



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUL 10 2015

The Honorable Don Young
Chairman, Subcommittee on Indian, Insular, and
Alaska Native Affairs
Committee on Natural Resources
Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses prepared by the Assistant Secretary – Indian Affairs to questions received following the March 18, 2015, oversight hearing before your Subcommittee on the President's FY 2016 Budget for Indian Affairs Programs.

Thank you for the opportunity to provide this material to the Subcommittee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

**Committee on Natural Resources
Subcommittee on Indian, Insular, and Alaska Native Affairs
March 18, 2015**

Questions from Chairman Young

1. Pursuant to the *Indian Employment, Training, and Related Services Demonstration Act of 1992*¹, as amended, the Secretary of the Interior, in consultation with the Secretary of Labor, is required to maintain and publish a report, not less than biennially, “on the population, by gender, eligible for the services which the Secretary provides to Indian people”. This has become commonly known as the “American Indian Population and Labor Force Report.” The most recent report, the “2013 American Indian Population and Labor Force Report,” was released on January 16, 2014. This report contained data from 2010.

Question: What is the unemployment rate in Indian Country, or put another way, what is the unemployment rate of Indians who live in reservation communities? Has unemployment improved since 2009 and if so, by how much?

Response: The 2013 American Indian Population and Labor Force Report (LFR) does not provide estimates of unemployment in Indian Country. Such estimates are not possible because data on the size of the labor force within tribal service populations are not available. In addition, accurately estimating unemployment in Indian Country is complicated by the differing publication cycles of the American Indian Population and Labor Force Report, produced every two years, and the Census Bureau’s 5-year American Community Survey data. The Department and the Census Bureau are addressing options for coordinating the two cycles to improve the information reported in the Labor Force Report. The FY2016 Budget also includes an increase of \$12 million for BIA to work with Tribes and Federal agencies, such as the Census Bureau, to help address long-standing concerns Tribes have expressed with the quality of data in Indian Country.

The LFR does provide estimates of the proportion of people who are available for work but who are not working. According to estimated ranges based on a 90 percent confidence interval, in several states less than 50 percent of Natives Americans are working, among those who are 16 years or older and who are living in or near the tribal areas of federally recognized tribes. These states include Alaska, Arizona, California, Maine, Minnesota, Montana, New Mexico, North Dakota, South Dakota, and Utah. Many of these individuals, however, are employed only part-time. The LFR was substantially revamped in the 2013 edition and there is no comparable prior year data.

In general, there are a number of barriers to economic development in Native Communities. For example, the opportunity to develop robust economic growth is closely tied to access to transportation and related infrastructure. There is also a lack of

¹ 25 U.S.C. § 3401

collateral with which tribes and reservation businesses can obtain capital; of a business development environment; and a difficulty in developing natural resources due to multiple governments having regulatory and taxing jurisdiction over development. Many of these roadblocks are products of the history of federal-state-tribal relations and have tribe-specific nuances that must be addressed on an individual tribe-by-tribe basis.

Developing strong and prosperous Native American economies is a priority for this Administration. Tribes must be the driving force behind federal policies targeted toward job creation and economic development in Indian Country, consistent with the policy of Indian self-determination. The Assistant Secretary - Indian Affairs' Office of Indian Energy and Economic Development and other federal agencies are working to stimulate economies, foster job creation, and improve the quality of life in Native American and Alaska Native communities.

Question: Can Congress expect to have future Labor Force Reports on time?

Response: The last published Labor Force Report was in 2013. New 5-year American Community Survey data will be released in December, and the next report will be produced shortly thereafter.

- 2. Given the Bureau of Indian Affairs forestry involvement in all tribal trust mismanagement settlements, which now total more than \$2.5 billion, and the repeated findings of independent reviews that Bureau of Indian Affairs Forestry's per-acre funding remains at only one third of the US Forest Service—**

Question: Do you believe that a \$4 million increase in Bureau of Indian Affairs' "Forestry Projects" is sufficient to stave off future trust mismanagement lawsuits?

Response: The Department takes both its trust responsibility and the goal of tribal self-determination, seriously. Many tribes rely on their forests for economic development and employment. The \$4 million increase is not intended to stave off lawsuits. The planned, systematic treatment of forested landscapes is the only scientifically proven method to protect the health, vigor, and commercial viability of tribal forest land. Tribes implement density reduction operations through commercial means (logging) and non-commercial means (thinning, and prescribed burning), to create landscape and ecosystem resiliency in the face of changing climatic conditions. The FY 2016 budget justification identifies \$2 million in support of Forest Development thinning of overstocked forests to create stand and forest resiliency to wildfire, insect epidemics, and disease infestations which are being intensified as a result of climate change. The current thinning backlog is over 511,000 acres and this increase will allow an additional 7,000 acres to be treated. This increase also provides \$2 million for Resource Management Planning and environmental assessments and compliance projects.

Question: What is the Department doing to ensure that twenty years from now, taxpayers won't be liable for another large payout due to the Department of the Interior's mismanagement of this and other trust resources?

Response: Mismanagement lawsuits often concern the inability to prepare and offer the full Allowable Annual Harvest, which is the volume of timber eligible to be harvested on an annual, sustainable basis. The inability to prepare and offer the Annual Allowable Harvest is generally the result of inadequate forest management staffing. The BIA's Forestry Program, conducts forest land management activities on Indian forest land to develop, maintain, and enhance forest resources in accordance with sustained yield principles and objectives set forth in forest management plans. It is through this program's line item that Forest Management Staff is funded. Like many government programs, this program has been refining its operations in an effort to do more with less.

In addition to the increased funding for specific projects discussed in the response to the previous question, the program assists tribes in the sale of forest products, which is also a principle trust responsibility and a key source of tribal revenue and employment. Such sales support the bureau's efforts to promote self-sustaining communities and healthy and resilient Indian forest resources. To assist tribes in identifying markets for forest products, the program partners with the Intertribal Timber Council in marketing and branding research. The program will also undertake a continued effort to assist tribes in identifying and accessing forest products markets through partnerships with the Intertribal Timber Council, commercial timber tribes, and other Federal agencies. And there will also be an initiative through the Forestry Cooperative Education Program that will focus on a more effective recruitment strategy to ensure a sufficient forestry workforce.

Finally, through the Wildland Fire appropriation, the BIA is responsible for providing resources for fire management programs that reduce the risk of fires, and protect valuable natural resources, including timber, once a fire starts. On average, BIA obligates around \$75 million per year for fire suppression alone, employing approximately 7,000 employees annually, many of whom are Native Americans and Alaska Natives.

- 3. The Administration recently published a hydraulic fracturing, or fracking, regulation rule², which placed Indian Country lands under the jurisdiction of the Bureau of Land Management. The Department of the Interior has long asserted that the Act of March 3, 1909, the Indian Mineral Leasing Act of 1938, and the Indian Mineral Development Act of 1982 require Indian lands to receive the "same protections" as public lands.**

Some tribes have voiced opposition to this analysis and have loudly stated that Indian lands should not be treated like public lands.

Question: In your opinion, does the Bureau of Indian Affairs believe that Indian lands should be treated like public lands? Please explain.

Response: No, Indian lands should not be treated like public lands. However, the fracking rule did not put Indian lands under the jurisdiction of the Bureau of Land

² 43 CFR Part 3160

Management (BLM). Under current statutes and regulations, BLM has authority and responsibility for the management of Oil & Gas activities on both public and Indian Lands.

The Department believes that Indian lands deserve the same protections as public lands; and is also of the view that Indian lands should be recognized as being unique in comparison to public lands due to the unique ownership characteristics and trust responsibility of the U.S. Government over Indian lands. However, Tribes have sought more input/ability to govern their lands. For example, Tribes have sought to implement their own regulations to meet the intended purposes of BLM orders. In the recently issued rule, there is flexibility built in for BLM to defer to tribes that have standards that meet the threshold requirements in the rule.

Question: Does the Bureau of Indian Affairs believe that Indian lands should have their own set of standards?

Response: Indian lands do have their own standards and regulations, some of which incorporate BLM onshore orders/regulations, and the recently issued rule allows for BLM to defer to tribes, like states, that have standards that meet the threshold requirements in the rule.

4. **Question: Can you provide details about the usage and default rates of the Bureau of Indian Affairs loan guarantee program for the last six years. In particular, could you detail the size of the funds, the amount of loan guarantees provided over \$5 million, and the default rates of all loan guarantees?**

Response: The Division of Capital Investment (DCI) has guaranteed the following loan amounts in the designated years. We do not count loan guarantees until they close and fund, and we receive the proper premium payment. We have committed to guarantee more loans than listed, particularly for more recent years. As more loans close, the following numbers will increase. In FY 2014, for instance, we committed to guarantee \$97,652,445 in loans; they have not all closed yet.

