

# SUH AND SCHNEIDER NOMINATIONS

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## HEARING BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED THIRTEENTH CONGRESS SECOND SESSION

ON

THE NOMINATIONS OF MS. RHEA S. SUH, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, AND MS. JANICE M. SCHNEIDER, TO BE ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

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FEBRUARY 4, 2014



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## SUH AND SCHNEIDER NOMINATIONS

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TUESDAY, FEBRUARY 4, 2014

U.S. SENATE,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:16 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Ron Wyden, chairman, presiding.

### **OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON**

The CHAIRMAN. The Committee will come to order.

The committee meets this morning to continue its consideration of the nominations of Rhea Suh, to be the Assistant Secretary for Fish and Wildlife and Parks and Janice Schneider, to be an Assistant Secretary of the Interior for Land and Minerals Management. The committee previously held a hearing on Ms. Suh's nomination on December 12th and on Ms. Schneider's nomination on December 17th. After discussing this with colleagues a number of colleagues have requested that we have an opportunity to ask the nominees additional questions.

Because today's hearing is a continuation of our previous hearings it's not necessary to repeat the usual formalities that were completed last month. So there's no need to repeat the oath. Although I want to remind the witnesses they remain under the previous oath in accordance with the committee's rules.

The purpose of today's hearing then is to supplement rather than reproduce the extensive hearing record the committee compiled last December.

Also I want to assure that each member of the committee will have an opportunity to ask the nominees the additional questions that they may have. I'm equally committed to ensuring that the committee has an opportunity to act on these 2 nominations within the next week.

Senator Murkowski, would you like to make any remarks before we begin?

### **STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman.

I appreciate your willingness to convene this second nomination hearing for both of the President's nominees for the Department of the Interior. As you mentioned a number of us had concerns and

reservations on these particular nominations. That was why we had requested this re-hearing.

I am hopeful that at the hearing today we will hear, in greater detail, responses to our questions and other issues that perhaps have not yet been satisfactorily resolved.

Ms. Suh, let me start with you first.

Go ahead.

The CHAIRMAN. With just a little bit more of a formality and then we'll go right to you.

Senator MURKOWSKI. OK.

The CHAIRMAN. Would that be alright?

Ms. Suh and Ms. Schneider, your statements from your previous hearings are already in the record. You are not required to make new ones. But each of you is welcome to make any additional statement you care to make at this time.

Do either of you desire to do that?

You would like to make additional comments?

Ms. SCHNEIDER. Yes, Senator.

The CHAIRMAN. Ms. Schneider, why don't we go ahead with that?

I want it understood, I strongly support both of the nominees. I will have no questions. So when you're done, Ms. Schneider, and if you have any additional comments, Ms. Suh, we will begin the questioning then with Senator Murkowski.

Senator MURKOWSKI. If I may, Mr. Chairman, just I have some comments in my opening statements that I think might be helpful for both of the nominees in terms of what I'm looking for.

The CHAIRMAN. Very good.

Senator MURKOWSKI. So if they can address them in their opening. If they can that takes care of it. If not, I can include it in the questions.

Is that OK with you?

The CHAIRMAN. Which—whatever is your pleasure, Senator.

Senator MURKOWSKI. I will be very brief. I will be brief. I thank you for that.

As you note, both Ms. Suh and Ms. Schneider have been before the committee before.

Ms. Suh, you've had the opportunity now, I think this is your third, because you were also before EPW. My concern is, as I have expressed to you in private conversation, that based on the records of the previous hearings, as well as our meeting, I do have serious reservations about, not only what I perceive is your lack of knowledge on western lands issues, but also your unfamiliarity with Alaska's most pressing issues and our unique governing statutes.

I know that some would look at that and say, well, that's pretty parochial. But when you put in context that over 70 percent of the National Wildlife Refuge system in this country and two-thirds of our National Park System is located in 1 State, in the State of Alaska, it's not parochial. It is the confines of this job that you are being nominated to.

So when you indicated in our meeting that you weren't prepared to discuss any of my State's issues in detail, that concerned me. I also have to express dissatisfaction with your answers to many of the questions I submitted for the record at our last hearing. So I am eager today to hear your candid views on development of the

Arctic Coastal Plain, the lifesaving road that I'm seeking for King Cove, the potential use of Land and Water Conservation Fund to address our maintenance backlog, the role of hunting and fishing within our refuges and preserves, subsistence reform in Alaska which is a key issue right now and tribal self governance.

I would also like to generally address the leadership of the U.S. Fish and Wildlife Service.

I believe quite firmly that the agency is going in the wrong direction. I think it's lost sight of its responsibility to the American people. This problem is perhaps most recently highlighted by the service's role in the fundamentally flawed review process and rejection of the lifesaving King Cove Road.

But it's not limited to just that single decision. My view is that the service is not considering the impact of its decisions on people across our country. This is troubling direction for the agency. I think the agency needs to be turned around.

Ms. Schneider, I note that you received a bipartisan letter from several members of the committee. I do hope that you're familiar with the IG report and that it centers on and are ready then to answer questions about the issues that were raised within it.

I also need to mention Shell's disappointing announcement last week to cancel its exploratory drilling program in the Chukchi Sea this summer. The decision is based on a Ninth Circuit Ruling that the EIS for lease sale 193 is deficient, but also because there is no regulatory certainty or permitting predictability for Arctic development.

So I would like a firm commitment from you, from the Administration, that you support the development of the oil and gas resources off of Alaska's coast and will work hard to ensure that Shell can move forward in 2015 and that development can occur in the future.

So, Mr. Chairman, I will have questions along those lines, but hopefully it will allow both Ms. Suh and Ms. Schneider to address some of those issues in this re-hearing. Again, I appreciate the willingness of both of you to be here this morning and your willingness to step up.

Thank you.

The CHAIRMAN. Ms. Schneider, you indicated you'd like to make some remarks and you as well, Ms. Suh?

Ms. SUH. Yes.

The CHAIRMAN. Very good.

Then we'll go with you, Ms. Schneider, then you, Ms. Suh. Then we'll go back and forth both sides in questions.

Ms. Schneider.

**TESTIMONY OF JANICE M. SCHNEIDER, NOMINEE TO BE AN ASSISTANT SECRETARY OF THE INTERIOR (LAND AND MINERALS MANAGEMENT), DEPARTMENT OF THE INTERIOR**

Ms. SCHNEIDER. Thank you, Mr. Chairman, Ranking Senator Murkowski and members of the committee. It's an honor to appear before you again today to be considered for the important position of Assistant Secretary for Land and Minerals Management at the U.S. Department of the Interior. Because my personal statement and background is already in the record, my brief summary today

will focus on my work experience and its relevance to this important position.

After decades of work in the private sector and in Federal service on Interior related issues, I'm recognized as a leader in my field. If confirmed, I intend to bring my experience and judgment to the tough issues and questions facing the Department and the country. I believe we have a tremendous opportunity to continue and to accelerate the development of a strong and diverse energy portfolio that will lead to greater economic and national security for our country. This is why I support the President's All of the Above strategy.

Over the last 12 years, actually it will be 13 in March, I've worked in the private sector helping companies successfully and responsibly develop large scale energy, mineral and infrastructure projects on Federal lands. I've worked on high stakes projects, some valued at close to \$2 billion across the West and in other parts of the country.

My experience includes coal projects, oil and gas projects, wind, solar, geothermal, liquefied natural gas development, hard rock and leasable mineral development, refinery issues in Alaska, hydropower projects, high voltage transmission and pipelines and also timber, road, fishery, endangered species, migratory bird, marine mammal and conservation projects as well as those involving American Indian issues among many others.

The CHAIRMAN. Do you ever sleep?

Ms. SCHNEIDER. You know.

[Laughter.]

Ms. SCHNEIDER. Not as much as I would like.

But I think as a result of all of this experience and the fact that I interfaced with the government on a very regular basis on behalf of my industry and financial clients, I understand that Federal decisions have real world impacts on the citizens of this Nation and that delays often result in costs.

In my experience Federal decisions must be transparent.

They must be objective.

They must be science based.

They must take all stakeholder views into consideration.

We must work together to create jobs in an environmentally responsible, safe and efficient way and to balance conservation while securing this Nation's energy needs which I am very strongly committed to.

If confirmed, I look forward to working with each of you on this committee, with Congress and stakeholders.

Thank you, Mr. Chairman and distinguished members of the committee. I would be pleased to take any additional questions you should have.

The CHAIRMAN. Ms. Schneider, thank you. I was for you before and I'm not changing my mind.

Ms. Suh.



**STATEMENT OF RHEA S. SUH, NOMINEE TO BE ASSISTANT SECRETARY OF FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR**

Ms. SUH. Mr. Chairman, ranking member and members of the committee, it is an honor to be back here again. It is an honor to be nominated for the Assistant Secretary for Fish and Wildlife and Parks.

I'm going to tell you a little bit about the qualities that I think I will bring to this job. I have nearly 20 years of experience working on natural resource policy issues.

I first began my career as a Senate staffer. I started off as a constituent rep where I learned the importance of local outreach and engagement. I moved my way up to a Legislative Assistant working for this very body, both as a Democratic staffer and then as a Republican staffer where I learned firsthand the importance of balance, the importance of multiple perspectives and the importance for bipartisan solutions to conservation.

I brought these values into my work in 2 foundations where I focused my efforts to increase the capacity of organizations to work with local communities and to empower local community voices. I focused my efforts on balancing the economic needs and aspirations of these communities with conservation opportunities.

Finally, I have held the post of the Assistant Secretary for Policy, Management and Budget at the Department of the Interior for the past 4 and a half years. I know how to manage budgets. I know how to hold people accountable to performance goals. I know how to reach across jurisdictional boundaries to bring bureaus together around common goals.

