian country jobs. Third-party revenues generated from these new positions will eventually more than double the number of restored positions, and thereby double the amount of healthcare tribal organizations like our's will provide in our communities.

The problem is that for 2013, IHS has requested only a \$5 million increase. Yet, the current shortfall is already \$50 to \$60 million, and with several new clinics becoming operational, the fiscal year 2013 shortfall will likely grow to more than \$90 million. Against that contract requirement, a \$5 million increase is obviously inadequate.

When contract support costs are not paid, we have no choice but to take the shortfall in funding out of the programs themselves. Because TCC will be creating and expanding programs to operate our JV project, our reliance on CSC will also expand. This is also true for tribes initiating other new Federal programs as the initial building of a program is heavily reliant on contract support.

A continued increase in shortfalls for contract support costs, in addition to the limited funding requested for TCC will end up punishing a majority of the Native beneficiaries in Alaska. The Government has a legal duty and trust responsibility to provide for the full staffing packages and the full contract support costs it has, by contract, agreed to pay. We are not asking for a favor; we are only expecting that the government will hold up its end of the bargain.

Members of the subcommittee, thank you for the honor of presenting testimony today.

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PREPARED STATEMENT OF TAOS, NEW MEXICO

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF.

The LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in the LWCF will permanently pay dividends to the American people and to our great natural, historical and recreation heritage. As the LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the LWCF request in fiscal year 2013, the U.S. Forest Service (USFS) included an allocation of \$2.656 million for Carson National Forest. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for LWCF for this important project.

Some of the finest mountain scenery in the Southwest is found in the 1.5-million-acre Carson National Forest. Elevations rise from 6,000 to 13,161 feet at Wheeler Peak in the Sangre de Cristo Mountains, the highest peak in New Mexico. The scenery varies from high desert scrub and red soil to spruce and fir-filled mountainsides and wildflower meadows. In addition to the various landscapes, there are also

many recreational opportunities in the forest. The magnificent mountain scenery and cool summer temperatures lure visitors to enjoy fishing, hunting, camping, and hiking. Winter activities include skiing, snowshoeing and snowmobiling. There are 330 miles of trails for hiking, horseback riding, mountain biking, and 4-wheel drive exploring. For the backcountry enthusiast, there are 86,193 acres of wilderness in the forest that have been virtually undisturbed, where travel is restricted to foot or horseback.

There are many species of animals in the Carson National Forest including mule deer, elk, antelope, black bear, and bighorn sheep along with many species of songbirds and a wonderful display of wildflowers. The forest has 400 miles of clean mountain streams and many lakes that offer outstanding trout fishing including rainbow, eastern brook, German brown and cutthroat trout.

Available for acquisition as part of the Carson National Forest is the 5,087-acre Miranda Canyon property located just 10 miles south of Taos. The property is adjacent to the western edge of the national forest and ranges in elevation from 7,200 to 10,801 feet. It has enormous scenic value, as it forms the southern backdrop to Taos and is highly visible as one travels south along Route 68.

The 5,000-acre Miranda Canyon property contains important watershed lands that feed public water supplies for local communities and maintain flows of clean, cold water to the nationally significant Rio Grande. The highest elevation lands on the property fall within the Headwaters Rio Grande de Rancho watershed, which is rated as functioning properly under the USFS Watershed Condition Framework. Acquisition of this area will prevent conversion for development, meeting the Framework goal to protect the best, and will complete the agency's ownership of this watershed. The majority of the property at lower elevations falls within two other watersheds that are rated as functioning at risk. Acquisition will allow the USFS to apply a range of restoration actions to move these watersheds up a condition class. These watersheds are also significant in that they contain an important recharge zone for the underlying aquifer, which provides domestic water for the communities of Llano Quemado and Ranchos de Taos.

The property also has various vegetative types from low elevation sagebrush and pinon juniper to high elevation mixed conifer forest containing large aspen stands. There are also numerous meadows and riparian vegetation that provide excellent habitat for wildlife. The landscape has numerous ridges and peaks that provide breathtaking views of the Rio Grande Gorge to the west and of Wheeler Peak, the highest peak in New Mexico, to the north. Picuris Peak is located on the property along a popular hiking route. The property also contains historical features such as the Old Spanish Trail, a pack mule trail that served as a link between land-locked New Mexico and coastal California between 1829 and 1848, after which other routes became more popular. Recognizing the national significance of this historic trade route, the Congress designated it the Old Spanish National Historic Trail in 2002. Other geological features on the property include a unique small volcano and 1.7-billion-year-old rock outcrops that rival the age of rock found at the bottom of the Grand Canyon.

Due to the strong opposition of the Taos community to a proposal to develop the Miranda Canyon property into 150 lots, the landowner has agreed to a multi-phase 3-year conservation sale to the Carson NF. If Miranda Canyon had been subdivided and developed, tremendous recreational, scenic, and ecological resources would have been diminished or lost forever. Even without county subdivision approval, the Miranda Canyon property could have been developed into 140-acre lots, with potentially adverse impact on the drinking water supply of nearby communities. Because the landowner's timing did not allow for a long-term purchase agreement, The Trust for Public Land stepped in and purchased the property in January 2011. The conveyance of this \$10.8 million tract to the USFS is moving ahead in phases, with Phase I receiving an allocation of \$3.442 million from LWCF in fiscal year 2012.

While this arrangement offers a bit of breathing room for the agency to secure the necessary acquisition funding, it is critical that the purchase continue to move ahead in fiscal year 2013 with another allocation of \$2.656 million for Phase II. Only when Miranda Canyon is fully conveyed to the Carson National Forest will it be permanently protected for the public, ensuring protection of this vital watershed and the associated local water quality as well as enhancing recreational opportunities such as hunting, camping, hiking, mountain biking, and horseback riding.

In closing, I urge you to provide funding for the LWCF of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for the Carson National Forest. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in New Mexico, and I appreciate your consideration of this funding request.

## PREPARED STATEMENT OF THE TENNESSEE WILDLIFE RESOURCES AGENCY

Members of the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies, my name is Bobby Wilson and I am the Chief of Fisheries for the Tennessee Wildlife Resources Agency. I thank you for the opportunity to provide testimony for the State of Tennessee in support of the continued funding for the Aquatic Nuisance Species Plan grant to the States.

Aquatic nuisance species pose serious problems to the ecology and economy in Tennessee. According to the U.S. Fish and Wildlife Service's "National Survey of Fishing, Hunting, and Wildlife-Associated Recreation", more than 874,000 citizens participated in fishing, 332,000 hunted, and 2,385,000 participated in wildlife watching activities. Tennessee citizens spent \$592 million on fishing, \$476 million on hunting, and slightly more than \$1 billion on wildlife watching. In addition, the wholesale value of commercial fishing is estimated to be \$13 million and the value for commercial musseling is \$1.5 million. Revenues from these natural resource-related activities are important to the economy and well-being of the citizens of Tennessee. These economic returns can only continue to occur if these resources are protected from the invasion of aquatic nuisance species.

Tennessee is one of the most aquatically bio-diverse States in the Nation. Currently there are at least 315 species of fish, 120 species of mussels, and 84 species of crayfish in our waters. The State has three major river systems (Mississippi, Tennessee, and Cumberland Rivers) which contribute to 700,000 acres of impounded reservoirs and 19,000 miles of streams.

Some of the more problematic aquatic non-native species in Tennessee include zebra mussels, Eurasian water milfoil, and Asian carp. Others include several species of aquatic snakes, turtles, frogs, crayfish, snails, and salamanders. Together more than 50 species of aquatic animals have been identified as invasive to Tennessee.

To identify the needs for addressing the problems of aquatic nuisance species, Tennessee developed a management plan in 2008. This plan focused on the prevention of new introductions but also dealt with the management and control of existing species that already exist in our waters. There are 26 strategies and 67 actions listed in the plan to address the concerns which include the development of educational materials such as pamphlets, posters, DVD's, and an Aquatic Nuisance Species Web site. It also includes hiring an aquatic nuisance species coordinator, improving enforcement and regulations that prohibit the possession, purchase, and transport of aquatic nuisance species in Tennessee.

During the 3 years that our State has received the Aquatic Nuisance Species Federal grant we have accomplished action items identified in our management plan: We have monitored our extensive crayfish population for the presences of nuisance crayfish; we partnered with the Tennessee Aquarium in Chattanooga for the development of an aquatic nuisance species display at their facility; we implemented a new live bait regulation which will help prevent the introduction of various invasive species of fish, amphibians, and crayfish; and developed the "Angler's guide to Tennessee Fish" which includes a section on the identification of various aquatic nuisance species of fish and crayfish in the guide.

However we have only touched the surface of a very serious problem. Asian carp populations are continuing to expand in the Tennessee and Cumberland River systems; zebra mussels have recently been discovered in one of our most pristine and heavily visited lakes, Norris Reservoir; and various invasive species of aquatic plants are constantly showing up in waters where they have not been seen before. We must continue to work on these problems as they arise as well as try to prevent the introduction of new invasive species before they become established and it is too late.

In speaking on behalf of the Tennessee Wildlife Resources Agency, and on behalf of the citizens of Tennessee, I ask that the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies approve within the budget of the U.S. Fish and Wildlife agency the continued funding of Aquatic Nuisance Species State grants.

The State of Tennessee looks forward to continue working with the U.S. Fish and Wildlife Service on this important issue. Again, thank you for the opportunity to allow me to provide testimony on behalf of the State of Tennessee.

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 PREPARED STATEMENT OF THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

On behalf of our 2.5 million supporters, The American Society for the Prevention of Cruelty to Animals (ASPCA) appreciates this opportunity to submit testimony to



the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies. Founded in 1866, ASPCA is the first humane organization established in the Americas and serves as the Nation's leading voice for animal welfare. ASPCA's mission is to provide effective means for the prevention of cruelty to animals throughout the United States, and for that reason we request the subcommittee consider the following concerns regarding the Bureau of Land Management's (BLM) Wild Horse and Burro Program when making fiscal year 2013 appropriations.

#### WILD HORSES

In the 40 years since BLM was first charged with protecting our country's wild horses and burros, Americans have witnessed BLM's Wild Horse and Burro Program deteriorate into a continuous cycle of roundups and removals with little regard to the preservation-focused mandate dictated by The Wild Free-Roaming Horses and Burros Act (the Act). Our wild horses and burros are to be revered as historical icons, treated humanely, and managed fairly and respectfully on our public lands. We appreciate BLM's recognition that there is a great need for reform in the Wild Horse and Burro Program. We applaud its effort to incorporate the use of on-the-range management methods such as immunocontraception and to find alternatives to long-term holding of wild horses. However, further and significant reformations must be swiftly incorporated.

#### *Prohibit Bureau of Land Management Funding for Euthanasia or Sale of Wild Horses as Management Methods*

In December 2004, the Congress passed the Consolidated Appropriations Act for Fiscal Year 2005 which contained a provision that amended the Wild Free-Roaming Horses and Burros Act to allow for the sale of certain groups of wild horses and burros. This instant transfer of title from the U.S. Government to the individual purchaser revokes the animal's status as a protected equine and makes it vulnerable to the still-thriving horse slaughter industry. Additionally, in 2008 BLM publicly announced that it was considering using its statutory authority to destroy old, sick, or unadoptable wild horses and burros for the first time by implementing mass euthanasia as a population control method. The roar of public opposition that followed forced BLM to quickly withdraw the proposal. However, both the sale provision and the language allowing for the destruction of wild horses and burros remain in the law. ASPCA requests that the subcommittee include the following language in the appropriations bill that specifically prohibits funding programs or projects that subject wild horses and burros to the possibility of slaughter or euthanasia as a means of population control: "Appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors or for the sale of wild horses and burros that results in their destruction for processing into commercial products."

#### *Ensure That Removals Do Not Exceed Adoption Demand*

The majority of BLM's budget is spent caring for wild horses in long-term holding facilities. The budget requested for BLM's Wild Horse and Burro Program has necessarily increased each fiscal year, as has the portion of the budget that funds the care of wild horses in long-term holding facilities. Unfortunately, instead of letting these wild horses remain in their natural habitats as part of their established herds, their family structures have been disrupted and they have been removed to fenced facilities where taxpayer dollars go for their care. There are now as many or more wild horses in holding facilities as in the wild. Without substantial change in management techniques, the number in holding facilities will only increase and taxpayer dollars will be further wasted in ever increasing amounts. ASPCA believes wild horses belong in their natural habitats and should not be subject to the terror of removals nor the confines of holding facilities without hope of return to the range or adoption.

Adoption rates have varied between 3,000 and 4,000 horses since 2008. During that same time period, BLM has rounded up and removed approximately 7,800 annually, several thousand more than the adoption demand, thereby guaranteeing most of those wild animals will be kept in taxpayer-funded holding facilities for the remainder of their lives. Warehousing horses in holding facilities does nothing to manage the on-range populations and only delays the inevitable need for more preventative management. This cycle must be broken. ASPCA encourages BLM to limit the number of horses removed from the range to the number matching current adoption demand.

*Prioritize On-the-Range Management Over Roundup and Removal*

The Wild Free-Roaming Horses and Burros Act makes clear that on-the-range management should be preferred over roundup and removal as the primary method of wild horse management. There are multiple ways BLM can reform its program to favor on-the-range management methods.

ASPCA realizes that there are situations where population control is necessary, and we appreciate BLM's public recognition that fertility control methods such as immunocotraception must be a significant part of wild horse population management. Porcine Zona Pellucida (PZP), the contraceptive vaccine that has been used in managing horse and deer populations for decades, was recently registered by the Environmental Protection Agency (EPA) and is now commercially available. For the past 2 years, BLM has capped its goal for vaccinating horses at 2,000 horses per year. For PZP to become a serious part of the solution, its use must be increased to levels that will significantly impact population growth. As part of President Obama's proposed fiscal year 2013 budget for BLM, the Wild Horse and Burro Program requested a \$2 million increase specifically for research and development of population-control methods. ASPCA recommends that the requested funds go toward prioritizing the use of humane, reversible fertility control when it is necessary to stem the population growth of wild horse or burro herds.

In addition to escalating its use of immunocontraception, BLM must also reconsider Herd Management Areas (HMAs) that have been zeroed out as wild horse and burro habitat and make them available for reintroduction. More than 20 million acres of HMAs originally designated as wild horse and burro habitat have been zeroed out and horses have been removed and placed in holding facilities. This 40-year pattern has resulted in American taxpayers paying more each year for the cost of privatized care when millions of acres of habitat are available. ASPCA recommends that the subcommittee direct BLM to reestablish zeroed out HMAs as viable wild horse and burro habitat wherever possible.

*Require Humane and Transparent Roundup Operations*

Finally, ASPCA requests that, when roundups are necessary, the subcommittee charge BLM with establishing humane and transparent standards and procedures for those operations. Observers have witnessed horses suffering and dying due to brutal roundup practices. Foals have been run over such extreme distances that they literally have lost their hooves, mares have been driven to the point of physical exhaustion, and a burro was physically assaulted with helicopter skids. BLM recognizes a need to reform its roundup protocol. ASPCA applauds this acknowledgement and asks that the subcommittee encourage BLM to expedite its development of standard operating procedures for roundups that incorporate animal welfare standards. No roundups for removal or any other purposes should occur without procedures in place that will ensure these incidents are never repeated. For the public to continue to invest in this management program and to allow this agency to have any authority over these animals, it is vital that no horses or burros are harmed at the hands of BLM agents or contractors. We also urge the subcommittee to designate funds for researching, and developing protocols that take into consideration the impact of separating family groups of wild horses during removals. To allow for more visibility of roundup operations, and thus more accountability, we urge the subcommittee to designate funds for the installation of video cameras on helicopters and at trap and holding sites.

Thank you for this opportunity to submit testimony. We appreciate the steps BLM has already taken to reform the Wild Horse and Burro Program, and we look forward to working with the agency on this issue in the future. With the help of the subcommittee, the BLM Wild Horse and Burro Program can hopefully achieve sustainability and comply with the mission of the Wild Free-Roaming Horses and Burros Act: to protect and preserve these animals as historic American icons.

## PREPARED STATEMENT OF THE CONSERVATION FUND

Chairman Reed, Ranking Member Murkowski, and members of the Appropriations Subcommittee on the Interior, Environment, and Related Agencies, thank you for this opportunity to submit outside witness testimony on behalf of The Conservation Fund. The Conservation Fund (TCF) supports full funding of the President's budget request of \$450 million in fiscal year 2013 for the Land and Water Conservation Fund (which includes the Federal land acquisition programs of the Bureau of Land Management, National Park Service, U.S. Fish and Wildlife Service (FWS), and U.S. Forest Service (USFS), as well as several important State grant programs). Additionally, TCF supports full funding of the President's request for the FWS's

North American Wetlands Conservation Fund (\$39.425 million) and USFS's Community Forest and Open Space Conservation Program (\$4 million). In addition, we want to thank the subcommittee for reauthorizing the Federal Land Transaction Facilitation Act (FLTFA) in 2010, though it is currently expired and we support the fiscal year 2013 President's budget request to reauthorize this important program.

The Conservation Fund (TCF) is a national, nonprofit conservation organization dedicated to conserving America's land and water legacy for future generations. Established in 1985, TCF works with landowners; Federal, State, and local agencies; and other partners to conserve our Nation's important lands for people, wildlife and communities. To date, TCF has helped our partners to conserve more than 7 million acres. These accomplishments are due, in large measure, to the leadership of this subcommittee over many years to appropriate funds to Federal agencies to acquire lands for future generations.

Below are highlights of some benefits of the LWCF and land acquisition programs. While these projects show the tremendous diversity of benefits of land acquisition for the public, they have one thing in common—landowners drive each of these projects. Many farmers, ranchers and forestland owners have significant financial equity in their land. By enabling a landowner to sell a conservation easement or fee title, the LWCF program provides landowners with funds to stay in business, reinvest in businesses, or meet other financial goals.

*Bureau of Land Management—Land Acquisition.*—TCF supports the fiscal year 2013 President's budget request of \$33.575 million for the Bureau of Land Management's (BLM) Land Acquisition Program for its "core" and "collaborative" lists, and would like to highlight the following projects:

*Upper Snake/South Fork Snake River ACEC, Idaho—\$1.75 million (#4 on core list).*—Idaho's Upper Snake/South Fork is visited by more than 300,000 people each year to enjoy world-class fishing and floating, abundant wildlife and one of the most scenic rivers in the West, supporting 350 jobs and generating \$12 million in income per year. Working in partnership with landowners, this project primarily utilizes conservation easements to protect valuable fish and wildlife habitat and agricultural lands from fragmentation while simultaneously supporting important recreational and tourism opportunities and allowing agricultural lands to remain in production/private ownership.

*Cascade-Siskiyou National Monument, Oregon—\$2 million (#6 on core list).*—An "ecological wonder," supporting 3,500 species, the 54,900-acre CSNM was designated specifically for its extraordinary biological diversity. BLM has worked with private landowners to acquire inholdings within the national monument, but thousands of acres remain in private ownership, closed to public use, and unprotected from development. This project will allow the BLM to purchase high-priority inholdings from timberland owners within Cascade-Siskiyou, complementing BLM's work with past LWCF appropriations.

*National Park Service—Land Acquisition.*—TCF supports the fiscal year 2013 President's budget proposal of \$59.421 million for the National Park Service's (NPS) Land Acquisition Program. I would like to highlight the following from the NPS's "core" list:

*National Rivers and Trails Initiative—\$4 million (#2 on core list).*—This new initiative would assist in the acquisition of numerous, smaller parcels throughout the National Trails System, creating new recreational opportunities and protecting important natural and cultural resources. This initiative will involve the coordination with other Federal agencies, such as the U.S. Forest Service and Bureau of Land Management that manage lands crossed by trails.