2009 -- \$69,592,049 guaranteed, with three (3) loans over \$5 million
2010 -- \$61,491,440 guaranteed, with four (4) loans over \$5 million
2011 -- \$78,238,757 guaranteed, with four (4) loans over \$5 million
2012 -- \$69,730,923 guaranteed, with five (5) loans over \$5 million
2013 -- \$60,078,689 guaranteed, with five (5) loans over \$5 million
2014 -- \$56,261,022 guaranteed, with two (2) loans over \$5 million (three (3) more loan guarantee commitments over \$5 million have not yet closed)
2015 -- \$902,000 guaranteed, with no loans over \$5 million (four (4) loan guarantee commitments over \$5 million have not yet closed)

Unlike the Small Business Administration (SBA) and other Federal loan guarantee programs, DCI does not track loan defaults. Instead, we track program losses. The reason is that our small, flexible program requires a fair amount of attention to the conditions under which we agree to guarantee each unique loan. If a loan defaults, we

sometimes will not even get a claim for loss, because the lender can see in advance that it failed to abide by the conditions of our guarantee. Other times, a lender will submit a claim for loss, but DCI will identify something materially wrong with how the lender serviced or monitored the loan, and as a consequence DCI will only agree to pay the lender a lesser amount than claimed, or not at all.

As of March 31, 2015, our cumulative loss rate (that is, our total program losses since 1992 less recoveries, divided by the total amount of loans we've guaranteed since 1992) stands at 3.01%.

By tracking loan losses, we clearly see what taxpayers spend, and what they get in return. Over the course of the past 23 years, for a net program loss of less than \$40 million, the program has facilitated nearly \$1.3 billion in private capital investment in Indian Country.

Follow-up Question: Can you detail how many guaranteed loans and their amounts have been paid by the Bureau of Indian Affairs as the result of defaults or other circumstances since 2009?

Response:

2009 – three (3) loan guarantees were paid, for a total of \$485,105.

2010 – one (1) loan guarantee was paid, for a total of \$62,066.

2011 – one (1) loan guarantee was paid, for a total loss of \$1,897,494.

2012 to 2015 -- there are no loan guarantee payments yet associated with these fiscal years.

These payments are associated with the cohort years in which we guaranteed the underlying loans, not the date of the claim for loss or our payment. For instance, the 2011 claim for loss payment was not issued until FY 2015.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

JUL 20 2015

The Honorable Lisa Murkowski
Chairman, Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski:

Enclosed are responses prepared by the Bureau of Reclamation to the questions for the record submitted following the June 2, 2015, oversight hearing before your Committee on Drought Conditions in the Western United States.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Maria Cantwell, Ranking Member
Committee on Energy and Natural Resources

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Questions from Chairman Lisa Murkowski

Question 1: Which federal and state agencies does the Bureau of Reclamation work most closely with in coordinating on policy and impacts in terms of water delivery in California and in the Lower Colorado Region? How does that compare with other states in the West? Could you give an example of how often Reclamation officials meet with representatives other agencies in terms of days in an average week or month they meet in California? What level are agency representatives? How often have meetings been held in California in the last six months? The lower Colorado River Basin? Primary purpose for the meetings? Can you give a brief summary of actions stemming from the California meetings in the first quarter of 2015?

Response: In every state where the Bureau of Reclamation (Reclamation) owns and operates water infrastructure, there are regular channels of communication with state and federal wildlife agencies, water management agencies, water rights offices, and other entities involved in natural resources management at the state and federal levels. Reclamation operates in conformity with state water law across the west (though there is a unique legal framework in the Lower Colorado River Basin), and delivers water pursuant to contracts with water users, many of which are constituted under state law. These working relationships are well established, and this situation is not unique to the Lower Colorado or the Mid-Pacific Regions of Reclamation.

In the case of the Mid-Pacific Region, the ongoing drought has necessitated an extremely rapid tempo of coordination with state and other parties to adapt the operation of existing water infrastructure in real-time as conditions dictate. As referenced in our testimony, Reclamation has worked constructively with the California Department of Water Resources (DWR), California Department of Fish and Wildlife (CDFW), State Water Resources Control Board (Board), U.S. Fish & Wildlife Service (FWS), and National Marine Fisheries Service (NMFS) to adjust project operations and export pumping, fine-tune reservoir releases, manage in-river temperatures, and control salinity in the Sacramento-San Joaquin Delta for the benefit of fish species and water users. The specific personnel and frequency of these meetings varies widely depending on the projects' needs on a given day. In summary, several multi-agency work teams are very active and post their weekly and monthly activities online such as the Smelt Working Group¹, Delta Operations for Salmon and Sturgeon Technical Work Group,² Water Operations Management Team³, Delta Conditions Team, Sacramento River Temperature Task Group⁴, Clear Creek Technical Team, American River Group, Stanislaus Operations Group⁵, and the Real Time Drought Operations Management Team (RTDOT). The RTDOT has been

¹ http://www.fws.gov/sfbaydelta/cvp-swp/smelt_working_group.cfm

² http://www.westcoast.fisheries.noaa.gov/central_valley/water_operations/doss.html

³ <http://www.water.ca.gov/swp/operationscontrol/calfed/calfedwomt.cfm>

⁴ http://www.westcoast.fisheries.noaa.gov/central_valley/water_operations/srttg.html

⁵ http://www.westcoast.fisheries.noaa.gov/central_valley/water_operations/sog.html

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

meeting at least weekly during the WY2014 and WY2015 drought to discuss the real time constraints and opportunities related to water operations.

In the first quarter of 2015, Reclamation, with the participation of the teams listed above and others, has been focused on preserving system storage in the face of very challenging hydrology, maintaining compliance with salinity requirements in the Delta, complying with biological opinions governing operation of the Central Valley Project and capturing runoff from what few storms have occurred over California. To date, the operations informed by these groups have prevented any unauthorized take of listed species, enabled water deliveries to continue on an albeit limited basis, maintained compliance with water quality objectives including Delta salinity, and enabled the conservation of nearly 300,000 acre-feet of water that would otherwise not have been saved.

The Lower Colorado (LC) Region works closely with the seven Colorado River Basin States (Arizona, California, and Nevada in the Lower Basin, and Colorado, New Mexico, Utah, and Wyoming in the Upper Basin), Mexico, Native American Tribes, the International Boundary and Water Commission (IBWC), the Western Area Power Administration (WAPA), the National Park Service (NPS), other Federal Agencies, environmental organizations, and interested stakeholders on communicating the impacts of the on-going drought, possible impacts to operations and water deliveries (pursuant to applicable law and operational agreements), and drought response planning efforts. These meetings are primarily informational in nature.

Reclamation management actions related to water delivery for the lower Colorado River Basin are informed by routine, ongoing meetings with the affected tribes, states, and water users throughout each year. In addition information regarding the status of Colorado River reservoirs is shared as part of the process of stakeholder consultation and input during preparation of each year's Annual Operating Plan. The Colorado River Annual Operating Plan memorializes operational decisions that are made pursuant to individual federal actions and serves as a single, integrated reference document required by federal law regarding past and anticipated operations in the upcoming year.

- Lake Mead's operational condition is based on criteria set forth in the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead adopted in 2007, found here: <http://www.usbr.gov/lc/region/programs/strategies.html>.
- In calendar year 2015, pursuant to the 2007 Interim Guidelines, the Lower Basin is operating in a Normal/ICS Surplus Condition, which means full water deliveries for U.S. water users and Mexico, and the potential for U.S. water users to create or take delivery of Intentionally Created Surplus (ICS) in 2015.
- The determination for the 2015 operating condition was made in August 2014 and documented in the 2015 Annual Operating Plan for Colorado River Reservoirs, found here: <http://www.usbr.gov/lc/region/g4000/aop/AOP15.pdf>.

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

- This operating condition for 2015 will be implemented as determined in August 2014 and California will continue to receive its full Colorado River allocation in 2015.

The LC Region conducts additional meetings with California water agencies in the lower Colorado River Basin, including:

- Discussions on current conditions and projected operations at least weekly, or several times per week, on an operational level.
- Discussions on current conditions, projected operations, potential drought impacts, and technical modeling questions at least monthly, or several times per month, as needed.
- Discussions on California issues, the drought, and drought response planning efforts on both executive and technical levels severally times annually, as needed.
- Representatives from California participate in binational discussions to implement Minute 319.

Question 2: Given your close coordination with the federal and state fish agencies, can you give me a sense of what kind of information to they provide to Bureau officials in their recommendations to Reclamation regarding water releases of water across the West?

Response: Federal and state wildlife agencies assist Reclamation with a variety of environmental objectives, including compliance with biological opinions, conducting river restoration and habitat restoration activities, providing in stream flows, managing water quality and temperatures, addressing impacts from invasive species, and many other activities. Key to this assistance is wildlife agencies' expertise in documenting the needs of species and the effects of water infrastructure on the natural environment.

Question 3: Has Reclamation provided funding to FWS to collect data on the status of the smelt in the California Bay Delta. If so, what level of funding has it been? Is this a common elsewhere in the West between the Bureau and FWS? Is that a sustainable practice to ensure Reclamation can meet its mission effectively?

Response: Reclamation and FWS have actively coordinated to develop early warning surveys to provide information on Delta smelt distribution that will inform water operations in WY2015. The overall intent for early warning surveys is to inform FWS and others whether, during weather events, substantial numbers of Delta Smelt are moving, or being moved, into areas potentially subject to entrainment. This information will allow exports to continue as long as Delta smelt are not in the area of influence of the pumps. The early warning surveys were initiated in December 2014 and continued into 2015. A FWS proposal dated September 26, 2014, identified resource needs totaling \$830,000. Reclamation, FWS, CDFW and DWR collaborated to leverage available funds from all agencies and integrate Delta smelt and salmonid trawl efforts to improve efficiency. This

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

arrangement is a valuable example of interagency coordination toward a shared objective, and is sustainable where warranted.