I will bring all of this experience into my work, if confirmed, as the Assistant Secretary for Fish and Wildlife and Parks.

There are huge challenges and opportunities associated with each of the 2 agencies. I believe that these challenges and opportunities can only be met by pragmatic approach to solving problems. I commit to working very closely with this body in an effort to find these balanced solutions that can contribute to the conservation of our Nation's lands and waters.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much, Ms. Suh.

I'm not going to ask any questions of you either. I would ask unanimous consent though to put into the record a memo that outlines, particularly, some of Ms. Suh's excellent work in terms of finding savings in the budget that she's been working at the Department of the Interior. I understand that it's something like \$500 million in terms of savings that have been derived from budget and management changes.

Without objection that's entered into the record at this time. Perhaps you'll want to talk more about it further.

The CHAIRMAN. We'll start with questions from Senator Murkowski and then in order of appearance. I think Senator Schatz was first on our side and we'll just go back and forth.

Senator Murkowski.

Senator MURKOWSKI. Mr. Chairman, I'm told that Senator Flake has a time commitment and has to leave the committee in about 5 minutes. So I will defer my questions to him, if we may.

The CHAIRMAN. Senator Flake.

Senator FLAKE. Thank you, Senator Murkowski, I appreciate indulgence here.

Ms. Suh, I'd like to, for a moment, revisit the National Park Service's shutdown windfall as we, in the States that actually paid during the shutdown, call it. When we previously discussed this in the last hearing I didn't get what I feel are satisfactory answers here. In recent conversations with the Department of the Interior and others there seems to be some confusion about what the States paid and what that covered.

Given your current position as Assistant Secretary for Policy, Management and Budget where you oversee the Department's budget policy, you're in an ideal position to deal with these issues.

Now in your capacity as Assistant Secretary did you work with the Secretary to understand and implement the continuing Appropriations Act of 2014?

Ms. SUH. Yes, sir, I did.

Senator FLAKE. OK.

Is it your understanding that that act provided retroactive pay for National Park Service employees?

Ms. SUH. Yes, I did, sir.

Senator FLAKE. Good.

In a response letter about the park openings Director Jarvis acknowledged that personnel costs make up the bulk of park operating costs. Is that true?

Ms. SUH. I actually don't know the exact mix. But yes, the Department of the Interior overall is very personnel intensive in terms of our budget.

Senator FLAKE. Thank you.

Are you aware that park units like the Grand Canyon also collected entry fees while temporarily reopening, using State funds?

Ms. SUH. I am not aware of the specific details of that, but that would make sense.

Senator FLAKE. Yes, they did. Those fees went to the Department of the Interior. So while those 6 States provided \$2 million to cover the portion of park operating and personnel costs during the shutdown the parks collected gate receipts and Congress also retroactively funded park units for all those same costs during the park—through which the park where they expended funds during the entire shut down.

As such, it appears that the Park Service received about a \$2 million windfall here. Is that correct? Is that how you see it?

If not, how do you see it?

Ms. SUH. Sir, I don't know the specifics of the exact amount that you are characterizing as a windfall. But I recognize that the State received a donation from—I'm sorry, the Park Service received a donation from the State and then also retroactively received appropriations from Congress.

Senator FLAKE. That's correct.

Taxpayers in Arizona, Colorado, New York, South Dakota, Tennessee and Utah essentially paid twice to operate the parks. Most of the cost to operate the parks are obviously personnel. The Appropriations Act of 2014 retroactively backfilled, you know, the salaries. So, that represents a windfall to the Department.

Now we, in Arizona, obviously would like, as was done during the 1990s during the previous shutdown to be reimbursed for those costs. What is your position there? Do you believe that States like Arizona, Colorado, New York, South Dakota, Tennessee and Utah, who came together to mitigate the damage and paid, essentially twice, to operate the parks should be refunded that money?

Ms. SUH. Senator, thank you for all of these questions. I know that they came up in the previous hearing. I'm sorry that I wasn't clear enough at that time. I absolutely support the repayment of States in this specific circumstance. I believe that we require Congressional authorization in order to do that.

I would support opportunities for that Congressional authorization.

Senator FLAKE. Specifically you've said that it would require legislation. So if legislation is introduced will the Department of the Interior support legislation to reimburse States for keeping the parks open?

Ms. SUH. Yes, sir, I believe we will.

Senator FLAKE. You will.

Thank you.

The CHAIRMAN. Thank you, Senator Flake.

It was my understanding that we're going to go right to Senator Schatz. So we're clear that the Interior Department was unable to pay the States because the Appropriations bill didn't authorize it.

So that's the State of play now. I want it understood that I'm very interested in working with Senator Flake on this matter. I understand the nominee is going to do that as well.

So that's helpful.

Senator Schatz.

Senator SCHATZ. Thank you, Mr. Chairman. Thank you, Ranking Member Murkowski.

I'm confident that Ms. Suh will be an excellent partner in her new role overseeing the Fish and Wildlife Service and the National Park System, both of which play an important role in Hawaii's efforts to preserve endangered species and promote economically important tourism. Ms. Suh is a competent and effective public servant. I think it's important to remember that she was reported unanimously out of this committee for her current position as Assistant Secretary for Policy, Management and Budget in 2009.

In her role as Assistant Secretary for Policy, Management and Budget at Interior, she's led the management and reorganization that has led to more than \$500 million in savings and millions more in cost avoidance including \$160 million associated with real estate consolidations and \$200 million in smarter purchasing agreements.

She's also led the launch of the information technology transformation, the completion of the Department's integrated financial and acquisition enterprise system and implementation of the improvements in acquisition finance and facilities.

Since January over 200 nominees will return to the White House and re-nominated. Of those, 93 executive nominees and 29 judicial nominees have already been placed on the executive calendar. Only 2 nominees, the 2 in front of us, Ms. Suh and Ms. Schneider, are doing a re-hearing.

So Ms. Suh, my question for you is if you could describe exactly what you did within the Department in terms of the cost saving measures that you've implemented in your current role and overall what effect on the Department's ability to do its job that has had?

Ms. SUH. Senator, it's nice to see you. I want to thank you personally for the opportunity you gave me to meet with me in person in December.

Thank you for that question. Let me talk a little bit about IT transformation and the work that we've been engaged in at the Department.

When I first arrived at the Department we had over 14 different email systems working simultaneously and working, in many cases, in opposition to one another. It was such a mess that we actually couldn't actually send an all employee email with any degree of ease. We were spending almost 10 percent of our overall budget every year on information technology and obviously not getting the services out of that huge investment that I think we deserve.

Through a process of reorganizing and consolidating the infrastructure associated with our IT we project that we can save over \$500 million every year. This is telecom consolidation. This is email consolidation. We have whittled down those 14 email systems down to a single email system now and data center consolidation.

We rank fourth in the Federal Government for the number of data centers that we have. Many of those data centers run anywhere from 7 to 10 percent of capacity. This is well under, kind of, best management practices for industry and for government. So trying to find opportunities to rationalize the oftentimes byzantine infrastructure that we have on the IT side to modernize it and to create efficiencies that ultimately result, I think, in better management outcomes, interoperability opportunities for all of our bureaus to work together and speak with more of a common voice.

Those are the kinds of things that I had a chance to work and I'm quite proud of.

Senator SCHATZ. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Schatz.

Senator Landrieu. Excuse me, Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Ms. Suh, a couple questions for you. The first one is not necessarily a question it is a request. October 25 of 2013 Congressman Young and I sent a letter to Secretary Jewell regarding some issues as they relate to subsistence. If you are confirmed to your position you will be overseeing the Office of Subsistence Management.

In the letter that we sent to Secretary Jewell and to Secretary Vilsack we have asked for consideration of several different issues as they relate to subsistence, specifically composition of the Federal subsistence board as well as reform of the rural determination process. We have yet to hear back from anyone in the Department.

Just yesterday I was on teleconference with Alaska native leadership from across the State. Over 150 members were there talking about the issue of subsistence. Representatives from the Department of the Interior were asked to participate and apparently declined.

For some reason there seems to be a chill right now in the State as our native leadership is trying to get some discussion or dialog going on a very important issue to them, specifically subsistence. They just aren't hearing anything.

So I'm going to make a public ask. If you could let, not only the Secretary, but those in Fish and Wildlife, as you are weighing in on this, that we are waiting to hear a response to our inquiry from October.

I wanted to ask you about your role in the decision that the Secretary of Interior made 2 days before Christmas in rejecting the lifesaving road between King Cove and Cold Bay.

Some have suggested that, again, I am far too parochial in my view. But as I told the Secretary of the Interior, this is more than just rejecting a ten mile, one lane, gravel, non commercial use road. This is how many Alaskans feel that this Administration is treating us when we are far away at the other end of the continent here and kind of out of sight, out of mind.

If you can explain to me whether or not you were involved with that decision that was made by the Secretary?

Ms. SUH. Senator, I was not involved in that decision.

Senator MURKOWSKI. So you had no role at all?

Ms. SUH. No, ma'am, I did not.

Senator MURKOWSKI. OK.

In the press release announcing the decision that Secretary Jewell made 2 days before Christmas she said that she understood the need for reliable methods of medical transport from King Cove. She reiterated the Department's commitment to assist in identifying and evaluating options that would improve access to affordable transportation and health care for the citizens. Can you tell me if the Department has actually done anything to help the people of King Cove since this decision was made?

Ms. SUH. I, again, I recognize the decision was made about a month ago. I am not aware of any actions, specifically by the Fish and Wildlife Service. But let me just state very clearly that if I am confirmed for this position I will do everything, within my power, to work with the citizens of King Cove to improve their transportation systems.

Senator MURKOWSKI. Tell me what? What specifically then is the Department doing to identify, to evaluate what options may be out there to improve access, lifesaving access, for the people in the region?