*Civil War Sesquicentennial Units—\$5 million (#1 on core list).*—These funds will allow for the acquisition of land within the NPS's Civil War battlefield parks. According to the NPS, priority needs exist at Fort Donelson National Battlefield, Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Kennesaw Mountain National Battlefield Park, Pecos National Historical Park, Richmond National Battlefield Park, and others park units.

—*Petrified Forest National Park—\$5 million (#4 on core list).*—At the request of the National Park Service, TCF is currently working with several willing landowners to acquire key inholdings within the Park, which feature unique paleontological and archeological resources as well as outstanding scenery, riparian resources and wildlife habitat. The more than 630,000 annual visitors to the Park contribute more than \$80 million to the local economy and support more than 600 local jobs.

*Fish and Wildlife Service—Land Acquisition.*—TCF supports the fiscal year 2013 President's budget proposal of \$106.892 million for the U.S. Fish and Wildlife Serv-

ice's (FWS) Land Acquisition Program for its "core" and "collaborative" lists, including:

*Dakota Grasslands, North Dakota and South Dakota—\$2.5 Million (Number One on Core List).*—To address the accelerating loss of wetland and grassland habit in the Prairie Pothole region—our Nation's "duck factory"—FWS recently established the Dakota Grassland Conservation Area. LWCF funds will allow willing private landowners to sell conservation easements to the FWS to conserve migratory birds by protecting the region's unique, highly diverse, and endangered ecosystem.

*Neches River National Wildlife Refuge, Texas—\$1 Million (#6 on Core List).*—In 2006, FWS established the 25,000-acre Neches River NWR to protect habitat for migratory birds of the Central Flyway and bottomland hardwood forests, as well as to provide for compatible wildlife-dependent recreation opportunities. At the request of the FWS, TCF acquired a 6,715-acre tract that features 8 miles of Neches River frontage, dense bottomland hardwood forest, and numerous oxbows and ponds. The FWS has an approved appraisal of the property and TCF has raised significant private funds to provide excellent leverage for the requested Federal funds of \$1 million in fiscal year 2013.

*Rocky Mountain Front Conservation Area, Montana—\$19.742 Million (Collaborative List).*—As part of the Crown of the Continent Collaborative Landscape Planning Project, this project will allow TCF to continue working in close partnership with the FWS, The Nature Conservancy and local ranchers to acquire conservation easements along the Rocky Mountain Front, a spectacular range that runs from just north of Helena to Glacier National Park. This voluntary conservation project will allow local ranchers to expand and strengthen their ranching operations while conserving vital wildlife habitat for grizzly bear and a range of other important species. Tens of millions of private philanthropic dollars are helping to further advance this effort for ranching families and wildlife and leverage Federal funding.

*Okefenokee National Wildlife Refuge, Georgia—\$13.636 Million (Collaborative List).*—As part of the Longleaf Pine Collaborative Landscape Planning Project, the FWS is seeking funds to acquire timber and recreation rights from a timberland owner on 16,000 acres within the Okefenokee National Wildlife Refuge. In addition, these funds, if appropriated, would enable FWS to acquire 7,000 acre-fee land from TCF. If approved, FWS will be able to restore the site to the native longleaf pine system and to increase the population of the endangered red-cockaded woodpecker, a bird of older growth pine stands. Additionally, the lands will provide a critical fire buffer and allow for the long-term adaptive management of the fire-based plant community through the use of prescribed fire.

*United States Forest Service—Land Acquisition.*—TCF supports the fiscal year 2013 President's budget proposal of \$57.934 million for USFS's Land Acquisition Program for its "core" and "collaborative" lists. I particularly want to highlight the following:

*North Carolina Threatened Treasures—\$1.25 Million (#13 on Core List).*—TCF, the Trust for Public Land, Southern Appalachian Highlands Conservancy and Carolina Mountain Land Conservancy and other groups are working with the USFS to conserve critical lands in National Forests in North Carolina. One such project is the 753-acre Backbone Ridge project, which is located near the Blue Ridge Parkway, Grandfather Mountain State Park and surrounded on three sides by the Pisgah National Forest adjoining the Forest for almost 10 miles. The property will provide a gateway for hiking in a network of protected Federal and State lands. USFS is seeking \$4.5 million over several years to acquire a portion of the property, while the State of North Carolina seeks to acquire the balance as a State forest.

*Land and Water Conservation Fund State Grant Programs.*—In addition to these Federal LWCF projects, we wish to highlight the LWCF State grant programs and encourage the subcommittee to give consideration to fully funding the President's fiscal year 2013 budget request for:

- FWS's section 6 Cooperative Endangered Species Conservation Fund—\$60 million;
- USFS's Forest Legacy Program—\$60 million; project highlights include:
  - South Boulder Creek Watershed/Toll, Colorado (#1)—\$5 million;
  - East Grand/Orient, Maine (#5)—\$1.8 million;
  - Gilchrist State Forest, Oregon (#6)—\$3 million;
  - East Fork of French Broad Headwaters/Taylor, North Carolina (#7)—\$3 million;

—Blood Run National Historic Landmark Area, South Dakota (#10)—\$1.205 million; and

—Eagle Rock/Michaux State Forest, Pennsylvania (#12)—\$1.5 million.

*Priority Land Acquisition Programs.*—Additionally, TCF encourages the Committee to fund:

—FWS’s North American Wetlands Conservation Fund—\$39.425 million; and

—USFS’s Community Forest and Open Space Conservation Program—\$4 million.

*Reprogramming Authority.*—We support the fiscal year 2013 President’s budget request to allow the BLM, USFWS, NPS and USFS to re-allocate past unspent LWCF funds, i.e., “allocate either greater or lesser amounts than those specified under the heading “Congressionally Directed Spending” accompanying Public Law 111–8 and in the table entitled “Incorporation of Congressionally Requested Projects” in the joint explanatory statement of managers accompanying Public Law 111–88 within the construction, land acquisition, or capital improvement and maintenance accounts when necessary to complete projects based on the original project scope or to utilize excess funds available after completion of a project on other projects within the same account, in consultation with the House and Senate Committees on Appropriations.” The proposed language is necessary to allow the agencies to re-allocate funds to needed areas.

*Federal Land Transaction Facilitation Act Reauthorization (S. 714/H.R. 3365).*—The FLTFA program is now expired and we support the fiscal year 2013 President’s budget request to reauthorize this important program that provides conservation funding for the West, at no cost to the taxpayer. Through FLTFA’s “land for land” program, BLM sells land identified for disposal to ranchers, farmers, businesses and others to consolidate land ownership, create jobs, support economic development and increase revenues to counties by putting land on the tax rolls. These sales generate funding for BLM, USFS, NPS and USFWS to acquire critical inholdings from willing sellers in certain designated areas, which often complements LWCF, NAWCA, and other public and private funding. The sales provide revenue for Federal agencies to acquire high-priority lands with important recreational access for hunting, fishing, hiking, boating, other activities, as well as properties with historic, scenic and cultural resources. More than 100 groups are working together to support the Congress’s efforts to reauthorize FLTFA.

We are grateful for the subcommittee’s leadership in the fiscal year 2013 appropriations process to support the LWCF program. Thank you for your consideration of this request.

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PREPARED STATEMENT OF THE HUMANE SOCIETY OF THE UNITED STATES; HUMANE SOCIETY LEGISLATIVE FUND; AND DORIS DAY ANIMAL LEAGUE

Thank you for the opportunity to offer testimony to the Interior, Environment, and Related Agencies Subcommittee on items of importance to our organizations with a combined membership of more than 11 million supporters nationwide. We urge the subcommittee to address these priority issues in the fiscal year 2013 Department of the Interior appropriation.

*Rock Creek Park Deer*

The HSUS requests that funds made available in this act give preference to non-lethal deer management programs. The National Park Service (NPS) recently decided to implement lethal methods for controlling the deer population in Rock Creek Park despite the availability of nonlethal methods that would have cost significantly less taxpayer money and resulted in a more effective long-term solution to human-wildlife conflicts in the park and its environs. In future decisions regarding deer management we ask that priority be given to humane, nonlethal methods.

*Large Constrictor Snakes*

The HSUS commends the U.S. Fish and Wildlife Service for listing four of nine species of large constrictor snakes as “injurious,” which will prohibit importation and interstate movement of these animals as pets. A recent, comprehensive report by the U.S. Geological Survey showed these snakes all pose medium or high risk to our environment; none are low risk. Large constrictor snakes have been released or escaped into the environment and have colonized Everglades National Park and other portions of south Florida and scientists warn they may become established in other areas of the country. Releasing these animals to fend for themselves can also lead to an inhumane death from starvation, dehydration, being struck by cars, or exposure to bitterly cold temperatures. The Service must have the resources to respond quickly to prevent the spread of these species and establishment of new ones.

*Environmental Protection Agency**Endocrine Disruptor Screening Program*

Research focused on molecular screening has the potential to revolutionize toxicity testing improving both its efficiency as well as the quality of information available for human safety assessment in the Endocrine Disruptor Screening Program (EDSP). These “next generation tools” will speed up the assessments of chemicals in the EDSP and reduce, and ultimately, replace animal use. We urge the Committee to incorporate the following report language:

“The Committee recognizes that EPA is continuing to extend existing long-term reproduction studies in birds, fish, and other species to two- or multi-generation tests for the Endocrine Disruptor Screening Program (EDSP). The Committee is also aware that EPA is considering replacing the two-generation mammalian study with an extended one-generation test on the basis of an international review of rat reproduction studies that shows the lack of utility of a second generation. The Committee directs EPA to maximize the efficiency of each protocol and minimize unnecessary costs and animal use by assessing the utility (including sensitivity, specificity and value of information added relative to the assessment of endocrine disruption) of each endpoint in the study, including specifically the need to produce more than one generation of offspring in the bird, fish and amphibian EDSP Tier 2 tests and issue a public report on its findings for comment. The Committee also directs EPA to determine what information the Agency requires to assess and manage potential risks to human health and the environment in regards to endocrine disruption, to minimize to eliminate unnecessary endocrine screening and testing, and to use existing scientific data in lieu of requiring new data, when possible. The Committee understands that EPA is currently working with OECD to develop and modify EDSP methods. EPA should work within the framework and timing of the OECD Test Guideline work plan to minimize duplicative efforts.”

*Science and Technology Account—21st Century Toxicology*

In 2007, the National Research Council published its report titled “Toxicity Testing in the 21st Century: A Vision and a Strategy.” This report catalyzed collaborative efforts across the research community to focus on developing new, advanced molecular screening methods for use in assessing potential adverse health effects of environmental agents. It is widely recognized that the rapid emergence of omics technologies and other advanced technologies offers great promise to transform toxicology from a discipline largely based on observational outcomes from animal tests as the basis for safety determinations to a discipline that uses knowledge of biological pathways and molecular modes of action to predict hazards and potential risks. We urge the subcommittee to incorporate the following language:

“The Committee supports EPA’s leadership role in the creation of a new paradigm for chemical risk assessment based on the incorporation of advanced molecular biological and computational methods in lieu of animal toxicity tests. The Committee encourages EPA to continue to expand its extramural and intramural support for the use of human biology-based experimental and computational approaches in health research to further define toxicity and disease pathways and develop tools for their integration into evaluation strategies. Extramural and intramural funding should be made available for the evaluation of the relevance and reliability of Tox21 methods and prediction tools to assure readiness and utility for regulatory purposes, including pilot studies of pathway-based risk assessments. The Committee requests EPA provide a report on associated funding in fiscal year 2013 for such activity and a progress report of Tox21 activities in the congressional justification request, featuring a 5-year plan for projected budgets for the development of Tox21 methods, including prediction models, and activities specifically focused on establishing scientific confidence in them for regulatory. The Committee also requests EPA prioritize an additional (1–3 percent) of its Science and Technology budget from within existing funds for such activity.”

*Multinational Species Conservation Fund*

The administration’s fiscal year 2013 budget requests \$9.980 for the Multinational Species Conservation Fund (MSCF) program which funds African and Asian elephants, rhinos, tigers, great apes like chimps and gorillas, and sea turtles. HSUS joins a broad coalition of organizations in support of the administration’s request while ensuring that the sales from the semi-postal stamps benefiting this program remain supplementary to annually appropriated levels. We also request \$13 million for the Wildlife Without Borders and International Wildlife Trade programs within the USFWS Office of International Affairs.

While we wholeheartedly support continued funding for the MSCF, we are concerned about past incidents and future opportunities for funds from these conservation programs to be allocated to promote trophy hunting, trade in animal parts, and other consumptive uses—including live capture for trade, captive breeding, and entertainment for public display industry—under the guise of conservation for these animals. Grants made to projects under the MSCF must be consistent with the spirit of the law.

*Protection for Walruses*

We urge this subcommittee to appropriate the necessary funds in fiscal year 2013 to permit the listing of the Pacific walrus, which has been placed on the candidate list for threatened or endangered status under the Endangered Species Act. The USFWS recently found that listing the Pacific walrus was warranted, due primarily to threats the species faces from loss of sea ice in its arctic habitat as a result of climate change. Walruses are targeted by native hunters for subsistence; hundreds are killed annually, with this number climbing to as many as 7,000 in some years. In some hunting villages, females and their calves are preferentially killed, against the recommendation of the USFWS and standard management practice. By waiting to list the Pacific walrus, the species' likelihood of survival is in doubt. We encourage this subcommittee to direct the USFWS to prioritize the Pacific walrus listing by immediately moving forward with the listing process.

*Bureau of Land Management—Wild Horse and Burro Program*

The Humane Society of the United States (HSUS) is one of the leading advocates for the protection and welfare of wild horses and burros in the United States with a long history of working collaboratively with the Bureau of Land Management (BLM)—the agency mandated to protect America's wild horses and burros—on the development of effective and humane management techniques. Wild free-roaming horses and burros deserve first to be given every chance to live out their lives wild and free, as the American public has clearly mandated and the Congress has stated. When intervention is required, we owe them our best efforts to ensure that any human actions that affect their lives—such as gathers, transportation, confinement, and adoption—are done in a way to assure their humane treatment.

Therefore, HSUS strongly supports a significant reduction in the number of wild horses and burros gathered and removed from our rangelands annually. We believe removing horses from the range without implementing any active program for preventative herd growth is unsustainable, and simply leads to a continual cycle of roundups and removals when more long-term, cost-efficient and humane management strategies, such as fertility control, are readily available.

For years, the BLM has removed far more wild horses and burros from the range than it could possibly expect to adopt annually, and as a consequence, the costs associated with caring for these animals off the range have continued to skyrocket. For instance, between 2001 and 2007, the BLM removed approximately 74,000 (an average of about 10,600 animals per year) from the range, but could only place 3,000 horses a year, with the rest forced into holding facilities. The annual costs associated with caring for one wild horse in a long-term holding facility is approximately \$500, and the average lifespan of a wild horse in captivity is 30 years. Today, there are more than 47,000 wild horses and burros in these pens currently. In the most recently completed fiscal year (2011), holding costs accounted for \$35.7 million (or 47 percent) out of a total wild horse and burro budget of \$75.8 million.

We are encouraged by the BLM's announcement in the spring of 2011 (referenced in the agency's fiscal year 2012 budget justifications<sup>1</sup>) regarding the agency's intent to open "a new chapter in the management of wild horses, burros, and our public lands" by fast-tracking "fundamental reforms" to its current policies and procedures. Specifically, the agency announced that it would strengthen its commitment to the use of fertility control by significantly increasing the number of mares treated with fertility control—from 500 in 2009, to a target of 2,000 in each of the next 2 years. This represents a huge step in the right direction.

The idea of using fertility control to efficiently manage wild horses and burros on the range is nothing new, and one that we have been actively supporting and involved with for several decades. As early as 1982, the National Academy of Sciences (NAS) called on the BLM to use immunocontraception to manage wild horse and burro populations, finding it an effective technology and part of a pro-active management strategy. And in its 1990 report on the BLM's wild horse management program, the U.S. Government Accountability Office (GAO) found then that keeping ex-

<sup>1</sup> Bureau of Land Management 2012 Budget Justifications (Page IV 66–67) [http://www.doi.gov/budget/2012/data/greenbook/FY2012\\_BLM\\_Greenbook.pdf](http://www.doi.gov/budget/2012/data/greenbook/FY2012_BLM_Greenbook.pdf).

cess animals in long-term holding was costly and recommended that BLM examine alternatives, such as treating animals with reproductive controls and releasing them back on the range.<sup>2</sup> Further, a 2008 paper determined that contraception on-the-range could reduce total wild horse and burro management costs by 14 percent, saving \$6.1 million per year.<sup>3</sup> Finally, the results of an economic model commissioned by The HSUS indicates that by treating wild horses and burros with the fertility control vaccine Porcine Zona Pellucida (PZP), the BLM could save approximately \$204 million over 12 years while achieving and maintaining Appropriate Management Levels (AML) on wild horse Herd Management Areas (HMA) in the United States.

However, even with a significant increase in the number of mares treated and released back onto the range, by the end of fiscal year 2012, the BLM plans to remove an additional 15,000 wild horses from our public lands. Since there are already more than 47,000 wild horses and burros living in Government holding facilities today—and, on average, the agency is only able to find homes for approximately 3,000 animals a year—by 2013, there could be more than 50,000 animals in captivity. That's almost twice the number of wild horses and burros living on our public lands today, and as a result, the cost of caring for these animals off the range could more than double in a just a few years.

The BLM must balance the number of animals removed from the range annually with the number of animals it can expect to adopt in a given year if it hopes to effectively reduce off-the-range management costs. For these reasons, we strongly support the BLM's request for a \$2 million budget increase to fund new research on contraception and population growth suppression methods. Developing additional methods to reduce wild horse population growth will allow the agency to maintain healthy herds while reducing the need for costly removal regimes that will further flood Government holding facilities with additional animals.

Again, we commend the Secretary and the BLM for taking critical steps toward a more sustainable wild horse management program and believe the subcommittee's guidance and support for humane and sustainable management will further the implementation of a program that will be of great benefit not only to our Nation's beloved wild horse populations, but also to the American taxpayer.

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#### PREPARED STATEMENT OF THE NATURE CONSERVANCY

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Nature Conservancy's recommendations for fiscal year 2013 appropriations. My name is Christy Plumer and I am the Director of Federal Land Programs for the Conservancy. The Nature Conservancy is an international, nonprofit conservation organization working around the world to protect ecologically important lands and waters for nature and people. Our mission is to conserve the lands and waters upon which all life depends.

As we enter the fiscal year 2013 budget cycle and another year of this challenging fiscal environment, the Conservancy continues to recognize the need for fiscal austerity. The Conservancy also wishes to thank this subcommittee for the final fiscal year 2012 Consolidated Appropriations Act funding levels for Department of the Interior and U.S. Forest Service conservation programs. As this subcommittee begins to tackle another difficult budget cycle, the Conservancy stresses our concerns that the wildlife and land conservation programs should not shoulder a disproportionate share of cuts in this budget. Our budget recommendations this year do not exceed the President's budget request except for a few instances in which we recommend fiscal year 2012 funding levels. Moreover, as a science-based and business-oriented organization, we believe strongly that the budget levels we support represent a prudent investment in our country's future that will reduce risks and ultimately save money based on the tangible economic, recreation and societal benefits natural resources provide each year to the American people. We look forward to working with you, Mr. Chairman, and members of the subcommittee, as you address the ongoing needs for conservation investments to sustain our Nation's heritage of natural resources that are also important to the economic vitality of communities across this country.