Questions from Senator Jeff Flake

Question 1: In your written testimony you refer to 20 pre-proposals received for short-term projects under the Pilot System Conservation Program.

- a. How many of the pre-proposals are in the lower basin and how many are in the upper basin?

Response: All of the pre-proposals received to date are from entities in the Lower Basin. The Upper Basin is in the process of seeking pre-proposals.

- b. What is the anticipated timeline for project implementation?

Response: Most projects are anticipated to be implemented in fiscal years 2015 and 2016. Some projects may have a longer implementation period.

- c. What is the status of selecting a contracting agent for the Upper Basin projects?

Response: The Upper Colorado River Commission (UCRC) accepted the role as the contracting entity for the Pilot System Conservation Program (Program) in the Upper Basin in December 2014, and on May 8, 2015, memorialized its commitment in an agreement.

- d. What are the project types and the projected water conservation estimates for the projects which have been selected?

Response: To date, one Program project has been selected. The project is a forbearance project that will create system conservation through a reduction of agricultural water consumptive use (fallowing) on fields in the Muddy and Virgin River Basins upstream of Lake Mead. The conserved water will flow to Lake Mead and increase overall Lake Mead storage. The amount of system conservation will total 15,000 acre-feet for 2015 and 2016. Currently Reclamation and the Program funding partners are considering 7 other projects for funding. These projects encompass a wide range of concepts from a diverse group of entities.

- e. How many of the pre-proposals and selected projects involve Native American tribes?

Response: Reclamation has two projects under consideration from Native American tribes. In addition, one Native American Tribe which initially submitted

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

a pre-proposal recently elected to not participate in the program. Another tribe submitted a pre-proposal for a project that did not qualify under the Program .

- f. What if any legal barriers are there to tribal participation in the Program?

Response: There are no legal barriers to tribal participation in the Program. The Program's eligibility requirements apply to Native Americans and non-Native Americans equally. Any Native American entity that has a Colorado River water entitlement and can demonstrate a history of use for the water that would be conserved pursuant to the Program is eligible to participate in the Program.

- g. Please provide a copy of the guidelines or criteria for considering which projects will be funded.

Response: Criteria for determining which projects will be selected may be found in Enclosure 2 to Reclamation's October 2014 solicitation letter to Lower Basin Colorado River water entitlement holders (attached) under the section entitled "Selection".

Question 2: How are planned or potential Intentionally Created Surplus withdrawals factored into the models that are used to produce the Bureau of Reclamation's 24-month study for operation of Hoover Dam and Lake Mead?

Response: Each month, Reclamation uses the best available information to develop the 24-Month Study for the operation of Lake Mead and other Colorado River System reservoirs. This process includes discussions with water users in the Lower Basin for additional operational information to improve water use projections in the 24-Month Study model.

Question 3: In your response to a question from Senator Murkowski, you referred to a MOU that has just been signed between the states to create another 1,000,000 acre-feet by 2018.

- a. What is status and timeline for implementing the MOU including the necessary approval for conservation and storage programs included or contemplated in the MOU, such as CAP's Intentionally Created Surplus program referenced in Section 3(b)(iii) of the MOU?

Response: The MOU became effective December 10, 2014 for a 5-year period. Central Arizona Water Conservancy District (CAWCD) is currently in the process of acquiring necessary signatures from the eleven parties as part of the approval process for its Intentionally Created Surplus (ICS) plan. CAWCD may designate the ICS created under this plan to help meet Protection Volume goals contained in the MOU.

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

- b. How much protection volume will be created by each participant and what is the estimated contribution by each participant for 2014 and 2015?

Response: Under the MOU, Reclamation, CAWCD, SNWA, and MWD will make best efforts to generate 740,000 acre-feet of Protection Volume during the 2014 to 2017 timeframe.

- 50,000 acre-feet by Reclamation
- 345,000 acre-feet by CAWCD
- 45,000 acre-feet by SNWA
- 300,000 acre-feet by MWD

Reclamation has begun moving forward with activities to generate 50,000 acre-feet of Protection Volume in the 2014-2017 timeframe to help meet Reclamation's commitments in the MOU. The Lower Colorado (LC) Region received \$8.6 million of the Drought Funding in 2016 for three projects to help meet this goal.

In 2014, CAWCD left 18,290 acre-feet of unused apportionment in Lake Mead. This water may be applied toward CAP's Protection Volume goal of 345,000 acre-feet in the 2014-2017 timeframe.

In 2014, SNWA left 10,384 acre-feet of unused apportionment in Lake Mead. This volume may be applied toward SNWA's Protection Volume goal of 45,000 acre-feet in the 2014-2017 timeframe.

It is anticipated that CAWCD and SNWA will leave additional unused water in Lake Mead and/or create ICS that may be applied toward Protection Volume goals in 2015.

MWD will use best efforts to create 300,000 acre-feet of Protection Volume in the 2014-2017 timeframe.

Question 4: In preparation for times of possible Colorado River shortages, Arizona has stored over 9 million acre-feet of water underground, of which about 4 million acre-feet has been stored by the Arizona Water Banking Authority to be used to firm Central Arizona Project ("CAP") supplies during the shortage and to support interstate water banking agreements. The ability to recover this water and deliver it to water users during times of shortage is critical to Arizona's long-term water strategy. I understand that the Bureau of Reclamation ("USBR") and CAP have been working for several years to develop and implement agreements that would allow the flexibility to recover and deliver

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

this water using CAP infrastructure. With a shortage declaration likely in the near future, there is heightened interest in these agreements. Can you please provide:

- a. An update on the status of discussions between the USBR's Phoenix Area and Lower Colorado Region offices, and the CAP staff regarding the development and implementation of a Standard Form Wheeling Agreement as contemplated in the Master Repayment Contract between the CAWCD and the USBR.

Response: The concept of wheeling non-project water through the Central Arizona Project was originally envisioned in Article 8.18 of the Contract between the United States and CAWCD for the Delivery of Water and Repayment of Costs of the CAP, dated December 1, 1988 (Master Repayment Contract). The Master Repayment Contract states that non-project water may be wheeled through project facilities pursuant to wheeling agreements between CAWCD and a third party, approved by Reclamation.

CAWCD developed a Staff Proposal for Wheeling Non-Project Water Supplies and was directed by their Board to forward that proposal to Reclamation for discussion and comment in October 2014. The proposal outlines a set of agreements between Reclamation and CAWCD that establish the foundation for a wheeling program.

Reclamation and CAWCD have been meeting and communicating regularly and have developed a cooperative vision and schedule on how to move the process forward. Reclamation is currently engaging in formal tribal consultation. Following formal consultation and comment from the Tribes, Reclamation intends to finalize negotiations of a Standard Form of Wheeling Agreement with CAWCD.

- b. The status of related discussions between CAP and the USBR to prepare agreements to recover and deliver Arizona Water Banking Underground Storage Credits during Colorado River shortages.

Response: When necessary, recovery activities will be implemented to meet both the State of Arizona and the United States firming obligations. While CAWCD will act as the recovery agent for the Arizona Water Bank to recover water for both Indian and municipal firming commitments, Reclamation is responsible for the United States' firming obligations to the Tribes. There are many similarities between the program being developed to wheel non-project water and the use of the CAP canal to deliver recovered water for firming purposes and, therefore, it makes sense to develop criteria for both programs simultaneously. Reclamation is committed to working with CAWCD to finalize both the wheeling and recovery programs.

- c. The anticipated schedule to complete and implement these agreements.

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Response: Reclamation met with the Arizona Tribes on June 25, 2015 to discuss the wheeling program. After that meeting, Tribes, at their request, will be offered individual formal consultations. Reclamation anticipates final comments from the Tribes by the middle of July and will then engage in final negotiations with CAWCD and final public comment.

Question 5: Thirteen of the twenty-two federally recognized Indian tribes in Arizona have either partially or fully resolved outstanding water rights claims through settlement with Indian and non-Indian parties. Many of those settlements are premised on the delivery of Central Arizona Project (“CAP”) water. Likewise, yet-to-be resolved Indian water rights claims in Arizona are likely to include some component of CAP water deliveries – the Arizona Water Settlements Act of 2004, specifically reserved 67,300 acre-feet for that purpose. With a high probability of a shortage declaration on the Colorado River and the corresponding reduction of CAP supplies, can you explain:

- a. What the Department of the Interior (the “Department”) has done to consider the potential impact those reductions might have on United States trust obligations to Native American communities in Arizona that rely on CAP supplies?
- b. How those reductions could impact settlement opportunities for those tribes in Arizona that have not settled their water rights claims?
- c. The level of consultation the Department has undertaken or intends to take with those tribes that could potentially be affected by a shortage declaration.

Response:

a. Arizona Indian tribes have been allocated 348,079 acre-feet (AF) of Indian priority CAP water either through settlement or as a part of original tribal CAP allocations. Indian priority water is the highest priority within the CAP system. Based upon current water use data, it is not expected that Indian priority CAP water will be impacted until shortage declarations reach below a level 3 shortage (Lake Mead elevation at or below 1025 ft.). This means that non-Indian agricultural uses would be cut before there are any cuts to Indian priority water.