Ms. SUH. Again, Senator, I wasn't involved in the deliberative process or in the decisionmaking process.

Senator MURKOWSKI. I understand that.

Ms. SUH. There are a lot of details, I think, involved within that deliberative process that I think could point us into the directions of the options.

Senator MURKOWSKI. So have you been involved in discussion about any of the options that may be under consideration?

Ms. SUH. No, ma'am, I have not.

Senator MURKOWSKI. Is the Department preparing then to propose anything to help the people of King Cove as you're putting together the upcoming budget?

Ms. SUH. Again, I am not aware of any specific actions that may be happening right now in terms of responding to this situation. But if confirmed, I absolutely will make this a priority. I will work with the citizens of King Cove as well as your office to try to pursue these options.

Senator MURKOWSKI. I will tell you that the review that came out from the Fish and Wildlife Service, we believe, was fundamentally flawed. It resulted in a fundamentally flawed and potentially fatal decision for the small village of King Cove and the people that live out there.

I have told the Secretary and I will tell you we are not done with this issue. Nowhere, nowhere in the country would a simple road corridor, that has limited impact, absolutely limited impact to the millions of water fowl that move through there. Nowhere would this ten mile road be denied people to gain access to a lifesaving airport.

I cannot understand the direction that this Administration has taken when you have a Secretary who says that it's not the school-children of King Cove that we need to be looking at, that we need to be considering but we need to think about the animals first. I like the animals too. But we have got to figure out how we're going to take care of the people in my State.

When you have an agency that is saying, sorry, you're too far off the grid, you don't matter. This is the problem that I've got with this Administration right now. I don't seem to be getting anyone's attention. So I'm starting with you.

I'll have some other questions.

The CHAIRMAN. Thank you, Senator Murkowski.  
Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman.

I certainly can understand Senator Murkowski's frustration. I felt like a lot of sports writers were out of sight, out of mind when it came to the Seahawks. But at least we put that to rest. People have a little bit of a better understanding of what a good defensive team can do.

So I definitely know, we in the Northwest, sometimes people just don't quite get all the issues.

But I want to say thank you to you, Ms. Suh for your work on the lower LWAH and the LWAH dam removal because that's been a big success in return of fish. Those are the initial indications. I don't know how much you've followed it since the last year's activities. But the project is going well from all accounts.

One of the issues, Mr. Chairman, I'm interested in is obviously having this position filled because there's only so much that can be done within the agency without an Assistant Secretary. So the 2 things I'm most concerned are obviously backlog maintenance on roads which it seems like we have a never ending problem of catching up on and our current fire season threat because we have one of the worst droughts now coming in the West. How do we get ready for fire season.

So if you could talk about those 2 issues.

Ms. SUH. Senator, thank you very much for those questions. I have to admit that I'm a Coloradan and a Broncos fan.

Senator CANTWELL. Uh oh.

Ms. SUH. You absolutely deserved the victory.

The CHAIRMAN. That's what we call an admission against interest.

[Laughter.]

Ms. SUH. What can I say? What can I say?

[Laughter.]

Ms. SUH. To answer your 2 questions I'll start off with the maintenance backlog issue, obviously a huge challenge within the National Park Service in particular. Of the roughly \$11 billion backlog that the Park Service has, about a half of that is in roads and transportation system. I think first and foremost we need to work with the Department of Transportation and the Federal Highway Administration to ensure that they're prioritizing the resources in those funds for the Park Service and for these infrastructure projects within the Park Service.

But I think, as you know, you know, we're 2 years away from this historic centennial anniversary of the Park Service that provides this incredible opportunity to galvanize levels of private/public support that we have not yet seen before, really attracting private investment and challenge cost share opportunities to leverage the opportunity that we have with the centennial to actually fix a lot of the stuff that we have in the service.

As you know one of Secretary Jewell's highest priorities is to engage young people all around this country and really trying to energize the attention of young people in volunteering for the National Parks and our other public lands to help address some of these maintenance issues I think is also another opportunity.

Finally I think the Park Service, as they recently have testified before this committee, feels like there's opportunities to improve their authorities in contracting and cooperative agreements and in their concessions authorities to give them more flexibility about how they use those authorities and how they channel those funds, again, into these important infrastructure challenges.

So I think there's a number of opportunities, again, crystallized with the context of the centennial that will give us the opportunity to really get at these maintenance backlog issues.

Turning to fire, I want to express my thanks to the chairman for his leadership on really helping us try to develop a more rational approach to fire budgeting. As many of you know we have fallen short of adequate resources for fire over the last several years. We've often had to balance our fire needs with other balances at the Department for construction and maintenance. Robbing Peter to pay Paul, if you will.

I think approaching the fire budget with more rationality and frankly giving us the resources that we require, not only for the absolute necessities of actual fire fighting, but the proactive things that we can do through hazardous fuels management and fire preparedness. I think balancing those things with, again, more of a robust budgeting structure enables us to be more prepared year round for the challenges that we face in fire.

Senator CANTWELL. I just, Mr. Chairman, I feel like what's happening in the West right now on this issue is like, is brewing into a big problem. So I certainly want us to make sure we move forward with a plan and something that addresses this now because

this level of drought just means bigger problems later. So I hope we can get you in this position and move forward on what really needs to be an aggressive response to this level of drought.

Thank you.

The CHAIRMAN. Senator Cantwell, I want to recognize Senator Heller, but just pick up on this point you mentioned with respect to fire.

I think people ought to recognize what is coming in the months ahead. We have already had fires on the Oregon coast. There have been fires in California. This was in January.

I mean, we think about fire season, sort of, middle summer, July, August. I think we ought to recognize as Senator Cantwell noted, just how serious this problem is. We made a start, as the nominees know, in the budget with some additional money for hazardous fuels reductions.

But the reality is we need a bipartisan overhaul of fire policy. Senator Murkowski has been very helpful in this regard, as well as Senator Risch and Senator Crapo of Idaho. But what happens is we essentially don't do enough preventive kind of work. Then you might have a lightning strike, or something of this nature, and you have an inferno on your hands. The bureaucracy then raids the prevention fund in order to fight the fire. The problem gets worse.

Ms. Suh, I bring this up, not only because you have a lot of Westerners here who care a great deal about fire policy. But there is bipartisan interest in fixing this policy. I want to acknowledge for the record that you are part of the team that helped to get us the policy that now has genuine regulation, bipartisan support. I appreciate that.

Thank you, Senator Cantwell for bringing that up.

Senator Heller.

Senator HELLER. Mr. Chairman, thank you. Thanks for your additional comments on the drought. Ms. Cantwell, I agree with you wholeheartedly the impact that this drought is having on these Western States.

I want to also congratulate both of the nominees for being here today and hope all works out well.

I apologize to you, Ms. Schneider. You're doing a great job up there, but my questions will be devoted to Ms. Suh also.

That being in mind, Ms. Suh, you know that Nevada faces many challenges, especially the fact that 87 percent of the State is managed by the Federal Government. So you'll play an important role moving forward. As we mentioned already about wildfires, the habitat restoration to permitting all types of activities on these public lands, obviously including renewable energy, recreation, grazing and mining. So a lot of decisions that you're going to make are going to have heavy impact.

But there's one issue that has the ability to eclipse all other issues in the State of Nevada and that's the potential of Endangered Species Act listing of the sage grouse. You and I had that conversation in our office. I appreciate you taking time.

The U.S. Fish and Wildlife Service is required by the courts to determine if the greater sage grouse should be listed as either threatened or endangered by September of next year. The concern is if the sage grouse is listed as an endangered species, Nevada's



way of life and our fragile economic recovery will be in jeopardy. Just the anticipation of this decision is already beginning to have a negative impact on activities and development on Nevada's public lands.

Preventing a listing requires collaboration between the States, the relevant Federal agencies, including yours and all stakeholders. I'm currently working on Federal legislation with the senior Senator from Nevada that will assist the Governor of Nevada, Governor Sandoval, and the Sage Grouse Ecosystem Council in addressing the primary threats to sage grouse and its habitat. So Ms. Suh, today I appreciate this collaboration that BLM and the Fish and Wildlife have played a major role in this Council, this Sage Grouse Ecosystems Council.

So my question is if you're confirmed as Assistant Secretary I think you'll play an important role in some of this decisionmaking and regarding sage grouse listing. So the question, of course, we want to know back in the State of Nevada is can you assure us that agencies that are under your purview will devote time and resources necessary and to work collaboratively with me and the State of Nevada to try to avoid the CSA listing?

Ms. SUH. Sir, thank you very much for that question and also for the time that you spent with me in December.

Senator HELLER. Of course.

Ms. SUH. I absolutely will commit, if confirmed, to making this a top priority to working across our jurisdiction lines both with the Fish and Wildlife Service and with the Bureau of Land Management and hopefully with my colleague, Ms. Schneider here, to approach this enormous problem and to make sure that we have the resources to address it appropriately.

Senator HELLER. OK.

A lot of my, as I travel in State, a lot of my State's, a lot of my constituents are a little skeptical that the Federal agencies will take their comments into account. Similarly they worry that no matter what type of legislation that myself and Senator Reid put together that the Fish and Wildlife will still list the sage grouse as endangered. I guess the question is can our Federal legislation affect a listing decision or allow the service to provide Nevada greater flexibility under Section 4D?

Ms. SUH. Sir, I don't know the particular details of the legislation. Although, I have spent some time with Senator Reid's staff and would be grateful for spending more time with your staff to learn more about the legislation that you are considering. I am very interested, again, in making sure that we have all hands on deck to do everything that we can to ensure the conservation of this species, to avoid the necessity of listing.

Senator HELLER. OK.

In your discussions with Senator Reid's office and hopefully with my office, are there any specific requirements that must be in the State plan in order to—and with our Federal legislation to meet, necessary to meet, in order to give Nevadans flexibility? Have you come to that point or that portion of the discussion?