*Land and Water Conservation Fund.*—The Conservancy supports the President's fiscal year 2013 budget request of \$450 million for the Land and Water Conserva-

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<sup>2</sup>GAO, *Rangeland Management: Improvements Needed in Federal Wild Horse Program*, GAO/RCED-90-110 (Washington D.C.: Aug. 20, 1990).

<sup>3</sup>Bartholow, J. 2007. Economic benefit of fertility control in wild horse populations. *J. Wildl. Mgmt.* 71(8):2811-2819.



tion Fund (LWCF) with the aim of continuing to work toward full funding for the program. The President's America's Great Outdoors Initiative is the prominent focus of this annual LWCF budget, and includes several top-priority landscape conservation areas for the Conservancy including the Rocky Mountain Front/Crown of the Continent (Montana/Wyoming/Idaho) and Longleaf Pine Conservation Area (Florida/Georgia/South Carolina). This year, the Conservancy is specifically supporting 18 biologically rich land acquisition projects totaling \$94.122 million. Some of our priorities include the continuing phased acquisition of the Montana Legacy Project, Florida's northern refuges (St. Marks and St. Vincent's), Silvio O. Conte NFWR within a four-State integrated landscape, and Francis Marion NF in South Carolina. We are also pleased to support the administration's proposals for investing in conservation easements on the working ranches of Florida's Everglades Headwaters NWR & Conservation Area, Kansas's Flint Hills Legacy Conservation Area, North Dakota and South Dakota's Dakota Grasslands Conservation Area, and Montana's Rocky Mountain Front Conservation Area. All of these projects exemplify landscape-scale conservation through the cost effective means of conservation easements.

*Forest Legacy.*—We support \$60 million for this program, and specifically three projects—Pascagoula River Conservation Lands, Carter Mountain Working Forest Conservation Easement, and Discover Woods—totaling \$7.41 million. We hope this year to complete the acquisition of these important lands that will provide recovery for wildlife habitat and rare species, public recreational access for hunting and fishing, and outdoor experiences for financially disadvantaged children and those with special needs.

*Endangered Species.*—The Conservancy enthusiastically supports \$60 million for the Cooperative Endangered Species Conservation Fund (CESCF). The Conservancy and its partners have used the Habitat Conservation Plan (HCP) and Recovery Land Acquisition Programs to conserve key habitat for numerous threatened, endangered and at-risk species and, thus, to help avoid conflicts over ESA issues. It has been an important catalyst for several local government-led HCPs that facilitate urban development and streamline permitting of essential transportation and energy infrastructure. In one part of Riverside County, California, a single HCP has facilitated development of transportation infrastructure that alleviates congestion and creates jobs in this rapidly growing area. The plan facilitates development on more than 700,000 acres through acquisition of 153,000 acres in new conservation lands. We also support continued endangered species funding for the Table Rocks Area, Oregon, to protect critical habitat for the threatened vernal pool fairy shrimp, and funding for the Upper Colorado River Endangered Fish Recovery Program, recovery funds for the San Juan River Basin Recovery Implementation Program, and fish hatchery needs associated with the recovery plans in this region.

*Climate Change.*—Fish, wildlife, and their habitats are and will continue to be profoundly impacted by climate change, regardless of our successes in reducing greenhouse gas emissions. If we are to get out ahead of such change to avoid disastrous losses in critical habitat and the species that depend on that habitat, we must develop the place-based science to make informed, cost-effective management investments. The Conservancy appreciates the President's commitment to respond to the global climate challenge, and this Committee's sustained leadership in supporting cooperative, science-based programs to respond to the global climate challenge help ensure resilient land and seascapes. In particular, we welcome this Committee's ongoing commitment to both the USGS-led Climate Science Centers as well as DOI's Landscape Conservation Cooperatives, and efforts to ensure integration and coordination of these initiatives with existing efforts such as the Joint Ventures and National Fish Habitat Partnerships.

*National Wildlife Refuge System.*—The Conservancy supports the Cooperative Alliance for Refuge Enhancement Coalition's request of \$495 million for Refuge System O&M. This is the President's request and represents the funding necessary to maintain management capabilities for the Refuge System in fiscal year 2013. It is an \$8.3 million increase and takes into account the freeze on Federal salaries.

*United States Geological Survey—Water Resources.*—We support increased funding levels for the National Streamflow Information Program and the Cooperative Water Program, including work on water availability studies and work to implement a national water use and assessment program. As climate change, drought and population growth increase the demands on water resources, it is critical to invest in the integration of State and Federal water resource data and to better understand water needs of human communities and the environment.

*Bureau of Land Management: Renewable Energy Development, Rapid Ecoregional Assessments & Resource Management.*—The Conservancy supports the administration's recommended funding for DOI's "New Energy Frontier" which includes \$26.8 million for BLM to support environmentally sound development of renewable energy

sources on public lands and offshore. The request supports evaluation of the impacts of renewable energy development on wildlife and habitat and effective coordination with affected States and tribes to assess energy resources and evaluate project proposals. We also support funding for BLM completion of Rapid Ecoregional Assessments (REAs), a key information tool for the agency to respond to the growing challenges of climate change and energy development. We also recommend robust funding for BLM resource management and transportation planning activities. These funds are needed to complete ongoing planning efforts and to initiate new planning efforts in key places, without which the agency cannot make informed energy mitigation and siting decisions and take the management actions necessary to improve priority wildlife and aquatic habitats, ensure water quality, control invasive species and manage off-road vehicle use. BLM should also be encouraged to use existing data sets when available for REAs and RMPs so that funding can be focused on critical data needs instead of creating duplicative data sets.

*Collaborative Forest Landscape Restoration.*—We appreciate the Committee's support for Collaborative Forest Landscape Restoration and demonstration of collaboratively developed forest restoration plans at a large scale. We recommend fiscal year 2012 funding be sustained for Collaborative Forest Landscape Restoration with \$40 million to restore large forest landscapes, provide jobs that sustain rural economies, reduce the risk of damaging wildfire, address invasive species, improve wildlife habitat and decommission unused, damaging roads. We are monitoring many CFLR projects closely and are very encouraged by progress to date. We also recommend reauthorization of stewardship contracting, a vital tool for forest landscape restoration.

*Wildland Fire Management.*—We appreciate the subcommittee's ongoing support for the Hazardous Fuels Reduction, that removes overgrown brush and trees through a variety of methods, leaving the forest in a more natural condition that is resilient to wildfires. It is essential to keep at least level funding for this program. Funding reductions will result in greater, more damaging wildfires and larger Federal and State outlays for emergency wildfire suppression, with more damage to life, property, and natural resources. We note that fuels reduction also creates jobs: for every \$1 million invested, approximately 16 full-time equivalent jobs are created or maintained, along with more than \$500,000 in wages and more than \$2 million in overall economic activity.

We urge you to repeat your instructions in the fiscal year 2012 conference report regarding allocation of hazardous fuels funding. Community protection is a vital goal of the hazardous fuels program and strategic treatment of natural wildland areas that supply water, wood, recreation, and wildlife habitat protects communities and the resources citizens are also essential. We note that the President's budget for fiscal year 2013 has a disturbing focus on protecting structures at the expense of wildland natural areas. Significant progress to protect communities and natural areas has been achieved since 2001 with a roughly equal allocation of funding between the wildland urban interface and wildlands. Shifting too much funding away from wildlands will forestall treatments in strategic forest locations where treatments may prevent mega-fires, and will allow fuels to regrow on acres already treated that need maintenance with controlled burns.

We recommend \$317 million for Hazardous Fuels Reduction in the USFS budget, with \$76 million for wildland and \$241 million for wildland urban interface, and \$183 million for Hazardous Fuels Reduction in the Department of the Interior budget, with at least 25 percent allocated for treatment of wildlands necessary to achieve the conservation missions of the Fish and Wildlife Service, National Park Service and Bureau of Land Management.

*Integrated Resource Restoration.*—We appreciate the Committee's work to create an Integrated Resource Restoration (IRR) pilot in the Consolidated Appropriations Act of 2012, allowing Forest Service regions (Northern, Intermountain, and Southwestern) to test the integrated budget approach. The Nature Conservancy has actively followed implementation of the pilot in the three regions and expects an increase in restoration outcomes to result. The Conservancy thinks it is premature to take this pilot national, so we support continuation of the pilot for a second year. Important lessons will be learned from the pilot and this information is necessary if full implementation of IRR is to succeed.

*Watershed Protection, Cooperative State Fire Assistance and Landscape-Scale Restoration.*—Forest health problems and fire management are most effectively and efficiently addressed at large scales. The Nature Conservancy recommends support for watershed restoration and leveraging State funding to address wildfire risks and begin cooperative Landscape Scale Restoration. Our recommendations include funding at the fiscal year 2012 enacted levels for Legacy Road and Trail Remediation, with \$45 million for the National Forest System, \$86 million for State Fire Assist-

ance and \$18 million for the new Landscape Scale Restoration program, to coordinate cost-effective investment in fuels treatments.

**Forest Health Management.** America's forests are threatened by a growing number of non-native pests and diseases. The Conservancy asks the subcommittee to maintain funding at the fiscal year 2012 enacted level, which totals \$112 million. This funding is necessary to address effectively the most economically and ecologically damaging pests, including the Asian Longhorned Beetle, Emerald Ash Borer, Hemlock Woolly Adelgid, Sudden Oak Death, thousand-canker disease of walnut, and the goldspotted oak borer.

*United States Forest Service Research Program.*—We support the President's request for the USFS research program to maintain funding of research to improve detection and control methods for the Emerald Ash Borer, Hemlock Woolly Adelgid, goldspotted oak borer, thousand cankers disease, and other non-native forest pests and diseases.

*State Wildlife Grants.*—The Conservancy endorses the Teaming with Wildlife Coalition's support for robust funding for this important program. Strong Federal investments are essential to ensure strategic actions are undertaken by State and Federal agencies and the conservation community to conserve wildlife populations and their habitats. We also support the administration's request to maintain the current program match requirement of 65:35 to help fiscally impacted States.

*Migratory Bird, Joint Ventures and Fish Habitat Partnership Programs.*—The subcommittee has consistently provided vitally important investments for a number of migratory bird programs. Such investments are essential to reverse declines in bird populations through direct conservation action, monitoring and science. We urge the subcommittee to fund the President's request for such established and successful programs as NAWCA and the Joint Ventures, and the Migratory Bird Management Program. We support the President's request for the FWS Coastal Program and Partners for Fish and Wildlife Program and request strong funding this year for the National Fish Habitat Initiative, particularly in light of the recent Memorandum of Understanding announced between the Secretaries of the Interior, Commerce and Agriculture in support of the Initiative.

*International Programs.*—There are large unmet needs for international conservation. When well-managed, international conservation contributes much to human welfare in the developing countries and globally. Recognizing the current fiscal situation requires a measure of austerity, we support the President's fiscal year 2013 request for the FWS's Multinational Species Conservation Funds, the international wildlife trade programs, and Wildlife Without Borders. These programs have already been cut and are currently less than the fiscal year 2010 enacted levels; further cuts would be very damaging. We also support a line item and funding for USFS's International Programs at its fiscal year 2012 enacted level of \$8 million.

*United States Geological Survey—Water Resources.*—We support increased funding levels for the National Streamflow Information Program and the Cooperative Water Program, including work on water availability studies and work to implement a national water use and assessment program. As climate change, drought and population growth increase the demands on water resources, it is critical to invest in the integration of State and Federal water resource data and to better understand water needs of human communities and the environment.

*Environmental Protection Agency.*—TNC acknowledges that reductions in EPA's budget are necessary to support national deficit reduction. We believe that the overall President's budget request of \$8.34 billion for EPA, which represents a \$105 million decrease from the fiscal year 2012 enacted amount, is appropriate. However, the Congress should remain mindful of the relatively small size of EPA's discretionary budget as it considers where additional budget cuts should occur Governmentwide. The Congress should avoid disproportionate cuts to EPA's ecosystem-oriented water programs because those programs have such wide-reaching and beneficial impacts throughout the country. Unlike established point source pollutant control programs, these landscape-scale programs support a more forward-looking conservation approach that can enhance ecosystem value (and therefore economic value) over time. Examples of such value-adding activities include coastal restoration, watershed protection, wetland mitigation, climate adaptation, protection from invasive plants and animals, and non-point source nutrient management.

Furthermore, TNC recommends that the Congress require EPA to give greater emphasis to innovative approaches that promote ecosystem protection and restoration over after-the-fact remediation. We continue to support the allocation of sufficient funds for innovative strategic planning programs like the Healthy Watersheds Initiative, which embraces a whole-system planning approach to water resource management. This program should be endorsed as a means to enable Federal and State programs to protect and restore freshwater habitats at large scale through

more bang-for-the-buck actions. The same holds true for major grant programs such as the Clean Water State Revolving Fund and the section 319 Non-Point Source grant program. These vital accounts should be sufficiently funded to enable cash-strapped States and localities to take actions to protect priority aquatic ecosystems. At the same time, the Congress should require EPA to promote the allocation of SRF and 319 funds for projects that support the development of green infrastructure and sustainable conservation practices, because of the long-term environmental and economic value they provide.

Thank you for the opportunity to present The Nature Conservancy's recommendations for the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill.

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PREPARED STATEMENT OF THE THEATRE COMMUNICATIONS GROUP

Mr. Chairman and distinguished members of the subcommittee, Theatre Communications Group—the national service organization for the American theatre—is grateful for this opportunity to submit testimony on behalf of our 499 not-for-profit member theatres across the country and the 31 million audience members that the theatre community serves. We urge you to support funding at \$155 million for the National Endowment for the Arts (NEA) for fiscal year 2013.

Indeed, the entire not-for-profit arts industry stimulates the economy, creates jobs and attracts tourism dollars. The not-for-profit arts generate \$166.2 billion annually in economic activity, support 5.7 million jobs and return \$12.6 billion in Federal income taxes. Art museums, exhibits, and festivals combine with performances of theatre, dance, opera and music to draw tourists and their consumer dollars to communities nationwide. Federal funding for the arts creates a significant return, generating many more dollars in matching funds for each Federal dollar awarded, and is clearly an investment in the economic health of America. In an uncertain economy where corporate donations and foundation grants to the arts are diminished, and increased ticket prices would undermine efforts to broaden and diversify audiences, these Federal funds simply cannot be replaced. Maintaining the strength of the not-for-profit sector, along with the commercial sector, will be vital to supporting the economic health of our Nation.

Our country's not-for-profit theatres develop innovative educational activities and outreach programs, providing millions of young people, including "at-risk" youth, with important skills for the future by expanding their creativity and developing problem-solving, reasoning, and communication abilities—preparing today's students to become tomorrow's citizens. Our theatres present new works and serve as catalysts for economic growth in their local communities. These theatres also nurture—and provide artistic homes for the development of—the current generation of acclaimed writers, actors, directors and designers working in regional theatre, on Broadway and in the film and television industries. At the same time, theatres have become increasingly responsive to their communities, serving as healing forces in difficult times, and producing work that reflects and celebrates the strength of our Nation's diversity.

Here are some recent examples of NEA grants and their impact:

*From the National Endowment for the Arts' Access to Artistic Excellence Program*

Located in southern Vermont, Weston Playhouse was the recipient of an NEA grant in the category of Artistic Excellence in Musical Theatre for \$45,000. This grant supported the world premiere production of *Saint-Ex*, a new musical by composer Jenny Giering and author Sean Barry, directed by Kent Nicholson. Inspired by the life of author and aviator Antoine de Saint-Exupéry (*The Little Prince*), *Saint-Ex* provides an impassioned and deeply moving portrait of a man whose work is cherished by millions across the globe, but whose astonishing life remains little known. *Saint-Ex* began performances on August 28 at the Weston Playhouse. Interrupted just 3 days into the run when Tropical Storm Irene ripped through Weston, flooding countless homes and businesses, the lower level of the Weston Playhouse sustained extensive damage after being submerged in 8 feet of water. Response to these devastating events was overwhelming, with company and community members coming out to help with the cleanup. Recovering from this natural disaster, a restaged version of *Saint-Ex* opened just 5 days after the flood and served as a platform for community catharsis with every subsequent performance receiving an emotional standing ovation. *Saint-Ex* ran for 2 weeks with 12 total performances, 2,013 adults and students in attendance and 27 artists in addition to 39 Weston Playhouse staff members participating in the project.

*From the National Endowment for the Arts' Art Works Program*

CENTERSTAGE in Baltimore, Maryland, received \$55,000 to support the presentation of *Gleam*, an adaptation by Bonnie Lee Moss Rattner of Zora Neale Hurston's novel *Their Eyes Were Watching God* directed by Marion McClinton. This novel is considered one of the jewels of the Harlem Renaissance by one of America's literary giants.

Milwaukee Repertory Theater received \$20,000 to support a musical production of *Next to Normal*, composed by Tom Kitt, with libretto and lyrics by Brian Yorkey, and directed by artistic director Mark Clements with accompanying community and student educational programming. The award-winning contemporary musical portrays a family grappling with depression and mental illness.

Perseverance Theatre, in Douglas, Alaska, received \$20,000 to support a production of *A Raisin in the Sun* by Lorraine Hansberry. A seminal work in the development of African American theatre, as well as a study of the issues of race relations, the play portrays an African American family living in Chicago's South Side during the 1940s and examines the American dream of children striving to rise above their parents' accomplishments.

*From the National Endowment for the Arts' Challenge America Program*

Tennessee Women's Theater Project in Nashville, Tennessee received \$10,000 to support the creation and tour of a new play by Regina Taylor examining the experience of breast cancer from the African American perspective. Partners will include the Tennessee Breast Cancer Coalition.

These are only a few examples of the kinds of extraordinary programs supported by the National Endowment for the Arts. Indeed, the Endowment's Theatre Program is able to fund only 50 percent of the applications it receives, so 50 percent of the theatres are turned away because there aren't sufficient funds. Theatre Communications Group urges you to support a funding level of \$155 million for fiscal year 2013 for the NEA, to maintain citizen access to the cultural, educational and economic benefits of the arts, and to advance creativity and innovation in communities across the United States.

The arts infrastructure of the United States is critical to the Nation's well-being and its economic vitality. It is supported by a remarkable combination of Government, business, foundation, and individual donors. It is a striking example of Federal/State/private partnership. Federal support for the arts provides a measure of stability for arts programs nationwide and is critical at a time when other sources of funding are diminished. Further, the American public favors spending Federal tax dollars in support of the arts. The NEA was funded at \$146 million in the fiscal year 2012 budget; however, it has never recovered from a 40-percent budget cut in fiscal year 1996 and its programs are still under-funded. We urge the subcommittee to fund the NEA at a level of \$155 million to preserve the important cultural programs reaching Americans across the country.

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PREPARED STATEMENT OF THE TOWN OF OPHIR, COLORADO

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF.

LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the LWCF request in fiscal year 2013, USFS included an allocation of \$1 million for the Ophir Valley project in the Uncompahgre National Forest. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for LWCF for this important project.

Located in the heart of southwestern Colorado's San Juan Mountains, the Ophir Valley project area in the Uncompahgre National Forest is one of the San Juans' hidden gems. A short detour of only a mile off of Highway 145—part of the nationally acclaimed 236-mile San Juan Skyway Scenic Byway—brings visitors into a compact valley ringed by 13,000-foot peaks and serrated ridge lines.