In addition to Indian priority CAP water, the Arizona Water Settlements Act of 2004 (AWSA) reallocated 197,500 AF of Non-Indian agricultural (NIA) priority CAP water for use by Arizona Indian tribes. 102,000 AF of this water was allocated to the Gila River Indian Community, 28,200 AF was allocated to the Tohono O’odham Nation, and 67,300 AF was reserved for future Indian water rights settlements. In times of shortage, NIA priority water that is not firmed is eliminated entirely before any deliveries of Indian Priority, firmed NIA priority, or Municipal & Industrial (M&I) priority are cut.

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Pursuant to AWSA, the United States and the State of Arizona (State) are required to “firm” 60,648 AF of the reallocated 197,500 AF of NIA priority CAP water for tribes. Of the total 60,648 AF of firmed water, 15,000 AF is being firmed for the Gila River Indian Community by the State and 28,200 AF is being firmed by the United States for the Tohono O’odham Nation. The White Mountain Apache Tribe Water Rights Quantification Act allocated 23,782 AF of the NIA priority CAP water to the White Mountain Apache Tribe, 7,500 AF of which is to be firmed by the both the State and the U.S. During times of shortage, “firmed” NIA water is to be delivered in the same manner as water with a M&I delivery priority.

b. Arizona has been very successful in settling Indian water rights claims. Claims totaling approximately 1.1 million AF have been settled. However, over one million AF of Indian water rights claims remain pending in current adjudications. The amount of available CAP water, the priorities of that water, and the real threat of reductions of water from the Colorado River are all significant hurdles to settle remaining water rights in Arizona. There is no more Indian priority water, with its relatively protected status, to allocate. There is 43,518 AF of NIA priority CAP water remaining for use in future settlements. The priority of this water and its susceptibility to shortage makes it generally unattractive to tribes for settlement purposes. Even “firmed” NIA priority water, of which only 17,448 remains available, is considered by many tribes not to be an appropriate equivalent to federal reserved water with very senior priority dates. Tribes are understandably reluctant to waive claims to federal reserved water rights in exchange for promises of increasingly less reliable CAP water. The historic reliance on CAP water to settle Indian water right claims is drawing to a close. New water supplies and more creative settlement mechanisms must be developed in order to avoid the “winners and losers” scenario that litigation may ultimately produce.

c. The United States has taken significant steps to be transparent with respect to potential Colorado River shortages with all Arizona citizens including the tribes. An intensive series of consultations with all affected water users in the Basin States, including tribes, was held from 2005 through 2007, prior to issuance by the Secretary of the Interim Shortage Guidelines. Tribal impacts were specifically addressed in a tribal Listening Session convened in December of 2011, hosted by the Counselor to the Secretary and the Deputy Assistant Secretary for Indian Affairs. During that session, the Department presented information about the CAP supplies available for existing and future Indian water rights settlements and heard tribal concerns. Another tribal listening session was convened in December of 2014, at the Inter-Tribal Council of Arizona which included discussion of anticipated shortages and the Pilot System Conservation Program being implemented by the United States and the Basin States. Finally, by letters dated June 1, 2015, tribes with CAP allocations were advised of potential shortages to the 2016 CAP supply pursuant to their CAP water delivery contracts. The Department intends to continue a dialogue with the tribes as shortages develop. The subject of CAP water availability and its consequences are a central topic in all on-going settlement negotiations in Arizona.

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Question 6: Please explain the difference in how evaporative losses are accounted for in the lower basin of the Colorado River as compared to the upper basin.

Response: The Colorado River Basin Project Act of 1968, Public Law 90-537, directs the Secretary of the Interior to "make reports as to the annual consumptive uses and losses of water from the Colorado River System after each successive five-year period . . ." These reports reflect the Department of the Interior's best estimate of actual consumptive uses and losses (including evaporative losses) for each year within the Colorado River Basin (available at: <http://www.usbr.gov/uc/library/envdocs/reports/crs/crsul.html>).

In accordance with the Upper Colorado River Basin Compact (63 Stat. 31) of 1948, evaporative losses in the Upper Basin reduce water supply available to the Upper Division States.

The Consolidated Decree entered by the Supreme Court of the United States in *Arizona v. California* (547 U.S. 150 (2006)) requires the Secretary of the Interior to annually publish a report on the diversions from the mainstream, returns of such water and consumptive uses within the Lower Basin. The Colorado River Accounting and Water Use Report: Arizona, California, and Nevada (available at www.usbr.gov/lc/region/g4000/wtraccttypes.html#decree) serves as the official record of water use for the purposes of administering water entitlements, State apportionments and other facets of the "Law of the River." Per the Consolidated Decree, diversions, return flows and consumptive uses of Colorado River water are measured and accounted for at the point where the water leaves or returns to the Colorado River. Evaporative losses that occur once the water has been diverted from the river (point where water leaves Colorado River) are considered to be a part of the consumptive use of individual water users and the state within which such losses occur.

Question 7: In response to a question from Senator Heinrich regarding cost-effective approaches to increasing water supplies, you noted that the Bureau of Reclamation must consider the demands that a project is trying to meet and the cost of the array of options available to meet those demands. Referring to "back-of-the-envelope" calculations, you estimated that large-scale projects such as the Black Rock Reservoir and Auburn Dam might cost between \$17,000 to \$46,000 per acre-foot, while WaterSMART conservation projects cost between \$500 to \$800 per acre-foot. Please provide a table with the cost per-acre foot of:

- a. All WaterSMART grants issued in FY15;
- b. All Title XVI grants issued in FY15;
- c. The twenty-six congressionally authorized Indian water rights settlements enacted since 1978, excluding operations, maintenance and replacement costs (adjusted for inflation);
- d. The sixteen congressionally authorized Indian irrigation projects, excluding operations, maintenance and replacement costs (adjusted for inflation); and

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

- e. The eleven congressionally authorized rural water projects enacted between 1980 and 2007, excluding operations, maintenance, and replacement costs (adjusted for inflation).

Response: While it is possible to develop informal estimates of the cost per acre foot for any number of federal and non-federal water resources development projects, Reclamation does not have readily available tables that show the cost of water per acre foot for the individual projects funded through the programs cited. Reclamation's Web site provides descriptions of each project funded under WaterSMART Grants and the Title XVI Water Reclamation and Reuse Program in FY 2015⁶ and prior years, which include the number of acre-feet of water savings or additional water deliveries expected to result from each project once completed, along with brief reference to the other benefits of each project that are expected to increase water management flexibility.

From 2010-2015, Federal appropriations for WaterSMART Grants totaled over \$127 million. That funding is being leveraged with over \$390 million in non-Federal funding to complete over \$500 million in improvements, which are expected to result in annual water savings of over 570,000 acre-feet once completed. One could perform a basic calculation to achieve a cost per acre-foot based on the federal investment alone, or a cost per acre-foot based on all funding, federal and non-federal, but because of the variety of project benefits and their varying degrees of completion as discussed below, Reclamation does not prepare or publish such a figure.

Note that in addition to water savings, WaterSMART Grant projects accomplish a variety of benefits, including installation of advanced measurement components, renewable energy components, and habitat restoration, as well as some planning activities that do not themselves result in quantifiable water savings but are intended to set the stage for future water management improvements. Projects are selected based on the extent to which they are expected to save water, increase energy efficiency and the use of renewable energy in water management, support environmental benefits, facilitate and support water markets, and mitigate conflict risk in areas at a high risk of future water conflict.

For example, as part of one WaterSMART Grant project funded in FY 2013, the Avra Valley Irrigation and Drainage District near Tucson, Arizona, is using \$300,000 in federal funding to line 3.2 miles of canal to address seepage losses, which is expected to result in water savings of 525 acre-feet annually. The district's project includes other significant elements that do not add water savings but increase flexibility in other ways, including installation of flow meters and two new, more-efficient electric motors on irrigation pumps. In addition to the water savings that will enable the District to reduce groundwater pumping and therefore contribute to sustainable management of the aquifer in the Tucson

⁶ www.usbr.gov/WaterSMART/docs/2015/fy2015WEEGprojects.pdf
www.usbr.gov/WaterSMART/docs/2015/fy2015TitleXVIprojects.pdf
www.usbr.gov/WaterSMART/docs/2015/fy2015TitleXVIfeasibilitystudies.pdf

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Active Management Area, the district also expects to reduce energy consumption by approximately 2,635,918 kilowatt-hours each year through avoided pumping and installation of more efficient motors. Viewing this project solely in terms of cost per acre-foot of water savings would not fully capture the multiple benefits that result from the work being completed.

Similarly, congressionally authorized water recycling projects are selected for funding each year based on not only the amount of water expected to be made available, but the specific concerns being addressed by the project, costs of the proposed project compared to other alternatives available to that project sponsor, any renewable energy components, and the extent to which the project is part of a watershed-based planning effort, among other criteria. Costs of individual water recycling projects vary considerably depending on a number of factors, depending on the extent of treatment facilities necessary, the delivery infrastructure involved, and energy costs, among other significant variables. Water recycling typically provides water managers with flexibility, helps to diversify the water supply, and reduces pressure to transfer water from agricultural to urban uses. This is especially true in urban areas where water recycling and reuse is a critical tool to create local, drought proof water supplies and reduce the reliance on imported water.