Ms. SUH. Again, sir, I'm not aware of the details of the legislation that you—

Senator HELLER. By the way, it's not a bill. It's just a draft right now.

Ms. SUH. Gotcha.

Senator HELLER. We're trying to get more information.

Ms. SUH. Understood. Again, you know, if confirmed for this position I will ensure that the Fish and Wildlife Service is at the table providing you appropriate comments and feedback on the nature of the legislation and on the potential of the legislation for addressing some of these challenges. Absolutely.

Senator HELLER. OK.

Ms. Suh, thank you. Ms. Schneider, thank you also.

Ms. SUH. Thank you.

The CHAIRMAN. I thank my colleague.

Senator Heinrich.

Senator HEINRICH. Thank you, Chairman.

I want to thank Ms. Suh in particular for the focus on fire and the recognition that we need to move from just suppression to prevention and to efforts to get in front of this. To give a little perspective from the Southwest, our fire season is typically in May and June and early July. Last year we had a very dry summer followed by one, a couple weeks of incredibly intense precipitation. So we have all the fine fuels in place. You follow that up with now a very dry winter. We're staring at a very challenging fire season moving forward.

I think this isn't an area where the Administration, Republicans and Democrats on this committee, all recognize that we can do better, that we need to be focused more on prevention and not to the exclusion of suppression, but we need to get ahead of this. I appreciate your efforts to work with us on that.

I don't have any questions. I just want to return to the point that Senator Schatz made that at the end of last year 200 nominees were sent back to the White House because of Senate inaction. Ninety-three Executive committee nominees are now back on the Executive schedule, 29 judicial nominees. Only 2 were scheduled for a re-hearing.

I think this Administration needs to have a team in place to be able to govern. I'm not sure why the 2 of you were singled out for a re-hearing. But I think given the qualifications that we've seen here, their cooperation with this committee, I think it's high time to move their nominations forward.

I hope we can do that. You'll certainly have my support.

The CHAIRMAN. Senator Heinrich, thank you.

Senator Barrasso.

Senator BARRASSO. Thank you, Mr. Chairman

Ms. Schneider, thanks so much for taking time to visit with me and welcome back to the committee.

On January 8th, as we've discussed, Senator Manchin, Senator Portman, Senator Lee and I sent you a letter about the Inspector General's report on the Office of Surface Mining's Stream Rule. The report shows that political appointees as OSM directed the career staff members and the contractors. The political appointees directed the career staff and the contractors to change the method that they've used on how to estimate job losses which would result

from the rule because the political appointees were pretty embarrassed by how bad this was going to hurt the economy.

The political appointees did this only after the media reported that the Office of Surface Mining's Stream Rule would cost about 7,000 jobs in the coal industry. So the political appointees said, oh, we can't allow the Obama Administration to see how horrible this is for the economy. We better change the way we do it and tell these people who have made a career out of working in the Department that they were going to be overruled for political purposes.

So, if confirmed, you will oversee the OSM and this rulemaking. You'll be in a position to determine how OSM estimates the job losses which are expected to result from this rule. People will lose jobs as a result of this rule.

In our letter and it was a bipartisan letter from members of this committee, both Republicans and Democrat, we explained that we would only be able to support a nominee who will direct the office to abide by its original position for estimating job losses, specifically a nominee who will estimate job losses by using the 1983 Stream Rule not the things that had happened in 2008 to use a 1983 as a baseline for all the States other than Tennessee and Washington.

Now on Friday you wrote back that, if confirmed, you will ensure that any proposed rule is completed, you said, in a manner consistent with Federal law. Do you believe that OSM could use the 2008 Stream Rule as the baseline for estimating job losses and still be in compliance with Federal law?

Ms. SCHNEIDER. Senator, thank you for that question. I wanted to thank you very much for the time that we spent together yesterday. I appreciated the opportunity to learn more about your perspectives and your concerns with respect to this particular issue.

I also want to thank you for the letter. I was not previously aware of these issues. When I received your letter, that night actually, I immediately downloaded the public version of the report and read the report so that I could begin to consider these issues.

I also had an opportunity to watch the House hearing that was held on this issue. So, you know, I did see that the Assistant Inspector General testified under oath that he found no evidence of a political interference in the analysis that was being conducted for the rule or in how the contractors were treated. That said, clearly I think when you read the report, I agree that it seems as though the process could have been managed better.

So, you know, I want you to understand that I do understand your concerns about that. That if I'm confirmed I am committed to ensuring that there is fairness and accuracy in the assessment of impacts and benefits associated with this rule.

I have over 20 years of experience in the—working on NEPA issues, their highly complex baseline analysis in particular is a highly complex issue and is the sort of thing that, if confirmed, I would certainly take a closer look at. As I said, you know, given my experience as we discussed yesterday, given my experience in the private sector, I, and working on mine projects in particular, I understand the importance of high wage mine jobs to rural communities. I'm committed to making sure that the analysis is a fair and accurate one.

Senator BARRASSO. I agree.

You're an expert on this area of the law and you've practiced at one of the world's really top law firms. So I look at this, I think, do you believe that a Federal agency can estimate job losses using, as its baseline, a rule that really hadn't even taken effect in most of the country yet. They said that's where we are. But they're not there.

Ms. SCHNEIDER. Senator, you know, if I am confirmed, I may be a deciding official on this rule. I would certainly need to study the complex issues that you raise more closely and more carefully, including any public comment that is issued on the rule before it would be appropriate for me to take a position on this issue.

Senator BARRASSO. OK.

Thank you, Mr. Chairman.

The CHAIRMAN. Excuse me, we're calling some audibles on other matters. Has the Senator from Wyoming finished his questions?

Senator BARRASSO. My time is expired, Mr. Chairman. I do have a question or so for Ms. Suh, but we can delay that. Thank you.

The CHAIRMAN. If it is something we can accomplish quickly, why don't you go ahead?

Senator BARRASSO. Thank you, Mr. Chair, Senator Hoeven. OK.

Ms. Suh, I'd like to revisit a written question that I submitted to you about the Hewlett Foundation's energy program. Last month I had asked whether natural gas was one of the high carbon fuels that the Hewlett Foundation was trying to eliminate in our American energy mix. You stated that the Hewlett Foundation's energy program, "was focused on ensuring the clean and efficient production of energy, not on the elimination of natural gas or other fossil fuels." So that's what you stated.

It appears that in 2001 the Hewlett Foundation provided a 200 thousand dollar grant to the Western Resource Advocates for the development of a clean electric energy plan. In 2004, the Western Resource Advocates released the plan which read, "Continued investment in fossil fuel generation to meet growing power needs increases our exposure to these economic risks and environmental impacts." The plan went on to recommend retiring over 8,000 megawatts of existing coal and natural gas fired power plants, so over 8,000 megawatts of existing coal and natural gas fired power plants.

So the question is help me understand the inconsistency, if you would, between your written answer and the Hewlett Foundation's grant to the Western Resource Advocates which has as its goal eliminating natural gas fired power plants.

Ms. SUH. Senator, thank you for that question.

I recognize you have a number of concerns with my quotes. Let me try to take the opportunity to reassure you that I absolutely support the responsible development of natural gas and other fossil fuels from our public lands. In particular, I believe, I have demonstrated that support in my role as Assistant Secretary for Policy, Management and Budget and that support is obvious in the increased budget that we have for our land management agencies and development agencies, the Bureau of Land Management, BOEM and BSEE.

I do not know the specifics of the grant that you're referring to, but I'm happy to look into it further and have further conversations with you.

Senator BARRASSO. I'd appreciate it because there's an additional Hewlett Foundation funded report, one in 2007, in June, called Golden Opportunity, California's Solutions for Global Warming. It says the largest source of global warming pollution in California is the carbon dioxide emitted from burning fossil fuels, oil used in cars and trucks, coal and natural gas burned to generate electricity and the natural gas used in homes and businesses. So I'm still having a hard time understanding the inconsistency between these grants and your claim that the Foundation's energy program wasn't focused on eliminating fossil fuels such as natural gas.

Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Barrasso.

I'm also going to put into the record at this point a set of grants that were made by the William and Flora Hewlett Foundation. It includes grants, for example, to the Bipartisan Policy Center, which had Bob Dole and Howard Baker and a number of others. Pete Domenici I gather is a senior fellow there. The Western Governors Association, as I think there's some important work going on there. I want to put it in perspective.

So without objection we'll put that into the record at this time.

The CHAIRMAN. Senator Hoeven.

Senator HOEVEN. Thank you, Mr. Chairman.

Ms. Schneider, I'd like to thank you for coming by and visiting with me. I appreciate it.

One follow up question for you is on the Stream Buffer Rule. The 1983 Stream Buffer Rule follows the principle of State primacy and therefore provides the flexibility that makes it workable. The new proposal by the Administration, I think, does not. I'm concerned about it.

North Dakota is No. 1 in the Nation in land reclamation. We have, obviously, a very large coal and electricity industry. It supplies something like 9 different States.

We're No. 1 in land reclamation and we need that State primacy and flexibility to continue to make sure that we can administer the Stream Buffer Rule in a way that works. I'd like to hear your thoughts on, if approved, how you'll work with us to do that.

Ms. SCHNEIDER. Senator, thank you very much for the question. I want to thank you as well for the opportunity to meet with you last month and discuss a variety of issues that are important to your State.

I strongly believe that collaboration with States is key. It's an extremely important component to the Federal decisionmaking process. We need to understand how we can work with States, if I'm confirmed, I'm committed to doing that.

Senator HOEVEN. Thank you. Appreciate it. You know, we will need to be able to work with you on this important issue. So, and again, thank you for coming in—by to see me on this and other issues.

Ms. SCHNEIDER. Thank you, sir.

Senator HOEVEN. Ms. Suh, 2 things.