Against a backdrop of unsurpassed alpine scenery, the Ophir Valley offers an abundance of recreational opportunities for residents and visitors. Hiking, camping, mountain biking, cross-country skiing, four-wheeling, and fishing are all popular pastimes. In addition, the valley supports habitat for the Canada lynx, a federally listed threatened species, and provides important habitat for the endangered Uncompahgre fritillary butterfly and other sensitive species. It also contains the headwaters of Howard Fork, a key tributary to the San Miguel River, which The Nature Conservancy has called "one of the last naturally functioning rivers in the West." The San Miguel sustains a globally rare narrowleaf cottonwood-Colorado blue spruce/black twinberry plant community.

While much of the Ophir Valley is in public ownership, the region's mining heritage also created hundreds of privately owned patented mining claims scattered across the landscape like matchsticks. These private inholdings once were vital to sustaining 19th century efforts to find and extract mineral wealth. Now, however, at a time when hard rock mining in southwestern Colorado appears increasingly less viable economically, many former mining districts, such as Ophir, are seeing these private inholdings develop into sites for second homes. As a result, more and more of the Ophir Valley's subalpine and alpine environments are at risk of being developed, potentially creating significant management issues for the United States Forest Service (USFS), fragmenting wildlife habitat, and spoiling the scenic splendor and recreational opportunities so important to residents and visitors.

Currently, USFS has the opportunity to acquire all of the remaining acres out of a total 1,145 acres of patented mining claims that had been under one ownership in the Ophir Valley. Prior to this acquisition effort, these claims represented approximately 90 percent of the valley's privately owned inholdings. Federal appropriations provided in previous years have allowed USFS to begin acquiring these mining claims. Funding in fiscal year 2012 will allow the agency to begin the purchase of the final 101 acres. This project resolves many land use and access conflicts that stem from the development of private inholdings within public lands, while promoting effective land management practices by USFS. In particular, the ongoing acquisition protects critical habitat, maintains high-quality recreational opportunities on public lands, protects water quality, and helps maintain the quality of life of the region's residents.

This protection effort is a natural extension of the successful Red Mountain project, located just to the north and east of the Ophir Valley along a different portion of the San Juan Skyway. It will also complement other land protection and recreation enhancement efforts along and adjacent to the San Juan Skyway, 1 of only 27 All-American Roads in the National Scenic Byway program. In recent years, for example, Great Outdoors Colorado Trust Fund has pledged \$5.7 million for land protection in the area. In fiscal year 2013, an allocation of \$2.5 million from LWCF is needed to help the Forest Service to complete the protection of these critical inholdings. It is my hope that USFS will be able to identify funds in addition to the budgeted amount in order to finish the Ophir Valley project this year.

In closing, I urge you to provide funding for LWCF of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for Ophir Valley. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in Colorado, and I appreciate your consideration of this funding request.

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PREPARED STATEMENT OF THE TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

Greetings from Alaska! My name is Edward K. Thomas. I am the elected President of the Central Council of the Tlingit and Haida Indian Tribes of Alaska (Tlingit Haida), a federally recognized Indian tribe of 28,000 tribal citizens. I am honored to provide this testimony on the very important matter of the fiscal year 2013 Federal appropriations legislation. I commend the Congress, and especially this subcommittee, for holding this hearing and giving me, and other tribal leaders, an opportunity to provide you our perspective on the fiscal year 2013 Federal budgets on Native American programs. One of the most important legal principles in defining the relationship between the Federal Government and the Indian and Alaska Native Tribes is that of the fiduciary responsibility the United States has to tribal govern-

ments. This hearing is very important in strengthening the Federal Government's Trust relationship to tribal governments.

#### FUNDING NOT BASED ON NEEDS, WHICH ARE MUCH GREATER IN RURAL AREAS

I have been involved in managing Federal programs since 1976 and find that the method of formulating Federal budgets for the benefit of needy Native Americans is deficient and ineffective. Each year Federal budgets are put together mostly based upon the previous year's funding; totally disregarding the level of unmet needs in Indian Country. This becomes a much bigger problem when it becomes necessary to reduce total Federal funding.

Our Nation's poverty level is at the highest level since 1993. 22 million or 1 in every 6 Americans lives in poverty; 22 percent of all American children live in poverty. The poverty levels are much higher in rural tribal communities. In rural Alaska, higher energy costs have compounded an already depressed economy in rural Alaska. The cost of living in certain parts of rural Alaska is nearly twice that of the average cost of living elsewhere in the United States. Electricity costs are often 4 to 5 times higher. Over the past decade, funding for Native American programs has not even kept pace with national inflation rates let alone the dramatic inflationary costs in rural Alaska.

#### NON-BUREAU OF INDIAN AFFAIRS AGENCIES HAVE RECEIVED FUNDING PRIORITY IN INTERIOR DEPARTMENT

Between fiscal year 2004 and 2012, the Bureau of Indian Affairs (BIA) budget grew 8 percent. Over that same period of time, funding for non-BIA programs grew at a much greater rate:

- Fish and Wildlife by 30 percent;
- Park Services by 27 percent;
- Geodetic Surveys by 18 percent; and
- Bureau of Land Management by 13 percent.

It makes sense that funding to needy tribal communities could be increased if these non-BIA agencies were reduced to the 2004 funding levels plus 8 percent.

The single biggest factor that financially undermines Tribal Self-Determination and Self-Governance is the Federal practice of underfunding or putting caps on indirect costs or Contract Support Cost (CSC). For the period between 2006 through 2009, the CSC shortfalls and underfunding have cost my tribe a total of \$2,651,088; or an average of \$662,772 per year. While our people are grateful for the programs designed to help our needy tribal citizens, we simply cannot afford to continue to pay this amount of money to manage these important contracts. My tribal government provided \$84,689,247 (an average of \$21,172,300 per year) in contractual services to our needy tribal citizens over that period of time. Simply put, the difference between the way indirect costs are calculated and the way they are paid by the United States creates an ever-tightening chokehold on my tribe's ability to administer programs. If we follow the law and spend the administrative costs we are required to spend, Federal law provides us less and less money to meet these federally required expenditures. The more we spend, the less we get. The less we spend, the less we get. Both the Congress and the Federal agencies have caused this crisis. Together we can solve it.

#### TLINGIT HAIDA TRIBAL TRUST FUNDS PAY FOR FEDERAL RESPONSIBILITY

Federal law specifically states that a tribe who contracts for the management of a Federal contract is entitled to the same administrative support as the Federal Government itself would have were it to retain the management of that contract. Appropriations legislation that underfunds contract support costs violates this provision of Federal law and severely undermines the concept of tribal self-determination.

Tlingit Haida diligently tries to abide by Federal laws that set our indirect cost rates and to live within other Federal appropriations laws that provide us much less than the Federal Government's own audits say we should collect from each agency to manage contracts for them. We were forced to pull the \$2,651,088 shortfall in contract support costs over the past 4 years out of our modest Trust Fund earnings in order to meet the costs we were stuck with by the United States. We cannot continue to afford to pay for these Federal responsibility costs going into the future. There are no gaming tribes in Alaska; the economy in rural Alaska is weak to non-existent; and unemployment rates in some of our villages often exceed 50 percent.

Our Tribal Trust Fund is what remains of a judgment fund provided to us in exchange for land taken by the United States from our tribe. Our Tlingit Haida tribal government has a fiduciary responsibility to preserve the principal of this Tribal

Trust Fund for future generations and the earnings of this fund that are so critical to maintaining essential governmental functions for our tribe. It is not the purpose of our Tribal Trust Fund to use the interest earned to make up for shortfall created by the United States. The choice we face each and every year is to either shutdown all of the vital services we provide our membership, shut our offices, layoff employees, and pay for early termination of contracts, or dip deeper and deeper into our Tribal Trust Fund earnings to maintain operations. We have chosen to continue but we need your help in order for us to continue in providing essential services to our needy tribal citizens.

In addition to the diversion and diminishment of our Tribal Trust Fund earnings, the shortfall in BIA contract support funding has been felt throughout Tlingit Haida. As an immediate result of this shortfall which the CSC caps place on so many programs our tribe is eligible to apply for, we have had to abstain from applying for some very important federally funded programs that could be of tremendous help to mitigate the serious economic challenges facing our tribal communities. While businesses, other governments and government agencies saw benefit from the American Recovery and Reinvestment Act (ARRA), Tlingit Haida had to abstain from fully participating in available programs because of the 15-percent cap of administrative costs placed on those programs. We did accept one \$1.5 million award for childcare assistance to supplement our "welfare to work" initiatives but this cost Tlingit Haida \$330,000 of our own money, again, depleting our meager Tribal Trust Fund, to manage that federally funded program.

#### INDIRECT COSTS ARE FIXED-COST REQUIREMENTS

If indirect costs were not primarily "fixed" costs, the recurring problem of a shortfall in BIA contract support cost funding would, perhaps, be survivable. But most of our actual indirect costs are "fixed". For example, typically the most cost-effective way to acquire facility space or equipment is through a long-term lease with locked-in costs. Similarly, package deals for telephone and some forms of transportation offer significant cost savings over time. And obviously, the salary and benefit costs of accounting, administrative, and management staff must be treated as "fixed" or else we cannot hire or keep employees. When Federal agencies do not send us 100 percent of the funds required by our federally set indirect cost rate, we have a shortfall associated with our operation of BIA programs and something has to give.

We refer to tribal indirect cost funding as a "requirement"—not a "need". They are requirements because they are derived from audits conducted by the National Business Center (NBC) on behalf of the Federal Government who sets rates that are used uniformly by all Federal agencies with whom Tlingit Haida manages a contract or grant. The rates use actual expenditures from prior years to project costs in the future year. Once our federally established indirect cost rate is set, Federal law requires that our tribe apply that Federal rate uniformly to all the programs we administer. In other words, Federal law requires us to spend money on administrative costs, but will not let us charge all of that spending to the Federal grants and contracts.

Another problem is that the Single Audit Act requires a tribal contractor's cognizant agency (e.g., Department of the Interior) to audit the indirect costs of the tribal contractor and establish an indirect cost rate that must be applied to all programs the tribal contractor administers. If that rate is 25 percent, and a program like Head Start caps administrative cost recovery from its funding at 15 percent, the law requires the tribal contractor to pay the difference from non-Federal funds or through a rate increase the following year that will obtain a higher recovery from BIA's contract support cost fund in future years.

Let me be clear. We would spiral into complete financial disaster as a tribe if we chose to not spend at the budgeted amounts. Failing to pay certain fixed costs would actually increase our costs (breaking leases, terminating employees, breaching contracts). Deferring certain costs to the following year aggravates the hardship of the shortfalls that cripple that year. The Public Law 93-638 language which supposedly protects tribal contractors against theoretical under-recovery does work with respect to BIA funds, but historical underfunding of CSC has caused our tribe very serious difficulties in dealing with shortfalls in non-BIA programs for which we must, by law, use the same indirect cost rate. If in year one we don't spend uniformly on all programs, BIA and non-BIA alike, this will increase the approved rate for the following year because the amounts not collected from the agencies are available to add on to the CSC for the subsequent year. Higher indirect cost rates are no answer, given the uncertainty of future funding levels. Tlingit Haida, in our efforts to keep our CSC indirect cost rates lower has chosen not to carry all of those costs forward and so has had to pay the shortfalls out of non-Federal sources. But Tlingit



Haida, and many other tribes, have very few non-Federal sources of funding. For these reasons, I ask your consideration of including the following bill language in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations law. It would provide flexibility to Tlingit Haida and other tribes caught by a crushing, unfunded Federal mandate.

PROPOSED NEW FISCAL YEAR 2013 BILL LANGUAGE

“Notwithstanding any other provision of law, including any otherwise applicable administrative cost limitations, any Federal funds made available under this or any other appropriations act for fiscal year 2013 to an Indian tribe may, at the option of the Indian tribe, be applied to pay for up to 100 percent of the approved indirect costs associated with the administration by the Indian tribe of those funds, provided that such costs are calculated in conformity with the federally-determined indirect cost rate agreement of that Indian tribe and the relevant OMB circulars.”

INTENT AND EFFECT OF BILL LANGUAGE

The proposed amendment is intended to apply a tribal contractor’s uniform indirect cost rate established under the Single Audit Act to recover costs required by that uniform indirect cost rate from each federally funded award or agreement without regard to any otherwise applicable administrative cost cap limitations otherwise governing those awards or agreements.

The proposed amendment would expand existing authority to permit a tribal contractor an additional tribal option—it would provide tribal authority to use any federally funded award to meet up to all of a tribe’s approved indirect costs that are calculated in conformity with its federally established indirect cost rate agreement and the relevant OMB circulars without regard to any otherwise applicable administrative cost cap limitations. This would not require any increase in overall Federal funding. The funding level of each award would not be affected. It would simply extend flexibility to a tribal contractor to apply its federally awarded funds to meet federally required administrative costs. This would be a huge benefit to tribal contractors, like Tlingit Haida, who are providing services in high-cost areas with few or no financial resources other than Federal awards and grants.

CONCLUSION

I very much understand the serious financial challenges facing the Federal Government. It is vitally important that there be a balanced approach in addressing Federal budget deficits. Balancing our Nation’s budget on the backs of the programs serving the needy will not work. I thank you for the opportunity to share my views with you. I wish you well in your deliberations and I trust you will make the right decisions on the issues of grave concern to our people.

Gunalcheesh! Howa! Thank you!

PREPARED STATEMENT OF THE TRUST FOR PUBLIC LAND

On behalf of The Trust for Public Land, thank you for the opportunity to submit testimony in support of programs under your jurisdiction for the fiscal year 2013 appropriations process. The Trust for Public Land (TPL) is a national nonprofit land conservation organization working to protect land for people in communities across the Nation. We are extremely grateful for the support members of this subcommittee and other conservation leaders in the Congress have shown for Federal conservation programs during these challenging fiscal times. We recognize that the subcommittee will again face enormous challenges in meeting the broad range of priority needs in the Interior, Environment, and Related Agencies bill this year. But we believe the American people support continued investments in conservation, even during a time of economic challenge. Most recently, on “Super Tuesday” in March, voters in communities in Florida, Georgia and Ohio approved conservation funding measures, putting 2012’s passage rate at 100 percent—4 for 4 so far.

These ballot initiatives reflect the very essence of conservation in the 21st century:

- collaborative;
- leveraged;
- partnership-based; and
- locally supported.

Federal funding is an absolutely critical part of the conservation toolbox and provides manifold benefits to the American people. Given the limited public conservation funding at all levels of government, TPL works to leverage Federal conservation

dollars, bringing to bear private philanthropic support as well as State and local funding to forge workable solutions to complex conservation funding challenges.

We are especially grateful for your recognition during the fiscal year 2012 process that funding for programs like the Land and Water Conservation Fund (LWCF) is a worthwhile investment. TPL respectfully requests that you continue this commitment by supporting the President's budget request for fiscal year 2013 for LWCF of \$450 million. This amount includes \$270 million for Federal land purchases, \$60 million for grants to States for parks and outdoor recreation, including a new competitive grant component for city parks, \$60 million for the Forest Legacy Program and \$60 million for the Cooperative Endangered Species program. Continued investment in this suite of LWCF programs is essential and TPL is ready to work with the subcommittee to ensure that dollars invested are well spent on our most urgent needs. We urge you to also support the President's budget requests for the North American Wetlands Conservation Act and the Community Forest Program.

#### LAND AND WATER CONSERVATION FUND

For almost 50 years LWCF has been the cornerstone that sustains our Federal public lands heritage and remains today a compelling and urgently needed program. When the Congress created LWCF in 1964, it sought to ensure that land conservation would receive funds every year by dedicating certain revenues. For most of its history, the major source of LWCF funds has been revenues from offshore oil and gas development in Federal waters. LWCF activities neither require nor are designed to receive taxpayer dollars. This arrangement is built on the principle that the revenues generated from energy development and natural resource depletion should be used for the protection of other natural resources such as parks, open space, and wildlife habitat for the benefit of current and future generations of Americans. TPL believes that this principle remains a sound one and that the American public supports using this very small percentage of OCS receipts—which annually average more than \$6 billion—as a conservation offset.

*Federal Land Acquisitions.*—Every year tens of millions of Americans, as well as international visitors to our country, visit our public lands. Federal funding of land acquisition ensures that the public can access lands for these recreational and educational purposes. If accessible properties are instead sold for development or subdivision, there is no guarantee that the public will be able to enjoy the nearby public lands. Purchase can also enhance the quality of recreational experiences, encouraging greater public participation and use, and in some cases resolve public land management issues and achieve cost savings. There is a clear economic impact from these activities. A 2006 Federal interagency study determined that 87.5 million people annually spend \$122.3 billion on fishing, hunting and wildlife watching alone. These activities and others have significant ripple effects. The Outdoor Industry Foundation estimates that active outdoor recreation contributes \$730 billion annually to the U.S. economy, supports nearly 6.5 million jobs across the United States, generates \$49 billion in annual national tax revenue, and produces \$289 billion annually in retail sales and services across the country.

Among the recreation destinations whose economic and natural resource values might be significantly compromised without sufficient LWCF funding in fiscal year 2013 are Virgin Islands National Park where TPL is working to finally connect the two sections of the national park along the shores of Maho Bay, the Sawtooth National Recreation Area in Idaho, where a conservation easement will protect the lands along the river are scenic vista at the gateway to the NRA, the California Coastal National Monument, where a property will connect visitors to 2 miles of the Pacific coast, and along the Pacific Crest Trail in Washington State.

Incompatible development within established Federal units is a continuing concern for the public and for public land managers, and we have found that private landowners of inholdings and edgeholdings are open to and quite often seek a conservation solution. Faced with uncertainty about the availability of Federal land acquisition dollars, however, many landowners find that they cannot afford to wait on a win-win outcome. Adequate and timely acquisition of inholdings through the LWCF is critical to efforts to protect the Nation's public lands heritage when these time-sensitive acquisition opportunities arise. Often the window for a conservation outcome is narrow, and the availability of LWCF funds ensures that landowners can sell their properties in a timely manner. For instance, important conservation properties are available for a limited time at Kennesaw Mountain National Battlefield Park in Georgia, at the new Middle Rio Grande National Wildlife Refuge in New Mexico and at Red Cliffs National Conservation Area in Utah. Funding for Kennesaw Mountain—a national battlefield that is under severe development threat—is particularly important given the ongoing commemoration of the Sesquicentennial

of the Civil War. In addition, a number of partially completed projects at Virgin Islands NP, Sawtooth NRA, and the Carson, Uncompahgre and Superior National Forests await further funding to be completed and are included in the fiscal year 2013 President's budget request. Recent funding levels for LWCF have been insufficient to allow agencies to complete these projects in a timely fashion and we urge your support for funding levels in fiscal year 2013 that address these needs.

We also urge the subcommittee to consider fully the urgent need for funding for Civil War Sesquicentennial units, national trails and recreational/hunting/fishing access projects as proposed in the fiscal year 2013 President's budget for the National Park Service, Bureau of Land Management, and U.S. Forest Service, respectively. TPL has pending projects eligible under each of these categories and stand ready to provide information to the subcommittee to support these categorical line item requests.

As the subcommittee evaluates the myriad programmatic needs and measures for making programs more efficient for the fiscal year 2013 Interior, Environment, and Related Agencies bill, we look forward to working with you and your staff to ensure that funds are spent wisely on strategic and urgent conservation priorities.