Since 1992, Reclamation has provided approximately \$626 million in federal funding to congressionally authorized Title XVI water recycling and reuse projects. This funding has been leveraged with more than \$2.4 billion in non-Federal cost share. Based on information provided by project sponsors, it is estimated that in fiscal year 2014 Title XVI projects delivered approximately 378,000 acre-feet of recycled water. It is important to note that significant funding has been dedicated to project phases that are still under construction and that will result in additional water deliveries once complete. As a result, recycled water deliveries from Title XVI projects are projected to increase to more than 416,000 acre-feet in fiscal year 2015, and will continue to increase as more project phases come on-line.

It is also important to note that because water conserved through WaterSMART Grants and delivered by Title XVI projects repeats each year that the improvement or facility is operational, in order to arrive at an accurate cost per acre-foot, the cost of the project must be spread out over the entire life of the project and not simply divided by the water saved or produced in one year.

Questions from Senator Debbie Stabenow

Question 1: What is the Department doing to coordinate its drought-related cost-share programs, such as the WaterSMART Program, with similar efforts at the Department of Agriculture, such as the Environmental Quality Incentives Program or the Regional Conservation Partnership Program (RCPP), which had a focus on combatting drought in the recently announced second round of RCPP projects?

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Response: In 2011, Reclamation and the Department of Agriculture's Natural Resources Conservation Service (NRCS) began a partnership to leverage funding for water delivery agencies and agricultural producers in California: through a competitive process, Reclamation makes funding available to irrigation districts and other entities so that improvements that save water or improve water management can be made in the systems that deliver water to farmers. NRCS, in turn, makes funding available to farmers who receive water from those districts so that on-farm conservation improvements could also be made throughout those five districts.

In 2012, Reclamation began to work with NRCS to expand this collaborative effort throughout the West. Reclamation's WaterSMART Grants funding criteria now encourage applicants to describe in detail how their projects would directly expedite future on-farm irrigation improvements, including future on-farm improvements that may be eligible for NRCS funding. Once new WaterSMART Grants have been selected, Reclamation and NRCS coordinate so that on-farm water conservation improvements that complement the water delivery improvement projects selected through WaterSMART Grants may be considered for NRCS funding and technical assistance, to the extent such assistance is available.

Over the last year, Reclamation and NRCS have continued to work together to identify additional ways to ensure that WaterSMART Grants funding opportunity announcements fit together with NRCS's new Regional Conservation Partnership Program. This year, for example, Reclamation made additional revisions to WaterSMART Grants funding criteria to make clear that applications that are related to a proposed RCPP project may receive additional consideration during Reclamation's selection process.

Question 2: Does the Department have the authorities and resources it needs to coordinate its drought response efforts with other federal programs such as the Department of Agriculture's conservation programs? What additional authorities or resources would improve the Department's drought response efforts?

Response: The Department is not seeking additional programmatic authorities to coordinate its drought response efforts.

Question 3: When will the Department reach the authorized spending limit set forth in Sec. 9504 of PL 111-11, as amended by the omnibus appropriations act of FY15? What Department programs will be impacted if this spending limit is not raised by Congress, and how will they be impacted?

Response: Reclamation estimates that approximately \$66 million of the authorized appropriations ceiling remains after FY 2015 appropriations. The President's 2016 budget includes a total of \$32 million for programs that rely upon the authority of Sec. 9504(e). WaterSMART Grants, the Water Conservation Field Services Program, California-Bay

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Delta Water Conservation, and some activities that are part of the Drought Response Program rely upon the authority of Section 9504(e) of the SECURE Water Act, which now authorizes \$300 million to carry out financial assistance agreements for water management improvements. These programs make competitive, cost-shared funding available to non-federal entities and provide an important tool for water managers to increase flexibility in their operations. If the authorized spending limit were reached, Reclamation would be forced to suspend funding opportunities until additional authorization was provided. Language is included as part of the 2016 Budget to increase the authorized appropriations ceiling by \$100 million to a total of \$400 million.

Question from Senator Mazie Hirono

Question: According to the third U.S. National Climate Assessment, “In Hawaii, average precipitation, average stream discharge, and stream baseflow have been trending downward for nearly a century, especially in recent decades, but with high variability due to cyclical climate patterns as the El Niño-Southern Oscillation and the Pacific Decadal Oscillation. On most islands, increased temperatures coupled with decreased rainfall and increased drought will reduce the amount of freshwater available for drinking and crop irrigation.”

While Hawaii is not currently experiencing a drought emergency, based on history as well as future predictions as outlined in the aforementioned assessment, Hawaii will experience drought in the future. Being an island state introduces unique challenges with regards to water storage and an inability to rely on other states to provide us water-challenges that, coupled with our sensitivity to climate change, give our state a heightened sense of urgency to proactively plan for drought emergency scenarios. Can you talk a little bit about how the Department of Interior partners with other government agencies to provide states and communities tools to make long-term preparations to proactively deal with drought situations? Can you identify specific programs or resources that are available to folks in Hawaii?

Response: Reclamation has recently reformulated our drought program to improve our ability to work proactively with States, tribes and local governments to *prepare for* and respond to drought. Reclamation has been providing emergency drought assistance to States and tribes under the Reclamation States Emergency Drought Relief Act of 1991 (Drought Act) since 1991. Going forward, Reclamation believes that program funding can be used more effectively by focusing on mitigation actions and planning to increase resiliency to drought in advance of a crisis. Through the new Drought Response Program, Reclamation will provide financial assistance on a 50/50 cost-share basis to fund the preparation of drought contingency plans and to implement water management projects that will build long-term resiliency to drought (drought resiliency projects).

U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor

Reclamation has authority under the Drought Act to provide both emergency assistance, and financial or technical assistance with drought contingency planning to State, tribal and local government entities in Hawaii. In 2005, Reclamation worked with the State of Hawaii to develop a drought contingency plan under the original drought program. However, Reclamation is relying on Section 9504(a) of the SECURE Water Act (Subtitle F of Title IX of Public Law (P.L.) 111-11) to fund drought resiliency projects under the new program, since the Drought Act includes limited construction authority. The SECURE Water Act authority does not authorize drought resiliency projects in Hawaii. In extreme situations, Reclamation can still conduct emergency response actions in Hawaii. This would include for example, installation of temporary pipes and pumps, water hauling, water purchases and nonfinancial assistance to willing buyers and sellers of water.

Reclamation's authorities in Hawaii also include the Title XVI Water Reclamation and Reuse Program (authorized under P.L. 102-575, as amended). There are currently three congressionally authorized Title XVI projects located in Hawaii: (1) Kalaeloa Seawater Desalination Project; (2) Lahaina Water Recycling Project #3; and (3) Kealakehe Water Recycling Project. The sponsors of these three projects are eligible to apply for Title XVI funding each year under the annual Title XVI funding opportunity announcement for authorized projects. To date, none of the sponsors of these three projects have submitted applications for funding.

As noted above, applicants located in Hawaii are currently not eligible under the SECURE Water Act, which provides authority for Reclamation's WaterSMART Grants and other programs. However, during the 113th Congress, Reclamation testified in support of S. 2019 (Schatz), legislation to raise the authorization ceiling for WaterSMART Grants under the Secure Water Act of 2009 (PL 111-11), clarify that activities related to drought are authorized under the program, and revise the program's eligibility to include the State of Hawaii.

Beyond Reclamation's drought related activities in Hawaii, the U.S. Geologic Survey (USGS) works cooperatively with Federal, State, and local agencies to provide information and tools needed to proactively address periodic drought in Hawaii. To assess the status and trends of water resources, the USGS currently monitors about 20 rainfall stations, 45 groundwater wells and 70 streamflow and reservoir sites in Hawaii. Through its Groundwater and Streamflow Information Program, the USGS contributes about \$640K annually in matching funds to the Federal-State cooperative water-resource monitoring program in Hawaii. To assist with decision-making, a summary of recent hydrologic conditions in Hawaii is provided on a quarterly basis to water-resource managers, scientists, and the public through a series of web pages.

In addition, the USGS WaterWatch web page, which provides streamflow information on past, current, and drought conditions in Hawaii, can be accessed through the Hawaii Drought Monitor web page maintained by the Hawaii Commission on Water Resource Management. To assess the impact of water (including drought) and land-use changes on

**U.S. Senate Committee on Energy and Natural Resources
June 2, 2015 Hearing: Drought Conditions in the Western United States
Questions for the Record Submitted to The Honorable Michael Connor**

water availability, the USGS periodically updates water-budget and groundwater models for the five major Hawaiian Islands. For example, the impact of historical drought conditions on groundwater recharge was recently assessed for the islands of Oahu and Maui. In fiscal year 2015, the USGS supported more than \$1.1M in Water Availability and Use Science in Hawaii. As part of this program, the USGS recently provided grants through the Water Resources Research Act to the University of Hawaii for their scientists to collaborate with the USGS on the development of monthly rainfall maps and groundwater flow models that can be used to assess impacts of droughts on water availability. To better understand water use in Hawaii, the USGS Water Availability and Use Science Program is providing a grant (\$80,000) to the Hawaii Commission on Water Resource Management in fiscal year 2015. The USGS Pacific Islands Water Science Center remains committed to providing useful and timely information for management of our limited water resources during periods of drought.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

JUL 10 2015

The Honorable Doug Lamborn
Chairman
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed are responses prepared by the Bureau of Ocean Energy Management to questions submitted following the Subcommittee's April 15, 2015, oversight hearing on "*Examining the Future Impacts of President Obama's Offshore Energy Plan.*"

Thank you for the opportunity to provide this material to the Subcommittee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and Legislative Affairs

Enclosure

cc: The Honorable Alan Lowenthal
Ranking Member

Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
1334 Longworth House Office Building
Wednesday, April 15, 2015
10:00 AM

Oversight hearing on:

"Examining the Future Impacts of President Obama's Offshore Energy Plan"

Questions from Rep. Lamborn for Director Abigail Ross Hopper, Bureau of Ocean Energy Management

1. Will the 8 remaining sales in the 2012-2017 5-year plan be conducted as planned in the current leasing schedule? Can you commit to this committee that those three scheduled lease sales in the Arctic will occur on time?