One, talk about multiple use on public lands. You know, in your new position that's a big, big time issue. When we talk about multiple use, we mean it.

Both the chairman and ranking member of this committee have been out to North Dakota. They know what we're talking about. But you need to tell me that you are committed to true multiple use, not saying it then only promoting certain uses. I'd like your commentary on that.

Ms. SUH. Sir, thank you for that question.

I absolutely am committed to true multiple use, to the multiple use mandates that we have at the Department of the Interior. Again, I believe my record in the past 4 and a half years, as part of the Department of the Interior's leadership, has supported all of these multiple use mandates that we have including the mandates that we have for responsible energy development.

Senator HOEVEN. So, if confirmed, will you commit to come out to North Dakota and meet with our grazers and talk to them directly on how on the national grasslands, millions of acres of national grasslands you're willing to work with them so that they both can run their cattle operations in a way that's viable, but also meet the multiple use requirement?

Ms. SUH. I absolutely am, sir. I'd be delighted.

Senator HOEVEN. Are you will to rely on the scientific evidence put forward by universities like North Dakota State University that are specialists in this area? Are you willing to commit to work with them in terms of coming up with solutions for the Grazing Associations?

Ms. SUH. Absolutely, sir. Yes.

Senator HOEVEN. On the—and I know this question was posed to you as well, but again, could you give me some indication about how you intend to approach the sage grouse issue? That's an issue in our State as well. Obviously the energy issues are, you know, huge industry in our State.

So how do you intend to approach this sage grouse issue?

Ms. SUH. Sir, thank you for that question.

Obviously the sage grouse is an enormous priority for the Department. If I were to be confirmed for this position it would be an absolute, all hands on deck, approach again, both within the bureaus that I oversee and across the Department, working with my colleagues to ensure that we are doing absolutely everything that we can to ensure the conservation of this species to avoid the necessity of a listing.

Senator HOEVEN. Thank you. Appreciate it.

The CHAIRMAN. Thank you, Senator Hoeven. You clearly are going to get the Secretary to North Dakota. That clearly was established this morning.

Senator Portman.

Senator PORTMAN. Thank you, Mr. Chairman. I appreciate the nominees being here. This committee does want to ensure that the Department of the Interior has people in place in important positions to enable it to achieve its mission. Both of these are key positions.

However, as you know, we do have some questions that are legit for this committee to raise. They've been raised on a bipartisan

basis to better understand what your positions would be should you be confirmed.

First for Ms. Suh, as you know, I'm very interested in this issue of permitting. I sent you a question about that. You did give me a written response which I appreciate.

Federal permitting, to me, is one of the areas where we should be able to find some bipartisan consensus. But the Administration needs to play a more aggressive role in that. We continue to fall in the rankings in terms of countries where you can get a permit and develop something and that leads a lot of investors not to look at the United States, but elsewhere.

There are ten metrics by the International Monetary Fund, for instance, for the ease of doing business.

One is this notion of permitting. How long it takes to get a government green light to build something. We continue to fall. We're now 17th in the world.

So my question for you is, you know, how can you in this new position help to get rid of some of the bureaucratic hurdles? Often we are told that there are lots of different agencies involved. There's litigation that looms sometimes for as long as 6 years after securing permits. We're told for energy projects sometimes there's as many as 34 different permits, often sequential.

So, I guess, again, I appreciate your response. But I'd like you to give me a little more specifics as to how you would deal with this. U.S. Fish and Wildlife permits are required for a lot of these domestic energy projects, in particular. So this committee does have special interests there.

Do you think there's room for Fish and Wildlife to improve how efficiently those permits are being processed?

Ms. SUH. Senator, thank you for that question.

I absolutely think there is room for improvement. The opportunities for improving our permitting processes have been a priority for this Administration. I believe there's some very good examples of where we've done a good job of that, in California with the Desert Renewable Energy plans. I think we've come a long way in terms of working across jurisdictional lines to improve processes and make those processes more efficient, transparent, reliable and predictable for industry.

I would make it a top priority to ensure that we move that forward in different ways and different places around the country. I think my experience in working on trying to reduce the bureaucracy to create more efficiencies. With a lot of the management reforms that I've had leadership on we didn't miss current job applicability to a lot of the opportunities in the permitting realm.

Again, if confirmed, I would be committed to working on this and working with you to improve the ways that we permit and to expedite the process.

Senator PORTMAN. Do you have any specific measures that you are willing to tell us today that you would take to improve the process?

Ms. SUH. Again, I think there's a number of places where we've done it right. I think looking at what we've done in the California desert around permitting a lot of those renewable energy projects

and doing it in a very expeditious timeframe is where we should start.

So how do we expand that and use that as a model elsewhere in the country for opportunities, again, to pilot this and to expand this.

Senator PORTMAN. By the way, the renewable community has expressed concern about this as have, obviously, the more traditional energy components of our energy economy. So I appreciate the fact that you had that example in California. Again, some of the solar and wind folks who come to see me on this, but I also want to be sure that those same efficiencies are applied to what we're doing now in Ohio which is developing Utica and Marcellus to the benefit of our economy there.

So I assume you're not looking at this as something that's just of use on renewable projects.

Ms. SUH. Absolutely not. Yes, sir.

Senator PORTMAN. To Ms. Schneider, I know you have responded to a question earlier from Senator Barrasso. I wasn't here to hear the question.

But, as you know, I'm one of the signatories of this letter that was sent to you and it regards the Office of Surface Mining's proposed Stream Rule and specifically this issue of how you estimate what the job loss would be. The proposed Stream Rule would replace the 1983 Stream Rule with a 2008 rule in States other than Tennessee and Washington, as I understand it. I just want you to know that as one member of this issue it is extremely important to me from Ohio, I know Senator Manchin was also on that letter, and I thought your response was very general, very vague.

Understanding that you're not in the position now and you can't make commitments as to what's happening in that Department today. I wonder if you could just give me a little more of a sense that you do understand the urgency of this issue for us. Our coal industry is under a lot of pressure. This is one issue where we're looking for the right statistics to be used, the right data to be used, to ensure that, you know, we do have a cost benefit analysis that makes sense.

Ms. SCHNEIDER. Senator, thank you for the question. I want to thank you for the letter which raised the issue to me so that I could consider it.

When I received your letter I immediately downloaded a copy of the report so that I could take a look at it firsthand for myself. I also have had the opportunity to review the Assistant Inspector General's testimony before the House recently on this issue. I think it's a critically important issue.

You know, in my over 20 years of experience working on NEPA issues, there is—it's clear that the accuracy and the fairness of the cost benefit analysis is absolutely critical to the Federal decision-making process. Make sure that the information provided is disclosed to the public. So the public has an accurate assessment of the proposal and have a clear opportunity to comment are also critically important.

I've been working with the business community for close to 13 years now. I understand. I'm also working actually on, specifically, some coal projects currently and some other mining projects.



I understand very clearly that high wage coal jobs are critically important for local communities and that those benefits trickle down through the economy. So I am committed to making sure that any assessment done for this proposal, to the extent it's issued, is done in a fair and accurate manner with respect to cost and benefits.

Senator PORTMAN. Thank you, Ms. Schneider. You've given a more thorough answer today in your testimony.

I would hope that you would take a look at the letter again and look at your response and maybe give us a more fulsome explanation in response to that letter. I think that would be helpful for the committee going forward to be able to work with you on that issue.

Senator PORTMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Portman.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Ms. Suh, when we had a chance to visit you informed me that you didn't, at that time, have substantive knowledge regarding the Fish and Wildlife Service's plan and the EIS for ANWR. We discussed ANWR in some pretty broad terms at that point in time. But I'm hoping today that you'll be able to provide me with some additional detail on your views and what we could expect from Fish and Wildlife Service going forward as it relates to ANWR.

Specifically when do you expect the final plan for ANWR to be released and will it include a development alternative?

Ms. SUH. Senator, it's my understanding that they're still working through all of the alternatives. There's not a preferred alternative that they have identified.

I do not know the timeframe associated with this decisionmaking process. So I'm sorry. I'm just unfamiliar with where they're at.

Senator MURKOWSKI. So have you had a role in this policy decision for Fish and Wildlife?

Ms. SUH. I have not, ma'am.

Senator MURKOWSKI. I'm trying to determine exactly where your leadership role has been previously. You have come in to me both here in committee and also in my office as well as your testimony before EPW regarding your current role there at Interior. You seem to have indicated previously that you've had at least involvement in major policy decisions, priorities, within the 9 bureaus there at Interior.

But yet when the specific questions are asked about or specific policy decisions are asked about whether it's ANWR wilderness. At EPW you were asked about the Gulf of Mexico drilling moratorium. You've been asked about the wind farm bald eagle take permits. I've asked you about King Cove. You've demurred in terms of your level of involvement.

So I guess trying to determine where that expertise is. If you could give me specifically which priority policy decisions within either Fish and Wildlife Service or National Park Service you have been involved with and your specific role in crafting these and then helping to advance them.

Ms. SUH. Senator—

Senator MURKOWSKI. Because you've mentioned specifically the budget piece of it which the Office of Policy, Management and Budget, you say you managed the budgets. But is it more than just managing budgets or is it actual policy decisions?

Ms. SUH. Thank you for that question.

I'm sorry for the confusion around my current role and responsibilities at the Department.

My role is a fairly large one. I'm in charge of enterprise operations for the entire Department. That is primarily administrative as it relates to budget, finance, IT, HR. I have been involved in policy decisions, specific policy decisions as they relate to Fish and Wildlife Service and the National Park Service or of the jurisdiction of the Assistant Secretary for Fish and Wildlife and Parks—

Senator MURKOWSKI. But—

Ms. SUH. That falls outside of my jurisdiction. I have been associated with some across the Department, policy issues like the Land and Water Conservation Fund, like the Youth Policy Priorities of both Secretary Salazar and Secretary Jewell. Those are 2, I think, primary areas that I've been involved in and perhaps more of the forward facing policy that you're interested in.