*National Park Service Land and Water Conservation Fund Grants.*—Since 1965, the stateside program has provided 41,000 grants to States and local communities for park protection and development of recreation facilities. This program reaches deep into communities across our Nation, supporting citizen-led efforts to conserve places of local importance. Stateside funds were an essential part of land protection in Maine's famed 100-Mile Wilderness, the northernmost and wildest stretch of the Appalachian Trail. Most recently, TPL worked with the State of Tennessee to add 1,388 acres to the popular Cumberland Trail, extending it by 19 miles, using State LWCF grant funding. To meet needs such as these as they continue to arise in all 50 States and in U.S. territories, we urge you to fund this program at \$60 million.

*Competitive Grants.*—Within the \$60 million requested for State LWCF grants in the President's budget for fiscal year 2013, the administration has proposed a new competitive grant program to invest in community parks and greenways, landscapes, and recreational riverways. This effort will particularly help cities and urbanized counties increase the availability of parks and green spaces for residents of our more populated areas, many of whom lack access to safe, close-to-home recreational sites. This proposed targeting of LWCF funds to areas most in need of new parks will help address the health threats many Americans—especially children—are now facing due to lack of access to parks. TPL is the Nation's only national land conservation organization working to create parks in cities across the Nation, and we strongly support this competitive grant program as laid out in the Department of the Interior's fiscal year 2013 budget proposal. With our extensive experience creating parks for people nationwide, we see this type of program as meeting a critical need in the places where most people live and recreate. There is currently no Federal program that addresses park needs for cities, metropolitan areas and urbanized counties. The NPS LWCF grants program—funded competitively rather than by formula—could assist TPL's work in places like San Francisco and Los Angeles in California; Portland, Maine; Chattanooga, Tennessee; and New Orleans, Louisiana.

#### U.S. FOREST SERVICE FOREST LEGACY PROGRAM

The Forest Legacy Program provides extraordinary assistance to States and localities seeking to preserve important working forests. Since its inception in 1990, the Forest Legacy Program has protected more than 2 million acres of forestland together with more than \$630 million in non-Federal matching funds. For fiscal year 2013, the President's budget recommends projects that provide multiple public benefits that derive from forests—clean water, wildlife protection, climate change adaptation and mitigation, public access to recreation, economic development and sustainable forestry. The Forest Legacy Program has been very effective over its short history, leveraging a dollar for dollar match to Federal funds, well more than is required under the program. TPL urges your continued support for sustained investment in this strategic conservation program. Included in the fiscal year 2013 budget are three projects where TPL is working in partnership with the States of Idaho, Vermont and Wisconsin to protect recreation access for snowmobilers and hikers, ensure jobs in the woods, buffer important Federal and State conservation areas, and provide strategic land conservation that fits a larger goal.

#### FISH AND WILDLIFE SERVICE—LAND CONSERVATION GRANT PROGRAMS

We are grateful for the subcommittee's historic support for Fish and Wildlife Service grant programs, including the Cooperative Endangered Species Conservation Fund—which leverages State and private funds and has protected threatened and

endangered species habitat across the Nation. Through the most recent grant cycle, for example, TPL, in partnership with the State of Washington, secured a \$3.5 million grant that helped protect 2,700 acres of pristine habitat along the Methow River in Okanogan County. This habitat is considered critical spawning habitat for the endangered Pacific salmon, but benefits many other protected species as well, like Canada lynx, gray wolves, and bull trout. The Methow Watershed project leveraged \$4.27 million in non-Federal funding, which is more than double the non-Federal match required under the program. We also urge your support for program funding at the President's budget level of \$60 million in fiscal year 2013. The North American Wetlands Conservation Act (NAWCA) provides much-needed matching grants to carry out wetlands conservation, restoration and enhancement projects. We urge the subcommittee to provide the President's budget request of \$39.4 million.

#### UNITED STATES FOREST SERVICE COMMUNITY FOREST PROGRAM

Last but not least, we urge your continued support for the Community Forest Program (CFP), which received appropriations in fiscal years 2010, 2011, and 2012 and now has its first-ever grant solicitation underway. This program will provide a complement to existing conservation programs by helping local communities and tribes identify, purchase, and manage important forestlands that are threatened with development. These locally led efforts can be tailored to the needs of each community, from timber revenue for local budgets to recreation access and outdoor education. Every Federal dollar from CFP will be evenly matched by funding from State, local, and private sources. We believe the response to the first grant round will be substantial and that this program will generate significant interest from local entities concerned about the future of their close-to-home forests. TPL is working right now to create new community forests in California, Montana and Vermont, and we hope that the Community Forest Program funds will contribute to these efforts. Given the strong interest in community forests from coast to coast, we urge you to include the President's budget level for CFP of \$4 million in the fiscal year 2013 bill.

Thank you again for the opportunity to submit public testimony. The programs highlighted in my testimony are critical to the future of conservation at the local, State and Federal levels, reflect the continued demand on the part of the American people for access to outdoor recreation, help sustain our economy and reflect the true partnership that exists in Federal conservation efforts. As ever, we are deeply thankful for the subcommittee's recognition of the importance of these programs and urge you to maintain robust funding for them in the fiscal year 2013 Interior, Environment, and Related Agencies bill. Thank you for help and support, and for your consideration of our requests.

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#### PREPARED STATEMENT OF THE WILDLIFE SOCIETY

The Wildlife Society appreciates the opportunity to provide testimony on the fiscal year 2013 budget for the Department of the Interior, Environment, and Related Agencies. The Wildlife Society was founded in 1937 and is a nonprofit scientific and educational association representing more than 11,000 professional wildlife biologists and managers, dedicated to excellence in wildlife stewardship through science and education. Our mission is to represent and serve the professional community of scientists, managers, educators, technicians, planners, and others who work actively to study, manage, and conserve wildlife and its habitats worldwide.

##### *Fish and Wildlife Service*

The State and Tribal Wildlife Grants Program is the only Federal program that supports States in preventing wildlife from becoming endangered. It is also the primary program supporting implementation of comprehensive wildlife conservation strategies, known as State Wildlife Action Plans, which detail conservation actions needed on the ground in every State to keep common species common. Funding assistance for these State wildlife agencies is one of the highest-priority needs for wildlife in order to prevent further declines in at-risk wildlife populations in every State. These grants also provide key funding to federally recognized tribal governments for wildlife management and conservation. We recommend the Congress appropriate \$70 million for State and Tribal Wildlife Grants in fiscal year 2013. We also ask that the Congress support continuation of a reduction in the non-Federal match requirement from 50 to 35 percent, relieving some of the onus of providing adequate matching funding from severely cashed-strapped States.

The Cooperative Alliance for Refuge Enhancement (CARE) is a diverse coalition of 22 wildlife, sporting, conservation, and scientific organizations representing more

than 14 million members and supporters. A comprehensive analysis by CARE determined the National Wildlife Refuge System (NWRS) needs \$900 million in annual operations funding to properly administer its nearly 150 million acres, educational programs, habitat restoration projects, and much more. Many years of stagnant budgets have increased the Operations and Maintenance backlog; refuge visitors often show up to find visitor centers closed, hiking trails in disrepair, and habitat restoration programs eliminated. Invasive plant species are taking over on refuges, requiring \$25 million per year to treat just one-third of its acreage, and illegal activities such as poaching are on the rise, requiring an additional 209 officers (\$31.4 million) to meet law enforcement needs. We recommend that the Congress provide \$495 million in fiscal year 2013 for the operations and maintenance of the NWRS. Additionally, The Wildlife Society supports the increase of \$3 million for NWRS's Inventory and Monitoring program, which is needed to provide the Service with the necessary information to guide effective use of funds.

The North American Wetlands Conservation Act is a cooperative, nonregulatory, incentive-based program that has shown unprecedented success in restoring wetlands, waterfowl, and other migratory bird populations. This program has remained drastically underfunded despite its demonstrated effectiveness. We recommend a small increase more than the fiscal year 2012 funding level of \$35.5 million, to bring the funding to \$40 million in fiscal year 2013.

The Neotropical Migratory Bird Conservation Act Grants Program supports partnership programs to conserve birds in the United States, Latin America and the Caribbean, where approximately 5 billion birds representing 341 species spend their winters, including some of the most endangered birds in North America. The Wildlife Society recommends the Congress fund the Neotropical Migratory Bird Conservation Act at \$6.5 million in fiscal year 2013.

The Wildlife Society supports adequate funding levels for all subactivities within the Endangered Species Program. Endangered species recovery efforts can ultimately lead to delisting, resulting in significant benefits to species through State management efforts. Currently, all subactivities within the program are understaffed while the costs for management of listed species continue to rapidly escalate. We recommend the Congress match the President's request for the Endangered Species Program and provide \$179.7 million in funding in fiscal year 2013.

The voluntary Partners for Fish and Wildlife Program provides financial and technical assistance to landowners to restore degraded habitat on their property. With more than two-thirds of our Nation's lands held as private property, and up to 90 percent of some habitats lost, private lands play a key role in preserving our ecosystem. We urge the Congress to provide \$60 million in support of the Partners for Fish and Wildlife Program in order to allow landowners to help contribute to land and wildlife preservation.

Through its International Affairs office, FWS works with many partners and countries in the implementation of international treaties, conventions, and projects for the conservation of wildlife species and their habitats. International trade, import, and transportation of wildlife species can have a huge impact on America's security, economy, and environment. Careful regulation of imports and implementation of international policies is an important task. We ask the Congress to support FWS in protecting our economy, our environment, and our national security by providing a necessary \$13.054 million in support of FWS International Affairs.

#### *Bureau of Land Management*

Bureau of Land Management (BLM) lands support more than 3,000 species of wildlife, more than 300 federally proposed or listed species, and more than 1,300 sensitive plant species. Historically, the Wildlife and Fisheries Management (WFM) and the Threatened and Endangered Species Management (TESM) programs have been forced to pay for the compliance activities of BLM's energy, grazing, and other nonwildlife related programs, eroding both their ability to conduct proactive conservation activities and their efforts to recover listed species. Given the significant underfunding of the BLM's wildlife programs, combined with the tremendous expansion of energy development across the BLM landscape, we recommend the Congress appropriate \$55 million for BLM Wildlife Management. This will allow BLM to maintain and restore wildlife and habitat by monitoring habitat conditions, conducting inventories of wildlife resources, and developing cooperative management plans. We support the proposed increase of \$15 million for sage grouse conservation efforts; this kind of broad-scale, landscape-based conservation is exactly what is needed to manage and conserve sage grouse across their range.

Increased funding is also needed for the Threatened and Endangered Species Management Program, to allow BLM to meet its responsibilities in endangered species recovery plans. BLM's March 2001 report to the Congress called for a doubling

of the Threatened and Endangered Species budget to \$48 million and an additional 70 staff positions over 5 years. This goal has yet to be met. In light of this, we strongly encourage the Congress to increase overall funding for BLM's endangered species program to \$33 million in fiscal year 2013.

The Wildlife Society appreciates the commitment of BLM to addressing the problems associated with Wild Horse and Burro Management. The President has requested an increase of \$2 million for research and development on contraception and population control. The Wildlife Society is concerned about BLM's emphasis on fertility control. Given that horses and burros have been maintained above the Appropriate Management Level for many years, we believe that additional funding should be requested to correct the habitat damage that has occurred due to overpopulation of these animals. The requested \$77.068 million should be provided to BLM if they continue removing excess horses from the range at a reasonable rate and focus additional resources on habitat restoration.

#### *U.S. Geological Survey*

The basic, objective, and interdisciplinary scientific research that is supported by the U.S. Geological Survey (USGS) is necessary for understanding the complex environmental issues facing our Nation today. This science will play an essential role in the decisionmaking processes of natural resource managers as we adapt to climate change, and it will help protect our water supply and conserve endangered species. More investment is needed to strengthen USGS partnerships, improve monitoring, produce high-quality geospatial data, and deliver the best science to address critical environmental and societal challenges. The Wildlife Society supports funding of at least \$1.2 billion for USGS in fiscal year 2013.

The Ecosystems Program of USGS contains programmatic resources for fisheries, wildlife, environments, invasive species and the Cooperative Fish and Wildlife Research Unit. The Ecosystems unit is a new department within USGS resulting from the recent reorganization that strives to maximize research and support for comprehensive biological and ecosystem based needs. The Wildlife Society supports the President's request of \$177.85 million for USGS's Ecosystems Department in fiscal year 2013. Within Ecosystems, we support the request of \$49.4 million for the Wildlife Program. Additionally, we appreciate the requested addition of \$1 million to support research and surveillance of White Nose Syndrome and of \$2.2 million for research on hydraulic fracturing and its effects on land use, terrestrial wildlife, and habitats.

The Cooperative Fish and Wildlife Research Units (CFWRUs) are managed under the Ecosystems Department and conduct research on renewable natural resource questions, participate in the education of graduate students, provide technical assistance and consultation on natural resource issues, and provide continuing education for natural resource professionals. In fiscal year 2001, the Congress fully funded the CFWRUs, allowing unit productivity to rise to record levels. Since then, budgetary shortfalls have caused an erosion of available funds, resulting in a current staffing vacancy of nearly one-quarter of the professional workforce. In order to fill current vacancies, restore seriously eroded operational funds for each CFWRU, and enhance national program coordination, the fiscal year 2013 budget for the CFWRUs should be increased to \$22 million. This would restore necessary capacity in the CFWRU program and allow it to meet the nation's research and training needs.

The Wildlife Society appreciates the fiscal year 2011 funding of \$25.5 million for the National Climate Change and Wildlife Science Center. This center plays a pivotal role in addressing the impacts of climate change on fish and wildlife by providing essential scientific support. In order for this role to be fully realized, The Wildlife Society recommends that the Congress fund the National Climate Change and Wildlife Science Center at the requested \$26.2 million in fiscal year 2013.

#### *United States Forest Service*

Our national forests and grasslands are essential to the conservation of our Nation's wildlife and habitat, and are home to about 425 threatened and endangered, and another 3,250 at-risk species. In fiscal year 2011, the USFS combined several programs and budgets, including Vegetation and Watershed Management, Wildlife and Fisheries Habitat Management, and Forest Products into a single Integrated Resource Restoration activity budget. We are concerned with this merger because it makes accountability to stakeholders and the Congress more difficult. However, with these reservations noted, we urge the Congress to support the request of \$793 million for the Integrated Resource Restoration program in fiscal year 2013.

Integral to management of our natural resources is a deep understanding of the biological and geological forces that shape the land and its wildlife and plant com-

munities. The research being done by the USFS is at the forefront of science, and essential to improving the health of our Nation's forests and grasslands. Furthermore, it will play a key role in developing strategies for mitigating the effects of climate change. We urge the Congress to provide \$300 million in fiscal year 2013 for Forest and Rangelands to support this high-quality research.

Thank you for considering the recommendations of wildlife professionals.

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PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC  
RESEARCH

On behalf of the University Corporation for Atmospheric Research (UCAR), a consortium of 77 research universities that manages the National Center for Atmospheric Research, I submit this written testimony regarding the fiscal year 2013 appropriations for the Department of the Interior's (DOI) climate science programs, for the record of the Senate Committee on Appropriations, Subcommittee on the Interior, Environment, and Related Agencies. The U.S. Geological Survey's (USGS) and U.S. Fish and Wildlife Service's (FWS) climate science, adaptation, and education programs contribute a distinct and important component to the country's efforts to better understand, predict, and respond to the impacts of climate variability on human and natural systems. These programs are perhaps the most important in the entire Federal Government for helping scientists understand the relationship between climate variability and our Nation's abundant natural resources and treasures. I urge the subcommittee to fully fund the fiscal year 2013 budget request of \$1.102 billion for USGS, including \$67.7 million for Climate Variability, which funds the Nation's eight regional Climate Science Centers. I similarly urge the subcommittee to fully fund the \$1.5 billion budget request for FWS, including \$33.1 million for Cooperative Landscape Conservation and Adaptive Science, which funds the Nation's network of Landscape Conservation Cooperatives.

The Federal leaders in natural resources science, USGS and FWS are making major contributions to science and data integration on the impacts that climate variability is having and may have in the future on natural resources, including wildlife, ecosystems, and landscapes. These agencies are building the knowledge, capacity, and networks to work with and guide hunters, farmers, natural resource managers, Indian tribes, and resource-dependent businesses toward more sustainable, productive, and resilient management practices. In particular, the establishment of eight regional Climate Science Centers over the last few years to directly support a national network of Landscape Conservation Cooperatives will provide the scientific basis for future adaptive land and water management decisions. By building on the body of basic research conducted by the atmospheric research community and linking it to managed environments and social systems, the DOI's climate science and adaptation programs have been set up to maximize and leverage the value of the entire national scientific enterprise.

The USGS's efforts in this field were stepped up with the establishment of a National Climate Change and Wildlife Science Center in 2008 and came to fruition with the recent completion of a national network of 8 Climate Science Centers and 22 Landscape Conservation Cooperatives. Through these regionally integrated research and stakeholder hubs, the DOI is now engaged in first-tier research focusing on impacts such as wildlife migration patterns, wildfire risk, precipitation levels and drought, coastal erosion, and invasive species, spearheading how environmental and climate science can be more effective and practical, and thus useful, on the ground. These programs will bring critical regional information to local and regional resource managers and decision makers in order to help them manage cities and towns, tribes, farms, waterways, and public lands.

The eight Climate Science Centers, managed by the USGS, are carried by university consortia within the region to better serve the specific needs of their area as well as the country. They will advance interdisciplinary science in an end-to-end environment by coordinating research among themselves and optimizing investments across the regional network, and they will collaborate with national laboratories to conduct research and develop computer models that can better predict large regional impacts of climate variability on natural resources. The nationwide network serves the Alaska, Pacific Islands, Northwest, Southwest, North Central, South Central, Northeast, and Southeast regions. Landscape Conservation Cooperatives, managed by the FWS, engage with other Federal agencies, States, tribes, and local partners, to develop timely products and craft strategies that are based on the science and can be easily translated into adaptive, practical management solutions.

In order to ensure the strength and sustainability of these programs, I hope you will support the fiscal year 2013 budget request of \$1.102 billion for USGS, includ-

ing \$67.7 million for Climate Variability, and \$1.5 billion for FWS, including \$33.1 million for Cooperative Landscape Conservation and Adaptive Science. Thank you in advance for your support of the DOI's efforts to contribute to and disseminate knowledge that will enable stakeholders to protect and more efficiently manage their land and our Nation's natural resources and treasures.

PREPARED STATEMENT OF THE USGS COALITION

SUMMARY

The USGS Coalition appreciates the opportunity to provide testimony about the President's budget request for the United States Geological Survey (USGS) for fiscal year 2013. The USGS Coalition urges the Congress to appropriate at least \$1.2 billion for the USGS in fiscal year 2013.

The USGS is uniquely positioned to address many of the Nation's greatest challenges. The USGS plays a crucial role in assessing water quality and quantity; reducing risks from earthquakes, tsunamis, floods, landslides, wildfires, and other natural hazards; providing emergency responders with geospatial data to improve homeland security; assessing mineral and energy resources (including rare earth elements and unconventional natural gas resources); and providing the science needed to manage our natural resources and combat invasive species that can threaten natural and managed environmental systems and public health.

The USGS Coalition is an alliance of more than 70 organizations united by a commitment to the continued vitality of the United States Geological Survey to provide critical data and services. The Coalition supports increased Federal investment in USGS programs that underpin responsible natural resource stewardship, improve resilience to natural and human-induced hazards, and contribute to the long-term health, security, and prosperity of the Nation.