Response: To date, the sales remain on the schedule and are in various phases of development in lease sale preparation and the NEPA process. With respect to the three lease sales scheduled offshore Alaska, BOEM is proceeding with preparations for these sales, although, as with any offshore lease sale, the decision as to whether ultimately to hold the sale is up to the Secretary.

2. While you cannot add new areas to the existing plan once finalized, can you clarify that under Outer Continental Shelf Lands Act (OCSLA), you have the authority to add lease sales to the proposed areas that are currently being scoped?

Response: Under the OCSLA, a final Five-Year Program may not be revised "significantly" without following the same procedure as utilized to prepare the program, i.e., the Section 18 process. Adding areas to existing sales and adding new sales even in the same area have been found to be significant changes; therefore, the Secretary may not do either without initiating the Section 18 process again. Similarly, for a Five-Year Program still under development, where areas or lease sales were not previously announced for comment under Section 18 in the Draft Proposed Program, they cannot be considered for inclusion in the Final Five-Year Program without reinitiating the Section 18 process.

This Administration has said repeatedly that it is committed to promoting renewable energy development both onshore and offshore. In the President's FY2016 Budget, BOEM requested an increase of over \$1.1 million for the renewable energy program. In 2009,

President Obama and former Interior Secretary Ken Salazar announced the final regulations for the OCS renewable energy program.

3. How many offshore commercial wind energy leases have been issued?

Response: Nine: three in Massachusetts, two in Rhode Island/Massachusetts, one in Delaware, two in Maryland, and one in Virginia.

4. Could you please list the location for each leased offshore wind area and the revenue generated from each lease sale?

Response:

Massachusetts

- Cape Wind: lease issued non-competitively/no lease sale: \$353,112
- MA Wind Energy Areas (WEA) lease sale: \$431,482

Rhode Island/Massachusetts WEA lease sale: \$3,089,461

Delaware: lease issued non-competitively/no lease sale: \$867,870

Maryland WEA lease sale: \$8,701,098

Virginia WEA lease sale: \$1,600,000

Total: \$13,822,041

5. How many gigawatts are currently being produced by offshore wind?

Response: All BOEM issued leases are in the development phase and no construction or operations have commenced.

6. In the 2009 announcement, the President stated a goal of achieving 10 gigawatts of wind capacity by 2020, how close is your agency to achieving that goal?

Response: In 2012 the President set a goal to issue permits for 10 gigawatts of wind, solar and geothermal projects on public lands by the end of the year. The DOI achieved this goal ahead of schedule. In 2013, the President, as part of the Climate Action Plan, directed an additional 10 gigawatts of renewable energy projects to be permitted by 2020.

Onshore, the BLM has approved over 16.5 GWs of renewable energy projects including wind, solar and geothermal. Of these approved renewable energy on projects, over 5.6 GWs are wind energy projects. Offshore, BOEM projects that nearly 9 GW of energy could be produced by offshore wind from the leases issued to date.

It is important to note that DOI is responsible only for providing opportunities for companies to develop resources through the permitting and leasing of public lands. The decision to proceed with development ultimately rests with industry.

Questions from Rep. Wittman for Director Abigail Ross Hopper, Bureau of Ocean Energy Management

Several times since the 2017-2022 Draft Five Year Proposed Program was published the Department of Interior has been quick to point out that there are still several more phases in the planning process and that the Department will further narrow or take areas out of the proposed plan.

As you know, Virginia has been asking for offshore leasing and exploration for the last decade.

A majority of state and Congressional officials including Senators Mark Warner, Tim Kaine and Governor McAuliffe support energy production in the Atlantic Ocean.

1. As the Department and BOEM begin to develop a final offshore leasing program for the 2017-2022 Five Year Plan, will you commit to taking into consideration the broad bipartisan support for offshore energy production in the Atlantic Ocean?

Response: BOEM is committed to a robust and public process for developing the Five Year Program. Input from Governors and States will continue to be an important factor as State laws, goals, and policies are one of the eight factors that the Secretary must consider in preparing a five year program under Section 18 of the Outer Continental Shelf Lands Act.

It is my understanding that Governor McAuliffe, in response to BOEM's Request for Information last summer, pointed out that Virginia's Lease Sale 220 was already included in a Draft Proposed Plan in 2006, only to be canceled in 2010.

Now, Virginia will not see a lease sale until roughly 2021, which is 15 years after its original inclusion in a five year plan.

Delays like this represent a missed opportunity to harness our domestic energy potential, create thousands of new jobs, and generate millions in government revenue.

As you know, Virginia stands to gain 25,000 jobs and billions in economic activity from opening the Atlantic OCS to oil and gas development.

2. Will BOEM further limit areas in the Atlantic as you continue the planning process for 2017-2022, as you have done in the past?

Response: The multi-step five year process, in coordination with the National Environmental Policy Act process, provides several more opportunities to analyze and make decisions on the size, timing, and location of potential lease sales. Whether any of those sales, including proposed Lease Sale 260 in the Mid- and South Atlantic, will be further narrowed in any way, depends on the outcome of several stages of analyses, public comments, and the Secretary's decision on what best meets the nation's energy needs while balancing the potentials for environmental damage, discovery of oil and gas, and adverse impacts to the coastal zone.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240
JUL 10 2015



The Honorable Tom McClintock
Chairman
Subcommittee on Federal Lands
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed are responses to follow-up questions regarding the Tuesday, March 17, 2015, oversight hearing on "*Examining the Spending Priorities and Missions of the National Park Service in the President's Fiscal Year 2016 Budget Proposal.*" These responses have been prepared by the National Park Service.

Thank you for giving us the opportunity to respond to you on these matters.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

cc: The Honorable Niki Tsongas
Ranking Minority Member
Subcommittee on Federal Lands

Enclosure

**Committee on Natural Resources
Subcommittee on Federal Lands
1334 Longworth House Office Building
Tuesday, March 17, 2015
9:30 AM**

Oversight hearing on:

*“Examining the Spending Priorities and Missions of the
National Park Service in the President’s FY 2016 Budget Proposal.”*

PANEL (1): Director Jarvis – National Park Service

Questions from the Subcommittee on Federal Lands

1. Reportedly, the Park Service has begun work to implement the Merced River Plan, including construction of a parking lot in the river corridor near Yosemite Lodge, that additional funds are committed next year for road work and parking issues near the Day Use Parking and that additional funds will be dedicated to changes to the shuttle bus stops and roadways.

- a. When will the Park Service have a comprehensive plan, with detailed costs and funding sources, available for Congress and the public?

Answer: The Record of Decision was signed by the NPS Pacific West Regional Director on March 31, 2014. Yosemite National Park has prioritized implementation actions and developed a fifteen-year project schedule that identifies funding strategies to accomplish this work. Because of crowding and traffic congestion, the park plans to address parking and transportation-related issues as a high priority. The NPS will be happy to brief the Committee on funding and project implementation.

- b. Will the implementation schedule indicate how the plan will minimally impact visitor services as noted in the final Merced River Plan?

Answer: In implementing the Merced River Plan, the NPS considers the timing of all Federal actions so that they minimally impact visitor services and the visitor experience. Yosemite National Park will design projects and implementation plans to minimize impacts to the visitor experience as much as possible.

- c. Did the cost of the plan influence the recent increase in gate fees from \$20 to \$30 in Yosemite?

Answer: The cost of the plan did not influence the recent decision to increase the entrance fee. This fee increase is part of a larger NPS initiative to standardize fees in similar parks across the country. Yosemite National Park was classified with parks of comparable size and visitation. Yosemite’s previous entrance fees have been in place

since 1997, when a seven-day pass was increased from \$5 to \$20 per vehicle. According to the U.S. Bureau of Labor Statistics, \$20 in 1997 is equivalent to \$29.64 in 2014. This fee change allows Yosemite to maintain consistent revenue while adjusting accordingly for inflation.

- d. Will you rely on Congressional appropriation to provide funding for the roughly \$340 million in costs the NPS has estimated to implement the three Yosemite plans (Mariposa Grove, Tuolumne River, Merced River)?

Answer: The cost of implementing these plans over fifteen years will require multiple fund sources that include private philanthropy, recreation fees, and concession franchise fees along with appropriations for the Department of the Interior (for general park operations) and the Department of Transportation (for roads and related infrastructure). Also, the plans were developed to minimize the need for Congressional appropriations for rehabilitation work and construction.