Senator MURKOWSKI. Then let me ask you about LWCF because I have been focusing on how we deal with the extraordinary maintenance backlog that DOI has. I have raised the issue, the concern, that as we put out additional funds, additional Federal dollars to acquire more land while we have a considerable backlog to deal with. Then give me your role in that policy decision to increase a request in funding for LWCF in recent years despite what we acknowledge, I think we all acknowledge, has been the highest ever total maintenance backlog for our land management agencies.

So where were you on that policy decision?

Ms. SUH. Ma'am, thank you for this question. I know we discussed it when I had a chance to meet with you in person.

I do not believe that the opportunities afforded by the Land and Water Conservation Fund are in contrary position to the responsibilities that we have for appropriate management and for addressing the maintenance backlog. I think those 2 things are not mutually exclusive.

Senator MURKOWSKI. Do you think it is somewhat inconsistent though that we would spend more moneys to purchase additional lands when we really don't have an aggressive policy in place for how we're going to pay for the maintenance which I think we all agree is a key priority?

Ms. SUH. Senator, first let me make it clear that if I were to be confirmed in this position and certainly even within the context of my existing position, I am eager to work with you and to hear your ideas about how we can more rationally approach this issue of the maintenance backlog.

Again, I think in many cases Land and Water Conservation Funds are used to acquire parcels that more rationalize our management approaches on landscapes that can increase actually the efficiency that we have in our management. So they reduce the costs and the burdens to the taxpayers.

Senator MURKOWSKI. So how—

Ms. SUH. But by being able to, again, purchase some of the in-holding properties that we have—

Senator MURKOWSKI. Right.

How would you feel then about using some of the LWCF Federal land acquisition funds to help pay down the maintenance backlog?

Ms. SUH. Again, I would be eager to sit down and have conversations with you about how we can be creative in these times of limited financial resources to do all the things that we need to do in the Federal Government, both in terms of managing our budgets well and in terms of protecting these lands.

Senator MURKOWSKI. Let me ask you a question, Ms. Schneider and this relates to the news that we received last week that Shell was going to be canceling its exploratory drilling program in the Chukchi Sea this summer.

I mentioned publically, I was disappointed but quite honestly I wasn't surprised. We saw the decision come down from the Ninth Circuit. But I've also mentioned in my opening comments to you that we also have regulatory uncertainty and permitting predictability that is kind of hanging in the air right now as it relates to development in the Arctic.

You and I both know the investment that Shell has made, almost \$6 billion since 2008. They're looking at this from a very practical business judgment decision and saying, you know, should we move forward with additional hundreds of millions of dollars this summer when we've got 2 fronts that we're dealing with. We've got the litigation and we also have the uncertainty on the permitting process.

So just very quickly to you, are you and more particularly, is this Administration committed to developing the oil and gas resources that exist in the Beaufort and the Chukchi Seas?

Ms. SCHNEIDER. Senator, thank you for that question.

I had an opportunity to read the Ninth Circuit decision myself when it came out and was disappointed to see the decision. I agree with you that business needs regulatory certainty and predictability. I mean, people, particularly when they're going to invest huge sums of money, need to understand what the rules of the road are.

If I'm confirmed to this position and I'm not currently part of the Administration, so I can't speak to their views, but if I am confirmed to this position, I am committed to ensuring that there is an opportunity for greater regulatory certainty including for the potential for offshore oil and gas exploration off of Alaska.

Senator MURKOWSKI. I thank you for that commitment.

Do you think that the Administration is equally committed to the development of our resources offshore?

Ms. SCHNEIDER. Based on what I've read, you know, in the trade press and, you know, listening to, you know, speeches and that sort of thing, my impression is that yes, they are that, you know, the President is committed to the all of the above strategy and that includes safe and responsible development both onshore and offshore and in Alaska.

Senator MURKOWSKI. Thank you.

Then finally, does the Department intend and I guess I'd ask you to commit to a dual track then for development in the Chukchi in

2015, meaning that that Department will work to remediate the EIS that the Ninth Circuit stuck down. But at the same time then continuing its work to evaluate an exploration program so that Shell can proceed in 2015, again knowing what the rules of the road are?

Ms. SCHNEIDER. You know, I'm not sure what the Federal Government will decide to do with respect to that recent decision. They do have a period of time in which to consider whether or not they're going to appeal that decision. So I don't know, because again, I'm not within the Department, what approach they're going to be taking.

I would hope that they would be making an informed decision in consultation with all affected stakeholders. That would certainly be the approach that I would take.

Then on your other track, you know, yes, I think that that's something that the government should be able to work forward with.

Senator MURKOWSKI. Alright.

My concern, of course, is that OK, we focus on the EIS, we get that resolved. Then we haven't done anything to work on the—

Ms. SCHNEIDER. On the rules.

Senator MURKOWSKI. On the rules of the road which we all recognize—

Ms. SCHNEIDER. Right.

Senator MURKOWSKI. Are very important.

So thank you, I appreciate your response.

Ms. SCHNEIDER. Thank you.

Senator MURKOWSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you both this morning for your forthrightness. You addressed the Senator's questions thoughtfully, in my view.

Ms. Suh, I am not going to offer additional and passionate remarks with respect to the fire risk, but again, I want you to know how important that is to me. I appreciate your participation in the Administration's approach which has led to a bipartisan effort here.

I also want to note that since you had a hearing before the Environment and Public Works Committee you now have had not 2, but 3 days of hearings which is as many as Chief Justice Roberts and Chief Justice Alito had for lifetime appointments to the Supreme Court. So we'll look forward to seeing you advance. I appreciate the way you've addressed the questions.

Because today's hearing is a continuation of prior hearings at which members had the opportunity to ask questions both in person and for the record I'd also like to ask that any members who have additional questions for the record to submit them, do so by the close of business today.

The CHAIRMAN. So with that we will excuse both of you. We thank you for your cooperation here today.

The committee is adjourned.

[Whereupon, at 11:31 a.m., the hearing was adjourned.]

## APPENDIXES

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### APPENDIX I

#### Responses to Additional Questions

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##### RESPONSES OF JANICE M. SCHNEIDER TO QUESTIONS FROM SENATOR MURKOWSKI

*Question 1. CIRI Lands*—The Cook Inlet Region Native Corporation in 1971 was promised a land conveyance from your Department under terms of the Alaska Native Claims Settlement Act. A complex land exchange in the 1970's in the Cook Inlet area resulted in the regional corporation's village entities seeking more land. Only last year, after a court resolution, was it confirmed that CIRI is now about 42,000 acres shy of the amount of land it was promised at the time of the Act's passage. Secretary Jewell earlier this month in a letter to me seemed to confirm that the Department agrees that CIRI is owed additional lands. But the Secretary said "more work remains to be done" to resolve issues relating to CIRI's entitlement.

1a. Exactly what work remains to finalize how many acres CIRI is owed, how the Department intends to finalize the CIRI entitlement and transfer those lands or other compensation, and exactly how soon that can all happen? There is an old saying, "Justice delayed is justice denied." Now 43 years after passage of the claims settlement act, now that the final litigation is settled, it only seems right that CIRI could quickly select its remaining lands so the corporation can gain revenues from them to better the lives of South central Alaska Natives. I would appreciate more details on how the Department intends to resolve the CIRI land-shortage entitlement issue.

Answer. Because I am not currently part of the Administration, I cannot address the specifics of any ongoing work to complete CIRI entitlement transfers. I understand that Rhea Suh, Assistant Secretary for Policy Management and Budget, and the President's nominee to be Assistant Secretary for Fish and Wildlife and Parks, will be providing a response for the record.

*Question 2. Susitna-Watana Dam*—The State of Alaska is seeking to gain conveyance of a statehood land selection it made a number of years ago along the Susitna River valley, lands that could end up involved as part of a state plan to build a hydroelectric project at Watana, on the Susitna River. I and my staff were led to believe the Department would be able to promptly transfer the lands to the State.

2a. Can you discuss where the transfer currently stands and whether there are any obstacles preventing finalization of the land transfer? The transfer certainly does not indicate Administration support for the hydro project, which has not even begun its environmental impact statement process. But it would clarify land ownership issues for the potential reservoir, clarity needed to help prevent costly delays in conducting the environmental studies, engineering and permitting needed for a decision on the project to be made.

Answer. Because I am not currently part of the Administration, I am not aware of the details of the transfer, and cannot address the matter. I understand that Rhea Suh, Assistant Secretary for Policy Management and Budget, and the President's nominee to be Assistant Secretary for Fish and Wildlife and Parks, will be providing a response for the record.

*Question 3. Oil and Gas Development*—

3a. Are you committed to oil and gas development in the Arctic?

3b. Will you commit to working on a dual track on further work on the EIS and review of Shell's program for the 2015 season?

In your initial answers for the record, you indicated you supported the President's commitment to an "all-of-the-above energy strategy to expand domestic energy production and reduce dependence on foreign sources of energy." Do you believe that

this strategy includes a commitment to increasing oil and gas production on Federal lands?

Answer. I believe the President's "all-of-the-above" energy strategy includes safe and responsible oil and gas production both onshore and offshore, including Alaska. I also agree with you that business needs regulatory certainty and predictability. When deciding whether to invest money in exploration and development activities it is important to understand what the rules of the road are. If confirmed, I am committed to ensuring that there is an opportunity for greater regulatory certainty, including for potential oil and gas exploration and development offshore Alaska. I am aware of the Ninth Circuit Court of Appeals' recent decision remanding the Environmental Impact Statement for Lease Sale 193 to the Bureau of Ocean Energy Management, and Shell Oil's announcement that it has decided to postpone exploration in the Chukchi Sea in 2014. Because I am currently in private law practice, I cannot speak on behalf of the Administration, and I do not know how the Department will decide to proceed with respect to the recent Ninth Circuit Court of Appeals decision. I do believe that the Department should continue to work with industry and stakeholders to ensure that any oil and gas development in the Arctic and elsewhere is done safely and responsibly.