ESSENTIAL SERVICES FOR THE NATION

Established by the Congress as a branch of the Department of the Interior in 1879, the U.S. Geological Survey has a truly national mission that extends beyond the boundaries of the Nation's public lands to positively impact the lives of all Americans. USGS plays a crucial role in protecting the public from natural hazards, assessing water quality and quantity, providing geospatial data, and conducting the science necessary to manage our Nation's living, mineral, and energy resources. Through its offices across the country, USGS works with partners to provide high-quality research and data to policymakers, emergency responders, natural resource managers, civil and environmental engineers, educators, and the public. A few examples of USGS's valuable work are provided below.

The Survey collects scientific information on water availability and quality to inform the public and decision makers about the status of freshwater resources and how they are changing over time. During the past 130 years, USGS has collected streamflow data at more than 21,000 sites, water-level data at more than 1 million wells, and chemical data at more than 338,000 surface-water and groundwater sites. This information is needed to effectively manage freshwaters—both above and below the land surface—for domestic, public, agricultural, commercial, industrial, recreational, and ecological purposes.

The USGS plays a pivotal role in reducing risks from floods, wildfires, earthquakes, tsunamis, volcanic eruptions, landslides, and other natural hazards that jeopardize human lives and cost billions of dollars in damages every year. Seismic networks and hazard analyses are used to formulate earthquake probabilities and to establish building codes. USGS monitors volcanoes and provides warnings about impending eruptions. Data from the USGS network of stream gages enable the National Weather Service to issue flood warnings. The bureau and its Federal partners monitor seasonal wildfires and provide maps of current fire locations and the potential spread of fires. USGS research on ecosystem structure informs fire risk forecasts.

USGS assessments of mineral and energy resources—including rare earth elements, coal, oil, unconventional natural gas, and geothermal—are essential for making decisions about the Nation's future. The Survey identifies the location and quantity of domestic mineral and energy resources, and assesses the economic and environmental effects of resource extraction and use. The agency is mapping domestic supplies of rare earth elements necessary for widespread deployment of new energy technologies, which can reduce dependence on foreign oil and mitigate climate change. The USGS is the sole Federal source of information on mineral potential, production, and consumption.



USGS science plays a critical role in informing sound management of natural resources on Federal and State lands. The USGS conducts research and monitoring of fish, wildlife, and vegetation—data that informs management decisions by other Interior bureaus regarding protected species and land use. USGS science is also used to control invasive species and wildlife diseases that can cause billions of dollars in economic losses. The Survey also provides critical information for resource managers as they develop adaptive management strategies for restoration and long-term use of the Nation’s natural resources in the face of environmental change.

Research conducted by the USGS is vital to predicting the impacts of land use and climate change on water resources, wildfires, and ecosystems. The Landsat satellites have collected the largest archive of remotely sensed land data in the world, allowing for access to current and historical images that are used to assess the impact of natural disasters and monitor global agriculture production. The USGS also assesses the Nation’s potential for carbon sequestration. Other Interior bureaus use USGS research on how climate variability affects fish, wildlife, and ecological processes to inform natural resource management decisions.

#### FUNDING SHORTFALL

Over the years, the Congress has worked in a bipartisan fashion to restore damaging budget cuts proposed by administrations from both parties. These efforts have paid dividends and helped the USGS continue to provide answers to the challenging questions facing decision-makers across the country.

The President’s fiscal year 2013 budget request for the USGS is \$1.1 billion. The budget request contains \$49.5 million in program reductions in valuable, long-standing programs that offset increases in other areas. The proposed budget cuts would have significant negative impacts on core scientific capabilities of the USGS.

Proposed budget cuts in the fiscal year 2013 USGS budget request include:

- \$6.5 million for Water Resources Research Act Program;
- \$6 million for National Water Quality Assessment Methods Development and Monitoring;
- \$5 million for Cooperative Water Program Interpretive Studies;
- \$5 million for Mineral Resources;
- \$3.3 million for Hydrologic Networks and Analysis Information Management and Delivery; and
- \$2 million for Toxic Substances Hydrology Methods Development and Assessments.

We urge the Congress to support the budget request plus work to restore these and other detrimental cuts. An appropriation of \$1.2 billion would provide the USGS with approximately \$50 million that could shore up critical research programs, enhance new research efforts, and fully fund “fixed costs” and “operational efficiencies.”

Notably, the proposed budget requests \$10.8 million for fixed costs. Although we applaud the agency for including these expenses in the budget request, we are not certain that this request will fully cover these expenses. Moreover, we are concerned about \$4.4 million in proposed operations and maintenance “efficiencies.” According to USGS budget documents: “The proposed reduction will degrade the condition and performance of the USGS real property portfolio . . . . In turn, the USGS expects to see an increase in the frequency with which equipment and facility components will need more costly emergency repairs and replacements, as well as a shortening of the overall lifecycle of our real property assets.”

The budget request does not propose transferring responsibilities for Landsat satellites from NASA to USGS. We appreciate congressional efforts last year to ensure that the USGS would not assume budget authority for the Landsat satellites. Such a move would have likely compromised core USGS science programs as the costs of the satellites rose significantly in future years.

#### CONCLUSION

We recognize the financial challenges facing the Nation, but losing irreplaceable data can increase costs to society today and in the future. The USGS Coalition requests that the Congress appropriate at least \$1.2 billion for the USGS in fiscal year 2013, a level that will support critical USGS programs that improve the Nation’s environment, health, safety, quality of life, and future economic growth.

The USGS Coalition appreciates the subcommittee’s past leadership in strengthening the United States Geological Survey. Thank you for your thoughtful consideration of our request.

## PREPARED STATEMENT OF THE WASHINGTON COUNTY COMMISSION, UTAH

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$450 million for LWCF.

The LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with substantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in LWCF will permanently pay dividends to the American people and to our great natural, historical and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the LWCF request in fiscal year 2013, the Bureau of Land Management included an allocation of \$4 million for Red Cliffs NCA. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for LWCF for this important project.

The Washington County Commission approved a resolution on February 7, 2012 expressing its strong support of acquisitions by BLM of private in-holdings in the Red Cliffs NCA and the appropriation of Federal LWCF funds for these acquisitions. This resolution was passed by unanimous approval of the County Commissioners, and states:

"WHEREAS, the Washington County Habitat Conservation Plan (HCP) was implemented in 1995 to reconcile conflicts between desert tortoise conservation and economic development; and

"WHEREAS, the HCP established the Red Cliffs Desert Reserve (Reserve) to maintain the long-term viability of desert tortoises within the Upper Virgin River Recovery Unit; and

"WHEREAS, in return, Washington County (County) was granted an incidental take permit under Section 10(a) of the Endangered Species Act to allow development of tortoise habitat outside the Reserve, thereby providing for the ability for the County to meet demands for anticipated population growth and economic growth through land development; and

"WHEREAS, HCP signatories and cooperators include Washington County, the Utah Department of Natural Resources, the U.S. Fish and Wildlife Service, the Bureau of Land Management (BLM), and local municipalities; and

"WHEREAS, an objective of the HCP is to acquire remaining private in-holdings within the boundaries of the Reserve for protection of desert tortoise habitat; and

"WHEREAS, the United States Congress passed the Omnibus Public Land Management Act of 2009 which established the Red Cliffs National Conservation Area (NCA) to be managed by BLM and which had boundaries corresponding to the Reserve boundaries; and

"WHEREAS, several of the landowners who own private lands within the NCA are willing sellers of their land to the BLM and the Federal acquisition of these specific lands is an important objective of the HCP; and

"WHEREAS, the BLM is seeking Federal funds through the Land and Water Conservation Fund to acquire these private lands starting with the fiscal year 2013 and future years.

"NOW, THEREFORE, at a regular meeting of the legislative body of Washington County, Utah, duly called, noticed, and held on the 7th day of February 2012, upon motion duly made and seconded, it is unanimously:

"RESOLVED that the Washington County Commission strongly supports the acquisitions of private in-holdings in the Red Cliffs National Conservation Area from willing sellers by the Bureau of Land Management and the appropriation of Federal funds for such acquisitions."

In fiscal year 2013, an allocation of \$4 million from the Land and Water Conservation Fund, as requested in the President's budget for the Bureau of Land Management, is needed to begin these key acquisitions at Red Cliffs NCA.

In closing, I urge you to provide funding for the Land and Water Conservation Fund of \$450 million, as proposed in the President's fiscal year 2013 budget, includ-

ing critical funding for the Red Cliffs National Conservation Area. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in Utah, and I appreciate your consideration of this funding request.

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PREPARED STATEMENT OF THE WASHINGTON WILDLIFE RECREATION COALITION

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Land and Water Conservation Fund (LWCF) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The Washington Wildlife and Recreation Coalition is a nonprofit citizens group founded in a historic bipartisan effort by former Governors Dan Evans and Mike Lowry. Our members consist of a diverse group of more than 250 organizations representing conservation, business, recreation, hunting, fishing, farming, and community interests.

Our members come together for the same reason people and businesses chose to locate in Washington State:

- our close-to-home parks;
- outdoor recreation opportunities; and
- wildlife habitat.

Mount Rainier is one of our State's great symbols and has been protected as a national park since 1899. Across Puget Sound, a major water and economic resource of its own, lie the jagged outlines of the Olympic Mountains, and beyond them the only temperate rainforest in the world and the rich seashore of the Olympic Peninsula. The Cascades stretch from the Canadian border to the Columbia River Gorge, protected in four national forests and accessible via the Pacific Crest National Scenic Trail. From the Methow Valley to Turnbull Wildlife Refuge, eastern Washington holds exceptional habitats protected for a diversity of species and accessible for hunters and anglers. The LWCF has helped to protect these iconic places since 1965.

Consequently, I join conservation leaders, hunters, anglers, business owners, and communities across the Nation in urging you to support funding for LWCF. This year, the administration's budget request includes funding for four high-priority, ready-to-go, willing-seller projects across Washington State's national parks, wildlife refuges, forests and other public land. It also makes investments in stateside LWCF grants for local parks and trails, ball fields and boat launches, and for protecting our working timber and range lands.

Our parks, forests, refuges, and trails are generators for Washington's economy. The Outdoor Industry Foundation (OIF) estimates that outdoor recreation throughout the State contributes \$11.7 billion annually to Washington's economy. This activity supports 115,000 jobs and produces \$8.5 billion annually in retail sales and services—3.5 percent of the gross State product. OIF found that 44 percent of Washingtonians view wildlife, 39 percent use trails, 36 percent camp, and 32 percent ride bicycles for recreational purposes.

In addition to fueling these economic engines for Washington's communities, LWCF improves the management of the public lands in our State. These measures make for better recreational experiences on the land, sustain habitats for wildlife, and ensure quality water supplies. They also reduce costs in fighting fires, controlling invasive species, and maintaining property boundaries. LWCF accomplishes these management improvements largely because most of the funds go toward the acquisition of inholdings, private lands bordered on two, three, or four sides by existing public lands.

Washington has two excellent examples of LWCF purchases reducing costs and improving public land experiences. First, in 2004, the Congress passed a law to expand the boundaries at the northwestern entrance of Mount Rainier National Park. For many years flooding would wipe away parts of the Carbon River Road and make the trailheads, campsites, and other visitor facilities inaccessible. The expansion and subsequent purchase of land via LWCF funding has allowed the National Park Service to begin the process of moving facilities to higher ground, removing the future costs and burdens from frequent floods. Second, in the central Cascades, much of the land ownership pattern resembles a checkerboard. Public lands are interspersed with private lands. For many years LWCF funds have been used by USFS to acquire priority checkerboard properties that increase recreational access, improve segments of the Pacific Crest Trail, and safeguard consolidated blocks of prime mountain and forest wildlife habitat and river watersheds that supply population centers like Seattle and Tacoma.

I understand this subcommittee and the Congress face severe constraints in this tight fiscal climate. However, forward-looking investment in LWCF will permanently pay dividends to the American people and to our great natural and historical heritage. LWCF is paid for using a very small percentage of offshore oil and gas drilling receipts, not taxpayer dollars. The Congress made a commitment to the American public that a small portion of revenues from offshore drilling paid by oil companies should go to conservation and outdoor recreation programs. Yet nearly every year, the majority of LWCF funds are diverted to other unintended purposes—more than \$17 billion over the history of the program.

I therefore respectfully ask that you support the administration's fiscal year 2013 recommendation of \$450 million for the LWCF program. At one-half the authorized funding level for the program, this represents a measured proposal that spreads limited resources wisely across urgent and diverse LWCF priorities and programmatic goals. At this level, LWCF would fund four projects at a Fish and Wildlife Service refuge, National Park Service unit, a USFS site and working forest lands in Washington State:

*Fish and Wildlife Service*

*Nisqually National Wildlife Refuge: \$1 Million*

These funds would be used to acquire lands at the Black River Unit and along the Nisqually River delta into Puget Sound in order to consolidate holdings, preserve wintering habitat for migratory birds, and protect wetlands habitat for fisheries.

*National Park Service*

*Mount Rainier National Park: \$1 Million*

These funds would be used to complete acquisition of smaller properties in the Carbon River expansion area, protecting old growth forests along the Carbon River and important habitat for populations of anadromous fish, including salmon.

*United States Forest Service*

*Pacific Crest National Scenic Trail: \$618,000*

The multistate request for the trail includes checkerboard parcels in the central Cascades that would improve trail stewardship and access and protect the trail corridor and view shed. Available for acquisition in fiscal year 2013 are two parcels along the PCT:

- Pyramid Peak and Missing Link within the Wenatchee; and
- Mount Baker-Snoqualmie national forests.

*Pysht Coastal Forest: \$3 Million*

This Forest Legacy Program request would be used to fund a conservation easement on working forestland along the Strait of Juan de Fuca.

We support these requests for LWCF funds to acquire critical tracts in the parks, refuges, and forests of Washington.

Mr. Chairman and members of the subcommittee, I thank you for your dedication and service, on behalf of our organization's members and also on behalf of my family. I can think of no greater legacy for my two sons than the protection of our recreation lands, clean waters and wildlife heritage. I appreciate your consideration of these funding requests.

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PREPARED STATEMENT OF WHITETAILS UNLIMITED, INC.

Mr. Chairman and honorable members of the subcommittee: I appreciate the opportunity to present this testimony in support of the Forest Legacy Program (FLP) in the fiscal year 2013 Interior, Environment, and Related Agencies appropriations bill. The President's budget for this year recommended \$60 million for FLP. The FLP works with landowners, the States, and other partners to protect critical forestlands with important economic, recreation, water quality, and habitat resources through conservation easement and fee acquisitions. The program has protected more than 2 million acres in 43 States and territories, consistently with a 50-percent non-Federal cost share, double the required 25-percent cost share. For several years this important conservation program has been funded under the umbrella of the Land and Water Conservation Fund (LWCF), which as a whole received \$450 million in the budget request.

The LWCF is our Nation's premier Federal program to acquire and protect lands at national parks, forests, refuges, and public lands and at State parks, trails, and recreational facilities. These sites across the country provide the public with sub-

stantial public benefits including promoting healthier lifestyles through recreation, protecting drinking water and watersheds, improving wildfire management, and assisting wildlife and fisheries adaptation. LWCF investments also support jobs, tourism and economic vitality across our communities.

I recognize that this subcommittee will face many demands in this tight fiscal climate. However, far-sighted investment in the Forest Legacy Program will permanently pay dividends to the American people and to our great natural, historical and recreation heritage. As LWCF is funded from Outer Continental Shelf (OCS) revenues, not taxpayer dollars, these funds should go to their intended and authorized use as a conservation offset to the energy development of our offshore oil and gas resources.

As part of the FLP request in fiscal year 2013, the U.S. Forest Service included an allocation of \$3 million for the Central Sands Pines project in Wisconsin. I am pleased that this funding was included in the request and urge the Congress to provide necessary funds for FLP for this important project.

Wisconsin's Central Sands region was the setting for world-renowned naturalist Aldo Leopold's "A Sand County Almanac", published in 1949. This classic work stands with Thoreau's Walden and Rachel Carson's Silent Spring as the inspiration for generations of conservationists to protect our Nation's treasured places. Today, there is an opportunity to heed Leopold's call for a "land ethic" by preserving this historic landscape.

The Central Sands region was shaped tens of thousands of years ago during the last great ice age, known as the Wisconsin Glaciation. Today, this 2-million-acre region is located in the bed of the extinct Glacial Lake Wisconsin, which left behind a legacy of sandy soils, extensive wetlands, and oak and pine forests. The sandy soils cover bedrock, and serve as an aquifer for 80 lakes and hundreds of miles of headwater streams and wetlands. The area's remarkable hydrological system largely occurs underground. The aquifer collects precipitation as groundwater, and filters it before conveying it to the Wisconsin River and other surface waters. Watershed protection is a major concern in the Central Sands region due to relatively high levels of groundwater pollution.

In fiscal year 2013, there is an opportunity to preserve key parcels in the Central Sands region that will protect the groundwater supply, secure critical endangered species habitat, maintain working forests, and preserve public recreational access. The Central Sands Pines Forest Legacy project in Adams County is the critical component of a larger 9,000-acre plan to fund a conservation easement over privately owned timberland. The project will ensure that the acreage remains in productive use under private ownership. While much of northern Wisconsin remains forested, more than 70 percent of the southern part of the State has been cut over and converted to other uses. The Central Sands Pines Forest Legacy tract is among the few remaining large blocs available for timbering. It currently provides pulp for paper production as well as construction lumber and telephone poles. This project will support the State's \$22 billion forestry products industry, which employs more than 50,000 people.

The Central Sands Pines Forest Legacy project will also protect the groundwater recharge zone from pollution. Approximately 700 acres of the property consist of wetlands which are important for water filtration. A fresh groundwater supply is crucial for crop irrigation in the Wisconsin River basin. Irrigated land has increased rapidly over the past 50 years, covering 175,000 acres in the Central Sands region. Protecting this acreage will allow farmers to continue to pump clean, fresh groundwater for irrigating crops.

Whitetails Unlimited believes the acquisition of this perpetual easement is in line with the spirit of our mission statement. Beyond protecting critical wildlife habitat, this perpetual easement will offer the general public numerous outdoor recreational opportunities. In particular, the property offers sportsmen and women prime hunting opportunities for white-tailed deer, turkey, and grouse. As Aldo Leopold once wrote, "There are two kinds of hunting: ordinary hunting and ruffed-grouse hunting. There are two places to hunt grouse: ordinary places and Adams County." Whitetails Unlimited commends the Forest Legacy Program for promoting the environmental sustainability of this property for future generations.

Forest Legacy funding will also benefit threatened and endangered species. The area's mixed oak-pine forests, barrens and peatlands provide the habitat needed by the endangered Kirtland's warbler, Karner blue butterfly, and whooping crane. The federally listed endangered Kirtland's warbler was discovered on this property in 2007. Wisconsin, Michigan, and Ontario, Canada have the only documented nesting pairs of Kirtland's warbler in the world, and this property contains the highest concentration of the species in the entire State.

The President's budget for fiscal year 2013 requests \$3 million from the Forest Legacy Program for 5,722 acres of the Wisconsin Central Sands Pines project. The State of Wisconsin will provide a match of at least \$1 million to complete the easement purchase. Securing these funds will ensure that the property remains in productive use under private ownership. Residents will continue to enjoy recreational opportunities, endangered species habitat will be preserved, and local groundwater will be protected from pollution.

In closing, I urge you to provide funding for the Land and Water Conservation Fund of \$450 million, as proposed in the President's fiscal year 2013 budget, including critical funding for the Forest Legacy Program and the Central Sands Pines project. I want to thank the Chairman and the members of the subcommittee for this opportunity to testify on behalf of this nationally important protection effort in Wisconsin, and I appreciate your consideration of this funding request.