An example of the use of multiple fund sources for Yosemite projects is shown in the FY 16 budget request of \$1.7 million for repair and replacement of an 80-year-old water line and a water storage tank in the Mariposa Grove of Giant Sequoia. This request is part of a larger project, currently estimated at \$28.7 million, to restore the Mariposa Grove habitat, which includes relocation of parking, removal of roadways, improved trails and signage, drainage improvements, and restoration of wetlands habitat and natural hydrology. The larger project includes a partnership donation from The Yosemite Conservancy, funding from the Federal Lands Transit Program, and recreational fees collected from visitors to Yosemite.

- e. Are you concerned that the heavy road construction activity during the Centennial Celebration will adversely impact visitor access?

Answer: Major roadway construction and repairs are scheduled to avoid peak visitor use periods whenever possible. This is generally done during non-peak seasons and times (i.e., fall, winter, and spring.) This scheduling helps the NPS to ensure that visitors can access key services and popular destinations during the NPS Centennial. Construction schedules also include mitigations to minimize disruptions to the public while allowing the park to restore and make improvements to its transportation systems.

2. Reportedly, the primary cause of traffic issues in Yosemite results from the pedestrian traffic using the crosswalk between Yosemite Lodge and Lower Yosemite Falls. The Merced River Plan indicated that the Park Service would give a high priority to a solution for this intersection, but did not specify how the issue would be resolved.

- a. Do you have a solution and, if so, when will that problem be resolved?

Answer: Yosemite National Park plans to address parking and transportation-related issues as a high priority. As the implementation and funding of this particular aspect of the project is determined, the NPS will be happy to update the Committee.

3. As you know, complications in the award of the concession contract at Grand Canyon National Park resulted in this Committee having to ask the Park Service to address its concerns regarding the Grand Canyon contract. Following that, ten members of the House, including me, wrote in December to raise concerns regarding a lack of due diligence on the part of the Park Service regarding the pending bid contest at Yosemite National Park.

- a. Would you let us know what steps have been taken to address the concerns in our December letter?
- b. Would you be willing to meet with members of the Committee to discuss this further?
- c. Would you be willing to work with members of the Committee and my subcommittee to review whether Congress should enact further concession legislation?

Answer: I believe that our response, dated January 26, 2015, addressed the concerns of your December letter. A copy of the response is attached.

Since your December letter, Yosemite National Park has received responsive bid proposals for the business opportunity that was outlined in the final prospectus, which closed on January 21, 2015. As you noted, the original prospectus was amended numerous times. Many of these amendments were issued in response to questions that were received from potential bidders and other interested parties.

We would be happy to meet with the Committee to discuss how the National Park Service ensures there is a fair and open process in compliance with the laws established by Congress. We would also welcome the opportunity to meet with members of the Committee to listen to any concerns they have about the current concessions law.

Questions from the Honorable Dan Newhouse (WA)

1. Last year's National Defense Authorization Act included a provision that allows the National Park Service to relocate and rebuild the Upper Stehekin Valley Road. Since the Stehekin Valley Road washed out in the 2003 flood, access to the scenic North Cascades National Park has been limited to those who can make a grueling 10 plus-mile hike. Rather than rebuild the road after the 2003 flood, the National Park Service made the decision to close the road permanently. Regaining access to the upper 10 miles of the Stehekin Valley Road will substantially enhance recreational opportunities and will restore access that was intended by Congress all along.

- a. Is it a priority of the National Park Service to rebuild the Upper Stehekin Valley Road?

Answer: Rebuilding the road is not a priority. An Environmental Assessment undertaken by the park in 2005 considered the ecological and aesthetic impacts, as well as potential impacts on park users, of reconstructing the road. In 2006, NPS issued a

Finding of No Significant Impact to close the Upper Stehekin Valley Road to motor vehicle use from Car Wash Falls to Cottonwood Camp, and convert the closed road to a non-mechanized trail for hikers and stock. To improve access for backcountry users, a local outfitter provides stock transport and tent accommodations at Bridge Creek Campground, 3 miles from the end of the existing road, and trails and camps have been upgraded. Overnight visitor use of the Upper Stehekin Valley is higher than pre-closure levels.

In the past five years there have been at least eight separate flood events that have impacted roads and other facilities in the adjacent lower Stehekin Valley, including one in 2013 that buried 20 vehicles. It is not operationally cost effective to reconstruct and maintain a section of road with very low public use that is likely to be continuously compromised by ongoing natural hazards. Based on these considerations, it is unlikely that the reconstruction of the Upper Stehekin Valley Road could effectively compete with other deferred maintenance needs, at North Cascades National Park or servicewide, in the National Park Service's annual prioritization of line item construction funding requests.

- b. Has the Park Service estimated the cost of rebuilding the road and how does the cost of this repair compare to similar projects the Park Service has undertaken?

Answer: The Environmental Assessment in 2005 concluded that rebuilding the Upper Stehekin Valley Road from Car Wash Falls to Cottonwood would cost \$6.5 million. The EA also evaluated a \$1.5 million alternative (2004 dollars), which would require three significant reroutes within the Stephen Mather Wilderness and would require relocation of the nationally recognized Pacific Crest Trail. These estimates are in line with projects of similar scope and technical difficulty. Recent local proposals to rebuild the road as a packed, non-paved single lane road have been made with very low cost estimates. Proposals to build roads at a lower standard of engineering and quality than other roads in National Park System units would be unacceptable as they could place park visitors and staff in danger.

2. As required, following the 2003 flood, the Park Service requested public comment on how to deal with the damage to the road and over 90% of those responding said they wanted the route reopened — either by repairing it or simply reverting back to the old wagon road. However, the Park Service made an unexpected determination, deciding instead to permanently close the road at the washout and make what was once an 18-mile trip into what is now a 43-mile trek. In defense, the Park Service claimed the Wilderness Act did not require the road to be repaired and that repairing the road would have required a wilderness-area boundary adjustment. However, this explanation runs contrary to similar decisions by the Park Service – in 2006 when the road to Olympic National Park's Hoh Rain Forest washed out it was repaired and reopened within half a year. Another example exists in the North Cascades National Park, where the Forest Service planned repairs for the Cascade River Road, which experienced washouts in 2009 and 2013.

- a. Can you please explain how the Stehekin Valley Road differs from these other examples?

Answer: The National Park Service made the determination not to rebuild the Upper Stehekin Valley Road based on an Environmental Assessment that considered a variety of factors, including the road's potential impact on wilderness and the National Park Service's authority to undertake a project with these potential impacts on wilderness. Not until the National Defense Authorization Act for Fiscal Year 2015 was enacted in December, 2014, did the Secretary of the Interior have discretionary authorization to alter the boundaries of the wilderness area to allow for rebuilding the road.

This situation differs from the Olympic National Park's Hoh Rain Forest road and North Cascades National Park's Cascade River Road in that both of those roads could be repaired within the non-wilderness corridor, with no need to move the designated wilderness boundary. Annual visitor use levels at those locations are significantly higher as well - the 2010-2014 average for the Hoh is 183,000 visits; the Cascade River Road is 8,000 for the same period. The Upper Stehekin Valley Road averaged slightly over 2,500 annually. Additionally, facilities at the end of the Hoh Road include a ranger station, visitor center, employee housing, parking areas, utility systems, and related visitor use facilities. At the end of the Cascade River Road is a large parking lot and restrooms that serve the heaviest day use trail in the park. There are no similar facilities accessible from the Upper Stehekin Valley Road.

The National Park Service has made the decision not to rebuild other flood damaged roads. A good example is at Mount Rainier National Park, where the Carbon River Road was permanently closed following severe flooding there in 2006. Prior to the closure that road had over 135,000 visitors annually.

- b. How is the Park Service moving forward with implementing provisions allowing the National Park Service to relocate and rebuild the Upper Stehekin Valley Road, as was prescribed in the *National Defense Authorization Act for Fiscal Year 2015*?

Answer: The National Defense Authorization Act signed by the President in December 2014, provided the Secretary of the Interior discretionary authority to alter the boundaries of the park and the wilderness area to allow for rebuilding of the road. No appropriation was provided with this legislation. Overall deferred maintenance needs in the National Park Service are considerable, and Congress has directed the agency to focus its limited resources on addressing only its highest priority projects. This proposed project does not meet high-priority needs criteria.

3. A law was passed by Congress and enacted into law last year establishing a Manhattan Project National Park composed of historic facilities like Hanford's B Reactor. Is the Park Service committed to taking the actions necessary to establish this Park – including working with the local communities, finalizing the appropriate MOU's and requesting the necessary funding required to carry out Park's and Interior's responsibilities under the law?

Answer: Early in 2015, the NPS and Department of Energy (DOE) interagency team scheduled site visits and public open houses at Oak Ridge, Tennessee, on March 25-26,

2015, in Hanford, Washington, on April 14-16, 2015, and Los Alamos, New Mexico, on June 2-4, 2015. The NPS is committed to civic engagement and will ensure that there are other opportunities for public participation, including consultation with State, county and local stakeholders, during the planning process.

4. Will the Park Service and Department of Interior meet the one year deadline in the 2015 NDAA law to establish a Manhattan Project National Park, including Hanford's historic B Reactor?

Answer: We are committed to meeting the deadline for establishing the park. As required by the Act, the NPS and the Department of Energy are working on a memorandum of agreement that will govern roles and responsibilities for the DOE facilities in the new park, including provisions for enhanced public access, management, interpretation, and historic preservation.