RESPONSES OF JANICE M. SCHNEIDER TO QUESTIONS FROM SENATOR BARASSO

*Question 1.* On Friday, January 31, 2014, you supplemented the hearing record by stating that, if confirmed, you would ensure "any assessment of costs and benefits for any proposed rule" would be completed "in a manner consistent with Federal law."

On February 4, 2014, you testified before the Committee that you have "over 20 years of experience working on NEPA issues."

1A. Based on your legal experience and knowledge, do you believe that Federal law authorizes the Office of Surface Mining to use the 2008 stream buffer zone rule as its baseline for estimating job losses expected to result from the agency's stream protection rule?

1B. Based on your legal experience and knowledge, do you believe that Federal law authorizes any Federal agency to use a rule which has not taken effect, or has taken effect in only a few states, as its baseline for estimating job losses expected to result nationwide from a proposed rule?

Answer. As I mentioned at the confirmation hearing, if I am confirmed, I may be a deciding official on any Office of Surface Mining Reclamation and Enforcement proposed stream protection rule, and I would need to study the complex issues that you raise more closely and more carefully, including public comments, before it would be appropriate for me to take a position on this issue. Due to my experience, including my nearly 13 years in private practice, I understand the importance of high wage mine jobs to rural communities. If confirmed, I will be committed to ensuring that any assessment of costs and benefits for any proposed rule fairly and accurately reflects the impacts and benefits from the proposal, in a manner consistent with Federal law.

*Question 2.* Section 1(b)(7) of Executive Order 12866 provides that:

Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation."

2A. Do you agree that President Obama has affirmed Executive Order 12866?

2B. If so, please explain whether you believe any Federal agency could comply with section 1(b)(7) of Executive Order 12866 by using a rule that has not taken effect as its baseline for estimating the impacts of a proposed rule?

Answer. When the President issued Executive Order 13563 on January 18, 2011, he reaffirmed the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866. I would add that Section 1(c) of Executive Order 13563 also provides, in relevant part, that "[i]n applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." I assure you that if I am confirmed I will be committed to ensure there is fairness and accuracy in the assessments of impacts and benefits associated with a rule proposal, consistent with Federal law. As I mentioned when I appeared before the Committee this week, if I am confirmed, I may be a deciding official on any Office of Surface Mining Reclamation and Enforcement proposed stream protection rule, and I would need to study the complex issues that you raise more closely and more carefully, including any public comment, before it would be appropriate for me to take a position on this issue.

*Question 3.* Following your first nomination hearing on December 17, 2013, I submitted the following written question, among others, to you:

On May 24, 2012, you published a Latham & Watkins Client Alert Commentary on BLM's pending hydraulic fracturing rule. In the commentary, you discussed the impact that BLM's hydraulic fracturing rule would have on Indian tribes. You discussed how BLM's rule may put Indian lands at a competitive disadvantage with state and private lands. You wrote:

Indeed, where reservations are 'checkerboarded,' oil and gas operators would be able . . . to move just a few feet away onto privately held or state lands where none of the new regulations would apply, potentially depriving tribes of critical sources of revenue."

BLM's rule will also put Federal public lands at a competitive disadvantage, and deprive public land states, like Wyoming, of critical sources of revenue.

If confirmed, you would oversee BLM. What steps would you take to ensure that BLM's hydraulic fracturing rule will not put Federal public lands and Indian lands at a competitive disadvantage with state and private lands? You responded with the following written answer:

If confirmed, I will work with the BLM to make certain that it continues to take appropriate steps to ensure that hydraulic fracturing on Federal and Indian lands is conducted in a manner that is safe, environmentally responsible, and economically viable for industry. In addition, I understand that the BLM is taking steps to improve the processing of applications for drilling permits through automation and other process improvements and I will work with states and tribes to eliminate redundancies and maximize flexibility where possible, and work to ensure that these steps will help Federal and Indian lands remain attractive for oil and gas producers.

Would you please specify what steps that you, if confirmed, would take to ensure that BLM's hydraulic fracturing rule does not put Federal public lands and Indian lands at a competitive disadvantage with state and private lands?

Answer. As I mentioned in my initial response and at the confirmation hearing, I will work with states and tribes to eliminate redundancies and maximize efficiencies and flexibility where possible, and work to ensure that these steps will help Federal and Indian lands remain economically viable for oil and gas producers. I also believe working with states and tribes and—other stakeholders during the implementation process of rules is important to understand what can be done to improve the way rules are implemented. If I am confirmed, you have my commitment to ensure that BLM keeps an open dialog with states and tribes to understand their perspectives, including through rule implementation.

#### RESPONSES OF JANICE M. SCHNEIDER TO QUESTIONS FROM SENATOR ALEXANDER

*Question 1.* Some of my colleagues on this committee have raised concerns about the stream buffer zone rule, specifically about a recent report by the Inspector General. This report suggests that Office of Surface Mining employees asked contractors to change their analysis to make the argument they wanted to make stronger. This gives the appearance of "cooking the books." Regardless of one's position on the stream buffer zone rule, I'm concerned about any attempt to "cooking the books" on rules. If confirmed will you ensure that regulations written under your watch will not "cook the books," but instead use appropriate analysis?

Answer. As I mentioned at the confirmation hearing, I read the Inspector General's report and saw the Assistant Inspector General testify under oath that he found no evidence of political interference in the analysis that was being conducted for the rule or in how the contractors were treated. That said, it seems as though the process could have been managed better. I understand your concerns, and I want to assure you that if I am confirmed I will be committed to ensure there is fairness and accuracy in the assessments of impacts and benefits associated with any rule proposal. I agree that the public should have access to a fair and accurate assessment of this type of information before a rule is finalized.

*Question 2.* appreciate your commitment to learn more about the Office of Surface Mining's proposed stream rule. I would like to reiterate my request made in the hearing that you provide a formal written response to the letter Senators Barrasso, Manchin, Lee and I sent to you regarding the rule.

Answer. As I mentioned at the confirmation hearing, your letter brought this issue to my attention, and I immediately obtained a copy of the publicly available version of the Report issued by the Inspector General on December 20, 2013 that your letter referenced so that I could familiarize myself with the issues. I also know that the Assistant Inspector General subsequently testified under oath that he found no evidence of political interference in the analysis that was being conducted

for the rule or in the how the contractors were treated. That said, I understand your concerns, and, as mentioned in the written response to your letter that I provided on January 31, 2014, I want to assure you that if I am confirmed I will be committed to ensure there is fairness and accuracy in the assessments of impacts and benefits associated with any rule proposal. I agree that the public should have access to a fair and accurate assessment of this type of information before a rule is finalized.

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RESPONSES OF RHEA S. SUH TO QUESTIONS FROM SENATOR MURKOWSKI

*Question 1. King Cove Road—*

1a. Who, specifically, at the Department is working to identify and evaluate options that would improve access to affordable transportation and health care for the residents of King Cove, as Secretary Jewell pledged would happen?

Answer. The Secretary is committed to engaging the leadership of all the relevant bureaus and offices within the Department to work with you, the State of Alaska and the King Cove community to develop viable modes of transportation from King Cove to Cold Bay, which will ensure the human health and safety needs of the community are met.

*Question 1b.* Please outline the specific actions the Department of the Interior has undertaken to help the people of King Cove between December 23, 2013, when Secretary Jewell rejected the road, and today.

Answer. I am not aware of any actions the Department has taken on this issue since December 23, 2013.

*Question 1c.* If you do not believe the road is an acceptable alternative, please provide examples of alternatives that you believe would be as reliable and safe as a road. How do you propose to pay for those ideas?

Answer. I have reviewed the Record of Decision which outlines a variety of alternatives to improve access and the availability of medical services for the people in the region while preserving the values and resources of the Izembek refuge and the areas protected as designated Wilderness. These alternatives include providing a marine-road link by implementing a landing craft or passenger ferry. I have not yet had the opportunity to assess the costs and benefits associated with these options, but I look forward to engaging in meaningful dialog with you to give full consideration of these and other opportunities that present a path forward, should I be confirmed.

*Question 1d.* Do you believe that the Department of the Interior has adequately fulfilled its Trust Responsibility to the Aleut Native people of King Cove?

Answer. In his report to the Secretary, Assistant Secretary—Indian Affairs Washburn discussed the responsibility of the Department in fulfilling our trust responsibility to Alaska Native people. Specifically, he stated: “We believe that this report fairly presents the tribal views in this decisionmaking process and thus meets the Administration’s consultation duties under the trust responsibility.” Based on his analysis, the government to government consultation described in the Department’s Record of Decision, as well as the Secretary’s commitment that the Department will work with the State, the Aleutians East Borough and the local communities to develop transportation alternatives, I believe the Department has fulfilled its trust responsibility.

*Question 1e.* I know that during your previous hearings you indicated that you played no role in the Fish and Wildlife Service’s recent decision to grant permits that would allow for the taking of eagles at wind farms around the country, but, to the extent possible, please reconcile that decision with the rejection of the King Cove road on the grounds that it could cause the birds discomfort for a small portion of the year.

Answer. I do not believe there is any inconsistency between the Fish and Wildlife Service’s Permit Duration Rule and the Secretary’s decision regarding the proposed road through the Izembek refuge. The Rule grants permits for the incidental take of eagles and other species when such permits are authorized under appropriate laws, with mitigation requirements, on either private lands or public lands subject to multiple use mandates. The Secretary’s decision avoids adverse impacts to protected birds and other species on lands which were specifically set aside for the purpose of protecting these species and their habitats.