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PREPARED STATEMENT OF THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES

*Background*

One of the most significant threats to biodiversity in the Nation's coastal and estuarine habitats as well as Wisconsin's inland navigable waters is the introduction of nonindigenous aquatic nuisance species (ANS) into the ecosystem. The introduction of ANS through intentional or accidental means establishes a stress on ecosystems that can result in the decline of native species population, serve as an impediment to species recovery and pose a long-term economic and ecological threat to the health of the area. The control and management of these ANS in such areas as the Mississippi River Basin Drainage, Great Lakes, Everglades, and San Francisco Bay/Inland Delta costs the economy and taxpayers billions of dollars annually.

The Wisconsin Department of Natural Resources (WDNR) commends the Congress and the Federal Government's recognition of this problem and efforts to address it through enactment of the Non-indigenous Aquatic Nuisance Prevention and Control Act (NANPCA) of 1990 (Public Law 101-646) and the National Invasive Species Act (NISA) of 1996 (Public Law 104-332). The establishment of the Aquatic Nuisance Species Task Force (ANSTF) makes use of a coordinating body to improve efforts to administer the Government's responsibilities as carried out by the National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service (USFWS), U.S. Coast Guard, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and other Federal agencies.

In 2003, Wisconsin developed an Aquatic Nuisance Species Strategic Plan to combat aquatic nuisance species and to prevent their introduction into State waters. Wisconsin's actions supplement the national activity and are indicative of an ongoing need for resources and action to reduce the threat and minimize the impacts of ANS on U.S. waters.

*State/Interstate Aquatic Nuisance Species Management Plan*

The NANPCA (as amended by NISA) recognized that States are integral partners in the battle against ANS by authorizing the State/Interstate Aquatic Nuisance Species Management Plan (SIANSMP) grant program. Managed by the U.S. Fish and Wildlife Service, the program provides annual funding to States, Tribes, and Regional organizations to support the implementation of State and interstate ANS management plans that have been approved by the ANSTF. The SIANSMPs identify feasible, cost-effective measures to be undertaken by the States and cooperating entities to manage ANS infestations in an environmentally sound manner. This funding has helped Wisconsin establish an ANS program with mechanisms for prevention, early detection and rapid response, containment, and control. Wisconsin's efforts link together with other State's ANS Plans and Federal efforts to form an effective national ANS partnerships to eliminate or reduce the environmental, economic, public health, and human safety risks associated with ANS.

Section 1301(c) of NANPCA authorized a total of \$4 million for the SIANSMP grant program; however, that amount has never been fully appropriated. Funding was gradually increased from \$68,000 for the first approved State Management Plan in 1994, to its current level of \$1,075,000 beginning in 2004. Over the years, the number of plans approved far outpaced the capacity of the SIANSMP funding. In fiscal year 2011, Wisconsin received \$29,800 to implement its statewide plan from the Service.

*President's Fiscal Year 2013 Budget*

Wisconsin developed an ANSTF approved management plan and ANS programs in accordance with congressional authorizations in NANPCA and NISA. The

SIANSMP grant program remains a high priority to Wisconsin and is critical for our implementation of a successful ANS prevention and control program. Funding for the SIANSMPs has remained stable since 2004 at only 25 percent of the authorized level; however total requests to support the 36 approved State/Interstate ANS Management Plans that applied for funding in fiscal year 2011 exceeded \$9 million. The States have consistently demonstrated a need for increased appropriations to implement ANS prevention and control priorities, yet the President's fiscal year 2013 budget eliminates the SIANSMP grant program for implementation of ANSTF-approved plans. The WDNR urges the Congress to restore fiscal year 2013 appropriations of \$1,075,000, and to provide additional fiscal year 2013 appropriations to fully fund that SIANSMP grant program at \$4 million as authorized by NANPCA and NISA.

Wisconsin appreciates the opportunity to provide comments on such a critical national issue and looks forward to our continued partnership with the Federal agencies that are as committed to preventing, containing and controlling ANS as we are.

NOTE.—Information provided in this document was pulled from existing documents including:

- 2011–2012 Policy Positions for the Jurisdiction of the Environment Committee, National Conference of State Legislatures, <http://www.ncsl.org/state-Federal-committees.aspx?tabs=855,23,667>.
- State/Interstate Aquatic Nuisance Species Management Plans 2010 (1st in a Series of 3). U.S. Fish and Wildlife Service. April 2012.
- Accomplishments of the State/Interstate Aquatic Nuisance Species Management Plans A Summary of State Efforts in the Battle Against ANS (2nd in a Series of 3). U.S. Fish and Wildlife Service. February 2012. The Evolution of the State/Interstate Aquatic Nuisance Species Management Plan Grant Program (third in a series of three). U.S. Fish and Wildlife Service. April 2012.

#### PREPARED STATEMENT OF THE ZUNI TRIBE

##### *Background*

Pre Public Law 93–638, Indian Self Determination and Education Assistance Act, the Zuni Tribe, Pueblo of Zuni, acting on a commitment for success, contracted with the Bureau of Indian Affairs (BIA) to perform functions previously carried out by the Federal Government. Namely these functions/programs are:

- Housing improvement;
- Law enforcement;
- Tribal courts;
- Higher education scholarship; and
- Road maintenance and social services/welfare assistance.

Performance of these functions by the Tribe was authorized under the authorities of the 1934 Indian Reorganization Act with the promise of self-determination to operate programs fitting tribal needs. However, since the 1970's the Zuni Tribe has experienced drastic fund reductions in these contracted and other programs still administered/operated by the BIA.

The Zuni Tribe understands the United States' fiscal difficulties and challenges at this time and acknowledges the administration is focused in reducing the deficit, however, the Zuni Tribe is requesting the administration keeps its promise to the Indian country by protecting and increasing funding provided under the BIA Tribal Priority Allocations (TPA) process in fiscal year 2013. Protecting and increasing TPA for the Zuni Tribe will assist in effectively administering programs which would otherwise be performed by the Federal Government. Not only will the tribe carry out programs effectively which affects their respective community, it will also continue to be partners in a mutual commitment to strengthen not only the tribal and national economy, however, it will have a major impact on the health and social well-being of the community as a whole. This effort has a ripple effect on generation of jobs, and improvement of economies.

The Zuni Tribes request under the Department of the Interior (DOI), BIA fiscal year 2013 President's budget request a total of \$9,474,000 to administer core programs under the TPA categories operated by the BIA and under the authorities of Public Law 93–635. The following are the amounts specifically identifying programs and their respective amounts.

*Tribal Government-Road Maintenance Bureau of Indian Affairs Operated.*—This program requires a minimum level of \$992,000 to carry out the program responsibilities. This funding level will get closer to the 2009–2010 target units under a Level of Services rating of 2 or better for the Zuni Indian Reservation. The Road Maintenance program supports 411.2 miles of Indian Reservation Roads in a remote res-

ervation, approximately 150 miles from a metropolitan area of Albuquerque, New Mexico.

A 2009 assessment of paved routes in the Zuni community shows that at a minimum 4 miles of pavement overlay, and 20 miles of pavement surface treatment of major traveled routes with high average daily traveled counts. Providing funds for improvement of the Zuni Reservation roads will reduce the potential liability of tort claims from the traveling public in Zuni. Improvements to the above identified miles of roads do not include maintenance of unpaved roads, including school bus routes, ingress and egress to homes for medical service vehicles such as ambulances, transportation services for patients who are on dialysis and need medical care, etc.

If funds are not provided at a bare minimal level the Zuni Tribal Road Maintenance program will continue to incur annual increases of at least 4 percent of deferred maintenance backlog on reservation roads and bridges. Since fiscal year 2007, this program has been grossly underfunded and range in funding for the past several years in the amount of \$246,642 to a high of \$274,116 in fiscal year 2007.

*Human Services—Social Services and Indian Child Welfare Act—Tribal Priority Allocations Public Law 93-638 Tribal Contract.*—A minimum level funding for the Tribal Social Services program in the amount of \$260,000 is needed to maintain programs at a current level. A minimum level of \$95,000 is needed for the Indian Child Welfare Act program. These two programs are critical to assist the social-economic programs of the community. Program personnel works with various agencies in and outside the community which includes child care places, foster home placements and domestic violence with the tribal and outside courts-judicial systems, the Zuni Tribal Police Department, etc. Once again this program has not been adequately funded for a number of years.

*Human Services—Welfare Assistance—Tribal Priority Allocations Public Law 93-638 Tribal Contract.*—A minimum level of \$75,000 is required to operate this program at a “bare minimum” level. With the isolation of the Zuni Reservation and lack of employment and other full service programs, these funds are needed to deal with socio-economic issues/problems of the community.

*Public Safety and Justice—Community Fire Protection—Tribal Priority Allocations Public Law 93-638 Tribal Contract.*—A minimum of \$150,000 is required to operate this program. Minimum funds requested will allowed the program to maintain three tribal employees on staff and provide operation expenses that services the community which includes a hospital operation, high school, junior high school, two elementary schools, a community college, BIA agency and tribal infrastructure, two parochial schools and other community facilities.

*Public Safety and Justice Tribal Courts—Tribal Priority Allocations Public Law 93-638 Tribal Contract.*—A minimum of \$580,000 is needed to operate the Zuni Tribal Court. This level of funding will allow the tribal court of access training needs and filling positions that will assist in handling an increasing number of criminal, civil, juvenile, and child welfare cases which are referred to the tribal court for resolution. The number of cases the tribal court handles range from a low of 4,144 adult cases to a high of 7,000 cases. The children’s court also ranges in a low of 455 to a high of 566 cases.

*Natural Resources—Bureau of Indian Affairs Operated.*—Minimum level of funds required is \$392,000 to fulfill the BIA trust responsibilities as it relates to natural resources. Funding for this critical program continues to increase which the need increases. Critical functions need to be continually addressed. These functions at least include:

- Range and agriculture management;
- Safety of dam;
- National Environmental Protection Act compliance requirements; and
- Public Law 93-638 contract administration and administration of the Zuni Tribal grazing permits and leases by encoding, updating, and maintaining range permits and grazing lease data into TAAMS.

*Natural Resources—Fish and Wildlife Management—Tribal Priority Allocations Public Law 93-638 Tribal Contract.*—A minimum of \$111,000 is required to operate the Zuni Fish and Wildlife program. This program manages activities associated with cultural and academic biological wildlife management. It also works with the other Federal and State agencies including the States of New Mexico, Arizona, and other customer base clientele from the private sector.

*Natural Resources—Forestry and Fire Management—Bureau of Indian Affairs Operated.*—This program requires a minimum funding level of \$189,000 to maintain program operations and maintain a one FTE.

*Trust Services—Real Estate Services—Tribal Priority Allocations Public Law 93-638 Tribal Contract.*—This program requires a minimum level of funding in the amount of \$198,000 to carry out program responsibilities associated with trust



and individual allotments, tribal fee lands and tribal land assignments for the purpose of:

- Leasing and permitting;
- acquiring and disposal of lands and promotion of development of mineral resources and renewable energy resources;
- maintenance of existing contractual agreement and assurance in recording of all encumbrances in the Tribal Trust Assets Accounting Management System and Land Titles and Records Office.

The Program is responsible for land base protection of 537,055.55 acres of land. (Included in the level of fund request is Probate and Rights Protection along with the Real Estate Services.)

The program also promotes and encourages consolidation of fractionate interests of trust allotments by providing estate planning holding outreach efforts to provide information on the American Indian Probate Reform Act.

*Executive Direction and Administration—Bureau of Indian Affairs Operated.*—A minimum of \$192,000 is required for the Executive Direction and \$160,000 is needed for the Administrative Services operations at the Zuni Agency. These two program operations provide critical functions which assist the Zuni Tribe in maintaining and managing oversight of BIA operated and tribal contract programs. These crucial program operations have been grossly underfunded for a number of years to adequately fulfill trust responsibilities to the Zuni Tribe.

*Law Enforcement—Zuni Police Department—Public Law 93-638 Tribal Contract.*—A minimum funding level of \$2.9 million is required to maintain law and order on the Zuni Reservation, which include the immediate community and the surrounding reservation lands. Over several years the tribal law enforcement program has not received adequate funding for the size of reservation lands and the growing population they are responsible for serving and protecting. There has been an increase in violent crime, gang activities, methamphetamine and other drug uses, not to mention violence in the schools.

Other unfunded mandates such as the Adam Walsh Act and the enactment of the Federal Tribal Law and Order Act, Sex Offender registry and other like requirement compliances requirements also requires that funds be provided to meet these mandates.

The Zuni tribal wage scale grossly lags behind other agencies' wage scales to maintain law enforcement officers in Zuni. Additional funds are also required to maintain a stable trained staff with proper equitable compensation. It is critical the Department and BIA consider full funding for this critical program.

*Detention Center Public Law 93-638 Contract Program.*—A minimum of \$1.5 million is required to operate the Zuni Tribal detention center. Additional personnel with equitable funding are required to maintain the detention center operations. The Zuni Detention center is a 24-hour 7-days a week operation. Like other organizational programs, the Zuni Tribe needs to bring the wage scale to a comparable level with other agencies to maintain/retain qualified trained personnel. This is a crucial operations that is not only associated with stress-related duties, but requires commitment and dedication of a workforce.

*Detention Facilities Operations and Maintenance—Public Law 93-638 Contract Programs.*—These two programs have traditionally been funding on a formula, square foot basis which does not provide adequate funds to operate and maintain infrastructure. Serious considerations need to be made to adequately fund operation and maintenance programs of facilities. A minimum of \$150,000 is needed for the operations portion of the facility and a minimum of \$30,000 is needed for the maintenance of the facility.

*Education and Adult Vocational Training Program.*—\$1 million is requested for the Education Tribal Scholarship program and \$500,000 is requested for the Adult Vocational Training Program. These two programs have been part of the "477" program which is not part of the TPA program considerations. However, these two programs are critical and are abridge to ensuring viable future for the Zuni Community. These two programs will provide scholarship funding assistance to students pursuing college degrees and vocational type training to acquire marketable skills should they seek employment off the Zuni Reservation.

The Zuni Tribe also requests that funds for be maintained/increased for the Indian Guaranteed Loan program to assist the Zuni Tribe in pursuing economic development ventures.

In addition, funds should be provided to fully support contract support cost for tribes administering programs under the authorities of Public Law 93-638. These programs have been traditionally administered by the Federal Government; however, when tribal governments take on responsibilities for program administration/operations, their budgetary/financial needs are not adequately addressed.

As stated the Zuni Tribe is aware of the national economic conditions, however, in order for the Zuni Tribe to foster self-determination, including, self-governance, we request you seriously consider the Zuni Tribe's funding request.

The Zuni Tribe extends our appreciation for the opportunity to present our funding needs.

## LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

	Page
Abbey, Hon. Robert V., Director, Bureau of Land Management, Department of the Interior .....	77
Prepared Statement of .....	82
Questions Submitted to .....	116
Summary Statement of .....	81
African Wildlife Foundation, Prepared Statement of the .....	240
Ala Kahakai Trail Association, Prepared Statement of the .....	243
Alaska Native Tribal Health Consortium, Prepared Statement of the .....	244
Aleutian Pribilof Islands Association, Prepared Statement of the .....	245
Alexander, Senator Lamar, U.S. Senator From Tennessee:	
Questions Submitted by .....	68
Statement of .....	7
American:	
Association of Museums, Prepared Statement of the .....	248
Bird Conservancy, Prepared Statements of the .....	250, 252
Fisheries Society, Prepared Statement of the .....	254
Forest:	
And Paper Association, Prepared Statement of .....	252
Foundation, Prepared Statement of the .....	255
Forests, Prepared Statement of .....	237
Geosciences Institute, Prepared Statement of the .....	257
Indian Higher Education Consortium, Prepared Statement of the .....	260
Institute of Biological Sciences, Prepared Statement of the .....	263
Lung Association, Prepared Statement of the .....	265
Society:	
For Microbiology, Prepared Statement of the .....	268
Of:	
Agronomy, Prepared Statement of the .....	271
Landscape Architects, Prepared Statement of the .....	272
Veterinary Medical Association, Prepared Statement of .....	240
Americans for the Arts, Prepared Statement of .....	235
Animal Welfare Institute, Prepared Statement of the .....	273
Arctic Slope Native Association, Prepared Statement of the .....	276
Limited, Prepared Statement of the .....	275
Assiniboine and Sioux Tribes of the Fort Peck Reservation, Prepared State- ment of the .....	277
Association of:	
American State Geologists, Prepared Statement of the .....	280
Art Museum Directors, Prepared Statement of the .....	282
Fish & Wildlife Agencies, Prepared Statements of .....	252, 254
Public and Land-Grant Universities, Prepared Statement of the .....	284
State Drinking Water Administrators, Prepared Statement of the .....	286
Zoos & Aquariums, Prepared Statements of.....	240, 254
Audubon, Prepared Statement of .....	252
Bat Conservation International, Prepared Statements of .....	252, 289
Beaudreau, Hon. Tommy P., Director, Bureau of Ocean Energy Management, Department of the Interior .....	86
Prepared Statement of .....	87
Questions Submitted to .....	119
Bennett, Barbara J., Chief Financial Officer, Environmental Protection Agen- cy .....	175

	Page
Bernalillo Board of County Commissioners, Prepared Statement of the .....	292
Blunt, Senator Roy, U.S. Senator From Missouri, Prepared Statements of.....	128, 193
Bonobo Conservation Initiative, Prepared Statement of .....	240
Born Free USA, Prepared Statement of .....	240
Bristol Bay Area Health Corporation, Prepared Statement of .....	245
Cherokee Nation, Prepared Statement of the .....	295
Chickasaw Nation of Oklahoma, Prepared Statement of the .....	276
Children's Environmental Health Network, Prepared Statement of the .....	298
Choctaw Nation of Oklahoma, Prepared Statements of the.....	276, 305
Chugach Regional Resources Commission, Prepared Statement of .....	294
Citizen Potawatomi Nation, Prepared Statement of the .....	276
City Parks Alliance, Prepared Statement of .....	272
Civil War Trust, Prepared Statement of the .....	308
Cochran, Senator Thad, U.S. Senator From Mississippi, Questions Submitted by .....	74
Collins, Senator Susan, U.S. Senator From Maine, Statement of .....	5
Colorado River:	
Basin Salinity Control Forum, Prepared Statement of the .....	310
Board of California, Prepared Statement of the .....	311
Columbia River Inter-Tribal Fish Commission, Prepared Statement of the .....	313
Cook Inlet Tribal Council, Prepared Statement of the .....	301
Cooperative Alliance for Refuge Enhancement, Prepared Statement of the .....	304
Crop Science Society of America, Prepared Statement of .....	271
Dance/USA, Prepared Statement of .....	316
Defenders of Wildlife, Prepared Statement of .....	318
Doris Day Animal League, Prepared Statement of .....	559
Dzilth-Na-O-Dith-Hle Community Grant School, Navajo Nation, Prepared Statement of the .....	321
Environmental Investigation Agency, Prepared Statement of .....	252
Fauna & Flora International, Prepared Statement of .....	240
Federal Forest Resource Coalition, Prepared Statement of the .....	323
Federation of State Humanities Councils, Prepared Statement of the .....	326
Feinstein, Senator Dianne, U.S. Senator From California, Questions Sub- mitted by .....	55, 116, 170, 216
Fond du Lac Band of Lake Superior Chippewa, Prepared Statement of the .....	329
Friends of:	
Balcones Canyonlands National Wildlife Refuge, Prepared Statement of ..	331
Rachel Carson NWR, Prepared Statement of .....	333
The:	
Florida Panther Refuge, Inc., Prepared Statement of the .....	334
National Wildlife Refuges of Rhode Island, Prepared Statement of the .....	334
Potomac River Refuges, Prepared Statement of the .....	335
Refuge Headwaters, Prepared Statement of .....	338
Tampa Bay National Wildlife Refuges, Inc., Prepared Statement of the .....	341
Virgin Islands National Park, Prepared Statement of .....	342
Wertheim National Wildlife Refuge, Prepared Statement of .....	344
Fuller Park Community Development Corporation, Prepared Statement of .....	252
Geological Society of America, Prepared Statement of the .....	345
Great Lakes Indian Fish and Wildlife Commission, Prepared Statement of the .....	347
Green Mountain Club, Prepared Statement of the .....	350
Hardwood Federation, Prepared Statement of .....	252
Hayes, David J., Deputy Secretary, Office of the Secretary, Department of the Interior .....	1
Haze, Pamela K., Deputy Assistant Secretary for Budget, Finance, Perform- ance, and Acquisition, Office of the Secretary, Department of the Interior .....	1
Hoeven, Senator John, U.S. Senator From North Dakota, Questions Sub- mitted by .....	233
Humane Society:	
International, Prepared Statement of .....	240