Questions from the Honorable Pedro Pierluisi (PR)

1. Through Section 7212 of the Omnibus Public Land Management Act of 2009, Congress authorized the National Park Service to complete a special resource study to determine the suitability and feasibility of including Fort San Gerónimo and related historic resources in Puerto Rico as part of San Juan National Historic Site. I support the Service's continued efforts to undertake this study. Can you specify how much funding will be allocated in Fiscal Years 2015 and 2016 for this particular study, and what the planned timeline is for its completion?

Answer: In FY 2015, the NPS received \$1.8 million to evaluate potential sites for inclusion in the National Park System, as directed by Congress. A portion of this funding is being used for the Fort San Gerónimo study. The FY 2016 President's Budget Request would continue this level of funding. The draft study for Fort San Gerónimo is currently under review and the NPS hopes to transmit the final study to Congress by the end of 2016.

2. There is interest in Puerto Rico in expanding the authority of the National Park Service to assist the government of Puerto Rico in preserving portions of the historic city walls in Old San Juan that are outside the boundaries of the San Juan National Historic Site. This assistance could come in the form of technical expertise by the Park staff charged with preserving the portions of the city walls that are within the park unit boundaries.

- a. Could you clarify the extent to which the Park Service under current law, regulation and policy can assist the government of Puerto Rico in preserving the walls and structures that are beyond the park boundaries?
- b. How can the law, regulation or policy be revised to better enable the Park Service to partner with the local government for this preservation work outside park boundaries?

Answer: The National Park Service has a number of authorities under which it is able to provide assistance to local governments and these authorities provide a wide variety of opportunities for the NPS to partner with public or private educational institutions,

colleges, universities, land grant schools, non-profit organizations, and state and local governmental agencies. We would welcome the opportunity to meet with you to discuss how we might assist in the preservation of the historic resources of Old San Juan.

Questions from the Honorable Mark Takai (HI)

1. On February 24, 2015, President Barack Obama signed a proclamation establishing Honouliuli Internment Camp as a national monument. However, this designation came after the President released his FY16 budget that requested \$3.7 million for new or expanded NPS units.

So, Honouliuli National Monument was not listed in the program request. Director Jarvis, could you explain how Honouliuli National Monument in Hawaii could receive federal funds and support if the President's FY16 budget was funded as requested for new or expanded NPS units?

Answer: The Honouliuli NM will be managed by the NPS, which will conduct a management planning process with full public involvement; staffing and interpretive requirements will be determined by the outcome of that planning process. Additionally, the NPS will continue to work in partnership with the many groups that have helped to preserve these sites. However, no new recurring funding will be provided to this unit for base operations until appropriated by Congress.

President Obama's designation of the Honouliuli Internment Camp will help tell the story of significant events in American history and will permanently protect a site where Japanese American citizens, resident immigrants, and prisoners of war were co-located by the U.S. military for internment or detention during World War II. As with similarly created monuments, the NPS is currently engaged in discussions, both internally and with our partners in Hawaii, to chart a path forward for this monument and to start the planning and development of the park within budgetary constraints.

2. Some may claim NPS's focus on land acquisition through the Land and Water Conservation Fund diverts resources from widely visited, signature parks and detracts from the agency's ability to buy down the backlog of operations and facilities maintenance. Director Jarvis, could you explain whether there would need to be legislative fixes passed by Congress to oblige requests to obligate land acquisition funds under the LWCF for the maintenance backlog?

Answer: Using funds from the Land and Water Conservation Fund (LWCF) to address the maintenance needs of parks would require Congressional authorization. In 1965, the LWCF was envisioned as a program that would use portion of the proceeds from the depletion of one natural resource—offshore oil and gas—for the conservation of another natural resource—our land and water—for the benefit of all Americans. The LWCF has been used, and continues to be used, to protect national parks, forests, and wildlife refuges, and other critical habitat from development or other incompatible uses, and to provide matching grants for state and local partners for planning, acquisition and development of outdoor recreation lands and facilities throughout the country.



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IAN 2 6 2015

IN REPLY REFER TO:
(2410)

The Honorable Tom McClintock
House of Representatives
Washington, D.C. 20515

Dear Mr. McClintock:

Thank you for your letter of December 19, 2014, to the Secretary of the Interior regarding the concession contracts for visitor services at Yosemite and Grand Canyon National Parks. The Secretary asked that I respond to you on her behalf.

The National Park Service (NPS or Service) Concessions Management Improvement Act of 1998 (1998 Act) established the framework under which the NPS is to award concession contracts through a competitive selection process. The NPS has been working diligently for over 4 years at Yosemite National Park (Yosemite) to develop and issue a prospectus that is consistent with law, represents the needs of visitors, and complies with the Merced River Plan (MRP).

The Service is committed to a continuation of visitor and recreational activities while implementing the MRP at Yosemite. The Yosemite prospectus was developed to allow for a smooth transition of visitor services between the existing concessioner and the newly awarded concessioner. There is roughly a 6 month timeline for transition of concession services between when the contract is awarded, and when the new contract begins. In addition, many actions called for in the MRP are implemented gradually over the term of the next concession contract. A number of actions will not take place for years, or until alternate public services are made available. Some recreational activities, like expanded boating on the Merced River, and additional public transit opportunities, will be implemented in the spring of 2015.

The NPS will coordinate with its concessioner so that there is no interruption in recreational services, as authorized, including the ice rink and bicycle rentals. The Yosemite prospectus allows for the continuation of bicycle rentals at existing locations until an acceptable plan can be developed to ensure no loss of service. We have already started planning for the relocation of the ice rink and will work with the concessioner to ensure the service is continued without interruption. Additionally, none of the housing that is necessary for the concessioner to operate under the contract will be removed until new housing is built in the locations that were established in the MRP.

The Visitor Transportation System (VTS) in the next concession contract is focused on addressing public transportation issues in Yosemite Valley, including alleviating some of the significant traffic congestion that occurs during the peak season. In addition, the prospectus authorizes the next concessioner to provide shuttle service at both Badger Pass and Tuolumne

Meadows. Regarding transportation systems and parking areas, we are developing agreements with Yosemite Area Regional Transit System (YARTS) to expand service, as conceptualized in the Merced River and Tuolumne River Plans. The expanded shuttle service proposed in the MRP, covering the full length of Yosemite Valley, is planned to be implemented this summer. The roadway system and parking improvements anticipated for Yosemite Valley in the MRP are now in the final design stage with Federal Highways and are expected to be completed in Fiscal Years 2015-2017.

While we understand your concerns about estimated project costs in planning documents, the Merced River and Tuolumne River Plans used the NPS Denver Service Center cost estimating team to develop the cost estimates for components of the plans and we believe the estimates are accurate. However, these estimates are based on conceptual designs and are used primarily to compare the costs of each alternative presented in the Environmental Impact Statements. As these projects are more fully developed, the cost estimates will be refined based on actual construction drawings. As a result of these more detailed drawings, project costs may be higher or lower than estimated.

Regarding your concern that the prospectus was "issued without an agreement to the value of the contract," this procedure is not uncommon. At Yosemite, the incumbent concessioner, unlike its counterpart at Grand Canyon National Park (Grand Canyon), does not have any leasehold surrender interest claims or possessory interest claims (the latter being the term under the former governing law for NPS concessions for a similar compensatory contract right, in real property improvements in a national park, acquired or constructed by the concessioner during the term of its contract). Accordingly, there was no need to agree to a value for possessory interest at Yosemite. Unlike the Grand Canyon contract, however, the Yosemite contract calls for the award of the next contract by the NPS to be conditioned on the purchase by the successor concessioner of "all other property of the Concessioner used or held for use" in such operations. As such, the value of this "other property" generally is negotiated between the outgoing and incoming concessioners. It has been NPS's standard practice to estimate the value of "other property" in the prospectus documents and for the outgoing and incoming concessioner to then negotiate the value.

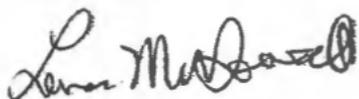
Often, if agreement cannot be reached, the contract specifies that the parties will use arbitration to determine the value. However, in this case the current contract does not include an arbitration clause and the incumbent could not be compelled to arbitrate either by the NPS or by a successor. In addition, based on our experience with three arbitrations concerning the value of possessory interest, the NPS questions the efficacy of arbitration as a dispute resolution mechanism.

Our estimates of what typically constitutes "personal property" under the contract (e.g., merchandise, supplies, furniture, fixtures and equipment) are surprisingly close to those provided by the incumbent concessioner. However, despite years of requests by the NPS for information about property they believed would be subject to the purchase and sale provision, the current concessioner, DNC Parks & Resorts at Yosemite, Inc. (DNC), waited until 2 weeks before publication of the prospectus to inform the NPS of their claim for \$51 million in "intellectual property." I think it is important to note that DNC completed an appraisal of its claimed

intellectual property back in 2010, yet did not share this information with the NPS until 2014. DNC's claims for compensable intellectual property include the names of some of the most iconic and historic facilities in the park, such as the names of the Ahwahnee and Wawona hotels, and even the name Yosemite National Park (as applied to merchandise like apparel and coffee mugs). We believe these names should belong to the American people.

I am happy to have our Business Services staff provide you, or your staff, a briefing on the status of this prospectus, as well as our concerns regarding the "intellectual property" claims of DNC, at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lena McDowall".

Lena McDowall
Associate Director, Business Services