	Page
Legislative Fund .....	559
Illinois Lake Management Association, Prepared Statement of the .....	352
Independent Tribal Courts Review Team, Prepared Statement of the .....	353
International:	
Crane Foundation, Prepared Statement of .....	240
Elephant Foundation, Prepared Statement of .....	240
Fund for Animal Welfare, Prepared Statement of .....	240
Mountain Bicycling Association, Prepared Statement of .....	272
Rhino Foundation, Prepared Statement of .....	240
Interstate Mining Compact Commission, Prepared Statement of the .....	355
Izaak Walton League of America, Prepared Statement of the .....	364
Jackson, Lisa P., Administrator, Environmental Protection Agency .....	175
Prepared Statement of .....	181
Summary Statement of .....	179
Jamestown S'Klallam Tribe, Washington State, Prepared Statement of the .....	367
Jane Goodall Institute, Prepared Statement of the .....	240
Johnson, Senator Tim, U.S. Senator From South Dakota:	
Questions Submitted by .....	64
Statement of .....	129
Kern County Valley Floor Habitat Conservation Plan Industry and Govern- ment Coalition, Prepared Statement of the .....	369
Klamath Bird Observatory, Prepared Statement of .....	252
Kodiak Area Native Association, Prepared Statements of the.....	276, 371
Lac du Flambeau Band of Lake Superior Chippewa Indians, Prepared State- ment of the .....	372
Land and Water Conservation Fund Coalition, Prepared Statement of the .....	374
Landrieu, Senator Mary L., U.S. Senator From Louisiana, Questions Sub- mitted by .....	66, 118, 119, 121, 222
League of American:	
Bicyclists, Prepared Statement of .....	272
Orchestras, Prepared Statement of the .....	377
Leahy, Senator Patrick J., U.S. Senator From Vermont, Questions Submitted by.....	62, 171, 173, 216
Little River Band of Ottawa Indians, Prepared Statement of the .....	379
Lummi Nation, Prepared Statement of the .....	381
Maine's Department of Inland Fisheries and Wildlife, Prepared Statement of .....	387
Malheur Wildlife Associates, Prepared Statement of .....	385
Maniilaq Association, Prepared Statement of .....	245
Marine Conservation Biology Institute, Prepared Statement of the .....	390
Merritt Island Wildlife Association, Prepared Statement of the .....	391
Metropolitan Water District of Southern California, Prepared Statement of the .....	394
Mississippi Interstate Cooperative Resource Association, Prepared Statement of the .....	395
Moat Creek Managing Agency, Prepared Statement of the .....	397
Murkowski, Senator Lisa, U.S. Senator From Alaska:	
Questions Submitted by.....	172, 223
Statements of.....	3, 79, 127, 177
National:	
Association of:	
Abandoned Mine Land Programs, Prepared Statement of the .....	398
Clean Air Agencies, Prepared Statement of the .....	405
Forest Service Retirees, Prepared Statement of the .....	408
State:	
Energy Officials, Prepared Statement of the .....	411
Foresters, Prepared Statement of the .....	412
Audubon Society, Prepared Statement of .....	254
Conference of State Historic Preservation Officers, Prepared Statement of the .....	420
Congress of American Indians, Prepared Statement of the .....	415
Cooperators' Coalition, Prepared Statement of the .....	418
Federation of Federal Employees Local 1957, Prepared Statement of the ..	422

	Page
Fish and Wildlife Foundation, Prepared Statement of the .....	426
Ground Water Association, Prepared Statement of the .....	428
Humanities Alliance, Prepared Statement of the .....	430
Institutes for Water Resources, Prepared Statement of the .....	432
Parks Conservation Association, Prepared Statement of the .....	434
Recreation and Park Association, Prepared Statement of the .....	437
Tribal:	
Contract Support Cost Coalition, Prepared Statement of the .....	440
Environmental Council, Prepared Statement of the .....	446
Trust for Historic Preservation, Prepared Statement of the .....	449
Wildlife:	
Federation, Prepared Statement of the .....	452
Refuge Association, Prepared Statement of the .....	455
Natural Science Collections Alliance, Prepared Statement of the .....	458
Nelson, Senator Ben, U.S. Senator From Nebraska, Questions Submitted by .....	65
Nevada Department of Wildlife, Prepared Statement of the .....	459
Nez Perce:	
Tribal Executive Committee, Prepared Statement of the .....	460
Tribe, Prepared Statement of the .....	276
North American Banding Council, Prepared Statement of .....	252
Northwest:	
Indian Fisheries Commission, Prepared Statement of the .....	463
Portland Area Indian Health Board:	
Letter From .....	468
Prepared Statement of the .....	465
Norton Sound Health Corporation, Prepared Statements of the .....	245, 472
Nuclear Energy Institute, Prepared Statement of the .....	474
Office of the State Engineer, State of New Mexico, Prepared Statement of the .....	476
1,237 Forest Owners, et al., Prepared Statement of .....	477
OPERA America, Prepared Statement of .....	488
Oregon Water Resources Congress, Prepared Statements of the.....	491, 493
Outdoor Alliance, Prepared Statement of the .....	495
Pacific Salmon Commission, Prepared Statement of the .....	498
Partnership for the National Trails System, Prepared Statement of the .....	500
Pennsylvania Fish & Boat Commission, Prepared Statement of the .....	506
Performing Arts Alliance, Prepared Statement of the .....	503
PGA of America, Prepared Statement of .....	272
PNM Resources, Inc., Prepared Statement of .....	508
Point Reyes Bird Observatory, Prepared Statement of .....	252
Port Gamble S'Klallam Tribe, Prepared Statement of the .....	276
Preservation Action, Prepared Statement of .....	508
Puyallup Tribe of Indians, Prepared Statement of the .....	511
Quinault Indian Nation, Prepared Statement of the .....	514
Rare Species Fund, Prepared Statement of .....	240
Reed, Senator Jack, U.S. Senator From Rhode Island:	
Opening Statements of .....	1, 77, 125, 175
Questions Submitted by.....	54, 164, 213
Restore America's Estuaries, Prepared Statement of .....	516
Ringling Bros. and Barnum & Bailey Center for Elephant Conservation, Prepared Statement of .....	240
Sac and Fox Nation, Prepared Statement of the .....	518
Safari Club International, Prepared Statement of .....	240
Salazar, Hon. Ken, Secretary, Office of the Secretary, Department of the Interior .....	1
Prepared Statement of .....	10
Summary Statement of .....	8
Santa Monica Mountains Conservancy, Prepared Statement of the .....	521
Sawtooth Society, Prepared Statement of the .....	522
Sea Turtle Conservancy, Prepared Statement of .....	240
Sierra Club, Prepared Statement of .....	252
Skokomish Tribe of Washington State, Prepared Statement of the .....	524

	Page
Society of American Foresters, Prepared Statement of the .....	526
Soil Science Society of America, Prepared Statement of .....	271
South Eastern Wildlife & Environment Education Association, Inc., Prepared Statement of the .....	540
Southcentral Foundation, Prepared Statements of the.....	276, 543
SouthEast Alaska Regional Health Consortium, Prepared Statements of the .....	276, 542
Spear, Susan, Acting Director, Strategic Planning Budget and Accountability, United States Forest Service, United States Department of Agriculture .....	125
Questions Submitted to .....	173
Squaxin Island Tribe, Prepared Statement of the .....	545
St. Croix Chippewa Indians of Wisconsin, Prepared Statement of the .....	276
Sustainable Northwest, Prepared Statement of .....	548
Tanana Chiefs Conference, Prepared Statements of the .....	276, 550
Taos, New Mexico, Prepared Statement of .....	552
Teddy Roosevelt Conservation Partnership, Prepared Statement of .....	254
Tennessee Wildlife Resources Agency, Prepared Statement of the .....	554
Tester, Senator Jon, U.S. Senator From Montana: Questions Submitted by .....	218
Statements of.....	6, 80, 129
The:	
American Society for the Prevention of Cruelty to Animals, Prepared Statement of .....	555
Conservation Fund, Prepared Statement of .....	556
Dian Fossey Gorilla Fund International, Prepared Statement of .....	240
Equal Access to Justice Act and U.S. Forest Service Land Management: Incentives to Litigate? .....	529
Humane Society of the United States, Prepared Statements of .....	240, 559
Nature Conservancy, Prepared Statements of.....	240, 252, 254, 562
Trust for Public Land, Prepared Statements of .....	272, 571
University of Montana, Prepared Statement of .....	252
Wildlife Society, Prepared Statements of.....	254, 574
Xerces Society for Invertebrate Conservation, Prepared Statement of .....	252
Theatre Communications Group, Prepared Statement of the .....	566
Tidwell, Tom, Chief, United States Forest Service, United States Department of Agriculture .....	125
Prepared Statement of .....	132
Questions Submitted to .....	164
Summary Statement of .....	130
Tlingit and Haida Indian Tribes of Alaska, Prepared Statement of the .....	568
Town of Ophir, Colorado, Prepared Statement of the .....	567
Union of Concerned Scientists, Prepared Statement of .....	252
United Steelworkers, Prepared Statement of .....	252
University Corporation for Atmospheric Research, Prepared Statement of the .....	577
USGS Coalition, Prepared Statement of the .....	578
Washington:	
County Commission, Utah, Prepared Statement of the .....	580
Wildlife Recreation Coalition, Prepared Statement of the .....	581
Watson, Hon. James, Director, Bureau of Safety and Environmental Enforce- ment, Department of the Interior .....	91
Prepared Statement of .....	92
Questions Submitted to .....	121
Whitetails Unlimited, Inc., Prepared Statement of .....	582
Wild Salmon Center, Prepared Statement of .....	252
Wildlife:	
Conservation Society, Prepared Statements of.....	240, 252
Management Institute, Prepared Statement of .....	254
Wisconsin Department of Natural Resources, Prepared Statement of the .....	584
World Wildlife Fund, Prepared Statements of.....	240, 252
Zuni Tribe, Prepared Statement of the .....	585





# SUBJECT INDEX

DEPARTMENT OF AGRICULTURE  
UNITED STATES FOREST SERVICE

	Page
Additional Committee Questions .....	163
Airtanker:	
Contracting .....	146
Delivery Studies .....	146
Long-Term Strategy .....	141
Modernization.....	128, 131, 140
America's Great Outdoors Initiative .....	131
Budget Context .....	132
Categorical Exclusion Impacts .....	127
Collaborative Forest Landscape Forest Restoration Projects .....	157
Communities Theme .....	135
Economic Impacts .....	144
Facilities and Roads Maintenance Priorities .....	137
Fire:	
Season 2012 .....	140
Theme .....	137
Firefighting:	
Asset Confidence .....	147
Capacity .....	152
Helicopters.....	146, 152
With Helicopters .....	154
Fiscal Year 2013 Budget Request .....	126
And Priorities .....	133
Forest:	
Health Management:	
Co-op .....	165
Federal .....	165
Resources Information and Analysis .....	165
Roads .....	158
Fuels Reduction Priorities .....	138
Gaining Efficiencies and Cost Control Measures .....	139
Hazardous Fuels .....	156
Helicopter Positioning .....	153
H.R. 1581 .....	129, 147, 163
Impacted Projects .....	143
Increasing Efficiencies .....	131
Integrated Resource Restoration.....	128, 130, 142
Direction .....	142
Land:	
Acquisition .....	169
Rehabilitation .....	155
Landscape Scale:	
Conservation Priorities .....	135
Restoration .....	157
Priorities .....	133
Modular Airborne Firefighting System .....	141
National Forest System .....	126
Planning:	
Monitoring, and Analysis Priorities .....	134
Rule .....	160

	Page
Predecisional Objection Process .....	144
Preparedness Priorities .....	138
Program Consolidation .....	157
Recreation and Trails Priorities .....	136
Region 1 .....	148
Research Priorities .....	134
Restoration Theme .....	133
Secure Rural Schools Program .....	159
<i>Sequoia ForestKeeper vs. Tidwell</i> .....	127, 143
State:	
And Private Forestry .....	126, 164
Fire Assistance .....	165
Station Fire .....	154
Stewardship Contracting .....	161
Suppression Priorities .....	138
Urban and Community Forestry .....	157
Volunteer Fire Assistance .....	165
Wildland Fire:	
Management .....	126, 130, 166
Policy .....	154

## DEPARTMENT OF THE INTERIOR

## BUREAU OF LAND MANAGEMENT

Abandoned Mine Lands and Hardrock Mining Reform Proposals .....	85
Additional Committee Questions .....	116
Bureau of Land Management:	
Office of Surface Management Merger .....	112
Solar Supplemental Draft Programmatic Environmental Impact Statement .....	118
Department of Defense Land .....	117
Fiscal Year 2013 Budget Overview .....	83
Geothermal Development .....	115
Hydraulic Fracturing .....	103, 106, 110
Legacy Wells .....	99
Meeting Our Nation's Needs .....	82
National Environmental Policy Act Reviews .....	116
Oil and Gas Production .....	97, 100
Onshore:	
Inspection Fees .....	102, 111
Oil and Gas:	
Leasing .....	101
Production .....	104
Renewable Energy Leases .....	114
Royalty Rates .....	104
Priority Permitting .....	117
Promoting American Energy Production at Home .....	83
Reductions and Efficiencies .....	85
Royalty Rates .....	103
Well:	
Closure .....	108
Integrity Inspections .....	101
West Mojave Solar Energy Zone .....	116

## BUREAU OF OCEAN ENERGY MANAGEMENT

Additional Committee Questions .....	119
Key Priorities and Accomplishments .....	88
Offshore:	
Lease Auctions .....	108
Leasing .....	102
Wind:	
Energy .....	95
Inspection .....	109
The Fiscal Year 2013 Budget Request .....	90

## BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

Additional Committee Questions .....	121
--------------------------------------	-----

	Page
Environmental Enforcement .....	94
Fiscal Year 2013 Budget Request Specifics .....	94
Inspection:	
And Compliance Program .....	94
Fees .....	96
Outer Continental Shelf Inspection Personnel .....	105
Permitting .....	93
Recruitment of Key Positions .....	93
Regulatory Change .....	93

## OFFICE OF THE SECRETARY

Additional Committee Questions .....	54
America's Great Outdoors Initiative .....	29
Automated Standard Application for Payments Program .....	33
Blackstone River Valley .....	26
Bureau of Land Management Solar Supplemental Draft Programmatic Environmental Impact Statement .....	58
Cadiz .....	55
Central Valley Project .....	58
Coastal Impact Assistance Program .....	40
Contract Support Costs .....	27
Cuts and Efficiencies .....	9
Delivering Sustainable Growth Through Water .....	15
Encouraging Economic Development in Indian Country and Honoring Trust Responsibilities .....	15
Energy .....	9, 37
Federal Interagency Council on Outdoor Recreation—Background .....	73
Fee to Trust Process and Applications .....	61
Fiscal Year 2013 Budget .....	8
Fish Hatcheries .....	36
477 Program .....	27
Gaming .....	56
Geological Surveying of Afghanistan .....	52
Government Reorganization .....	53
Grazing Administrative Fee .....	50
Growing the Economy Outdoors .....	12
Gulf States Funding .....	44
Hunting and Fishing Access .....	34
Hydraulic Fracturing .....	28, 34, 46
Indian:	
Country .....	10
School Equalization Program .....	30
Interior's Budget in Context .....	16
Joint Curatorial Collection Facility .....	36
Land and Water Conservation Fund .....	29, 38, 49
Major Changes in the Fiscal Year 2013 Request .....	18
Mandatory Proposals .....	21
National:	
Park Service—Maintenance Backlog—Background .....	72
Wildlife Refuge Fund .....	51
North Woods National Park Proposal .....	32
Offsetting Collections and Fees .....	24
Offshore:	
Development .....	35
Inspection Fees .....	48, 50
Wind .....	25, 31, 54
Oil and Gas .....	44
Lease Revenues—Background .....	71
Production .....	9
Revenues .....	41, 48
Onshore:	
Inspection Fees .....	48
Royalty Rate .....	51
Powering America's Economy .....	12
Private Lands Permitting .....	55
Renewable Energy .....	9
Rural Water .....	30

	Page
San Luis Rey Water Settlement .....	60
School Construction .....	33
Silvio O. Conte National Wildlife Refuge Land Acquisition .....	39
Spurring Growth and Innovation Through Science .....	14
Stream Buffer Zone Rule .....	45
Streamgages .....	40
Tourism .....	10
U.S.:	
Fish and Wildlife Service—Background.....	68, 69
Geological Survey—Disaster Preparedness—Background .....	70
White Nose Syndrome—Background .....	71
Wild Horses .....	67
Yurok Funding .....	59

ENVIRONMENTAL PROTECTION AGENCY

Additional Committee Questions .....	212
Ambient Testing .....	205
Aviation Fuel .....	212
Beaches Protection Categorical Grants .....	213
Bristol Bay Watershed .....	185
Camelina Biodiesel and the Renewable Fuels Standard .....	218
Changing the Formula for Allocating Section 105 Funds .....	213
Chemical Safety .....	217
Clark Fork Clean Up Site .....	221
Clean Water Act .....	196
CO <sub>2</sub> Emissions .....	210
Design for the Environment Program .....	222
DeSoto County .....	201
Diesel Emissions Reduction Act .....	214
Emission Control Area .....	204
Enhanced Oil Recovery .....	219
Environmental Education Program .....	201
Farm Fuel Tanks .....	192
Fort Berthold Reservation .....	233
Fuel Harmonization .....	194
Great Lakes Restoration Initiative .....	215
Healy Clean Coal Plant .....	211
Hydraulic Fracturing .....	191, 197, 206
Study .....	199, 203
Information Technology Equipment—Executive Order 13514 .....	232
Integrated Risk Information System .....	223
Libby, Montana Superfund Site .....	221
Mercury in Ambient Air .....	216
Narragansett Bay .....	183
New Rules and Regulations .....	190
Oil Spill Response and Tribes .....	220
Perchlorate .....	216
Permitting Guidance—Diesel Fuel And Hydraulic Fracturing .....	234
PM <sub>2.5</sub> .....	211
Portland Cement Association .....	196
Regional Haze Regulations .....	227
State:	
And Local Air Quality:	
Grants .....	184
Management Grants .....	213
Revolving Funds .....	182
Transitioning Particulate Monitoring Funding From Section 103 to Section 105 Authority .....	213
Wastewater Operations—Underground Pipe Infrastructure .....	223