*Question 2. ANILCA—*Most of the Federal public lands in Alaska are governed by unique laws and regulations, much of which is included in ANILCA and ANCSA.

a. Because Alaska’s lands are so vast, and make up such a large percentage of your portfolio if you are confirmed, please explain, in detail, your knowledge of and



experience in working with ANILCA and ANCSA. If you lack experience with those statutes, how do you plan to fill in the gaps in your knowledge?

Answer. I have worked with a number of Alaska communities throughout my career. I have supported the rights of Native Alaskans, specifically in relation to the subsistence rights codified in Title VIII of ANILCA. During my time at the Hewlett Foundation, I recommended support for a project called the "Indigenous Communities Mapping Initiative," which focused on four Native communities in the United States, including the Village of Chevak. Our support helped the Village map their cultural and subsistence uses of the resources in the Village and native corporation lands received pursuant to ANCSA, and helped provide important documentation in their negotiations with the Fish and Wildlife Service on the subsequent YK-Delta Goose Management Plan. I supported this project and the work of the Village and the four other communities over a period of 4 years, and during that period of time learned an enormous amount about the lives of the Cu'pik people, the aspirations of the community, and the need and opportunity within the bounds of law and regulation to support these aspirations.

In addition, the Foundation was a seed funder of the Tongass Roundtable process, which brought together a diverse group of stakeholders to discuss how to incorporate economic, cultural, and ecological values in public policy issues throughout the region. During this time I met with and got to know a number of stakeholders in Southeast AK, including Sealaska, the United Fisherman of Alaska, and the AK Forestry Association. From this process, I gained a deep appreciation of ANILCA, Fish and Wildlife Service regulations, and the complexities and history of the legal challenges surrounding the Tongass National Forest.

If confirmed, I welcome the opportunity to spend more time on the ground in Alaska to meet with Alaska Natives, rural Alaska communities and others, to further immerse myself in the issues affecting all Alaskans. If confirmed, I fully expect to work with my program managers and lawyers to ensure that the unique nature of the Alaska programs are addressed in all of our decisions.

*Question 3. ANWR—*

*Question 3a.* When do you expect the final plan for ANWR to be released? Will it include a development alternative?

Answer. My understanding is that the final Arctic National Wildlife Refuge Comprehensive Conservation Plan is under review in the Department. I am not aware of a release date or of what will be included in the plan.

*Question 3b.* Do you believe that the 1002 Coastal Plain, which was set aside for oil and gas development as part of a compromise reached under ANILCA, should be developed? If not, why not?

Answer. The 1002 Coastal Plain is tremendously important to the American people, and Congress provided, in ANILCA in 1980, that the decision was to be left to a future Congress, and not to a Executive branch determination. I believe the decision whether or not to develop the 1002 Coastal Plain is a difficult one, which should be made after thorough and careful analysis, input from all stakeholders, and rigorous debate. The Secretary has stated, and I agree, that even under an all-of-the above energy strategy, there are some places, like the Arctic National Wildlife Refuge, that should not be developed.

*Question 3c.* Secretary Jewell has repeatedly stated her intentions to work at a local level when making land management decisions that impact a specific region. Are you aware of the level of support among Alaskans regarding the responsible development of the 1002 Area?

Answer. My understanding is that the 1002 Coastal Plain is an area important to the entire country, for a variety of reasons. I fully support the Secretary's commitment and efforts to land management decisionmaking rooted in sustained engagement with local communities in fulfilling the Department's responsibility to manage the nation's natural resources on behalf of the American public.

*Question 4. ANTIQUITIES ACT—*During his most recent State of the Union Address, the President pledged that he would use his "authority to protect more of our pristine Federal lands for future generations."

*Question 4a.* Was that line included in the speech at the urging of, or with the consent of, anyone from the Department of the Interior? If not, how do you think it came to be part of the President's speech?

Answer. I am not aware of any communications between the Department of the Interior and the Office of the President regarding any statements contained in President's State of the Union Address. If confirmed, I would be guided by Secretary Jewell's belief that potential monument designations should focus on areas where there is a groundswell of public support, a commitment to public engagement, and the involvement of local communities and Members of Congress.

*Question 4b.* Given the President's pledge, has he or anyone at the Department of the Interior, including Secretary Jewell or you-targeted any lands in Alaska for designation as wilderness?

Answer. The President has no authority to designate an area as wilderness, only Congress can make such a designation. The Department, as directed by Congress, reviews and may identify the wilderness values and suitability for wilderness of lands under the jurisdiction of agencies within the Department. The President may make recommendations to the Congress for its review. I am not aware of any lands in Alaska identified by anyone in the Department for designation as wilderness.

*Question 4c.* Do you believe it would be appropriate for the President to designate more land in Alaska as wilderness? If so, please identify such lands and state the basis for designating them.

Answer. No. Only Congress has the authority to designate land as wilderness under the Wilderness Act.

*Question 5.* Endangered Species Act—It has come to my attention that EPA has initiated an Endangered Species Act (ESA) Section 7 consultation with the Fish and Wildlife Service and the National Marine Fisheries Service on the proposed rule regarding Section 316(b) of the Clean Water Act governing power plant cooling water intake structures. The rule has the potential to be applied in an overly broad manner such that it could require facilities to install cooling towers or stop operations if a threatened or endangered species is located in a water body from which the facility draws water, even if there is no evidence of impact to that species.

*Question 5a.* Do you believe the 316(b) proposed rule should require a power generator to monitor all species in a water body from which a facility draws water, or should the rule only focus on threatened and endangered species directly affected by the intake structure?

*Question 5b.* In the past, 316(b) monitoring focused on the prevention of "adverse environmental impact" on threatened and endangered aquatic life. Do you believe the scope of monitoring should be expanded to look at species that may be in the water body and might be indirectly affected by intake structures?

*Question 5c.* Do you think it is appropriate to order a facility to install a cooling tower or stop operations if a threatened or endangered species is located in a water body from which the facility draws water, when there is no evidence of impact to that species? If yes, should any consideration be given to the impact on electric reliability?

*Question 5d.* Please describe the contacts that you or anyone with DOI of whom you have knowledge have had with EPA on this issue.

Answer. (Question 5a-d). I am aware that the EPA and the Fish and Wildlife Service are engaged in a Section 7 consultation on this rulemaking, but I have had no involvement in this consultation. While I have no direct knowledge of contacts between the Department and EPA on this matter, I understand Section 7 consultations are managed in the Ecological Services program within the Service.

*Question 6.* Sage Grouse—Do you believe that the National Technical Team Report on the Greater Sage-grouse is based on the best available science?

*Question 6a.* Should you be confirmed, what other sources of information outside of the National Technical Team Report will you use if or when the FWS makes a listing determination related to the greater sage grouse?

Answer. Although I am not familiar with the specifics of the National Technical Team Report, I know that the FWS is committed to using the best available science to guide its listing decisions. I understand the Report was designed to serve as a resource for the BLM and Forest Service to inform their planning processes. In addition, I have been informed that the FWS created a Conservation Objectives Team of State and FWS experts who developed a report, informed by the NTT Report, of up-to-date information from States, and other scientific information to describe conservation objectives for the bird to inform the state and Federal planning efforts underway. If confirmed, I will ensure the FWS considers both of these documents, other available scientific information, species experts and sustained public engagement in making its listing decision.

*Question 7.* Wilderness—The recent King Cove road decision by Secretary Jewell has highlighted a very real reason why I am incredibly concerned about any new proposals to designate wilderness in Alaska, or anywhere, for that matter.

*Question 7a.* What is your personal view of wilderness? What criteria should be used when determining whether to establish new wilderness?

Answer. Millions of Americans appreciate and enjoy wilderness areas for their pristine resources and recreational values including hunting and fishing. Wilderness is one of many Federal land designations, but only Congress may designate wilderness areas. I will continue to support the appropriate management of our current wilderness areas, and will continue to defer to Congressional action on the designa-

tion of new wilderness areas. In the Wilderness Act, Congress has developed the criteria for designating wilderness, which generally includes size, natural condition, and opportunities for solitude or primitive recreation.

*Question 7b.* Do you believe there is ever a time when it is appropriate to adjust a boundary of a wilderness?

Answer. I believe there may be circumstances in which it may be appropriate to adjust a boundary of a wilderness area. However, as I have previously noted, only Congress has the authority to designate land as wilderness under the Wilderness Act.

*Question 8.* Beringia International Park Proposal—In my written questions after our last hearing, I asked you about the proposed Beringia International Park. Unfortunately, I do not believe your responses addressed my questions.

*Question 8a.* Please state your views on the proposed Beringia International Park. Do you support it or oppose it?

Answer. I am unaware of any current proposal, under consideration by Congress or the Administration, which would establish Beringia International Park. I understand that over the last several years, the U.S. State Department has negotiated the terms of a nonbinding Memorandum of Understanding that would recognize the recent addition of a national park in Russia and underscore the international cooperation that has been in place in the Bering Strait area for over 20 years. This Memorandum of Understanding would not establish an international park nor would it change regulations, access, or subsistence uses. I support the continued communication and cooperation between the people and governments of the United States and Russia concerning the Beringia region and I support the on-going collaboration and communication with the local communities and Native villages in the region to ensure their voices are well represented in the Department's management decisions.

*Question 8b.* I am very concerned that the Federal Government has not outlined why or how this Park would benefit the region or the State of Alaska. Are you aware of any descriptions or examples that seek to do that? If so, please list them here.

Answer. As stated above, the Memorandum of Understanding, led by the U.S. State Department, would not establish an international park. I understand that the intent of the Memorandum of Understanding is to help foster mutual understanding and cooperation among the U.S., Russia, and the indigenous people of the region to promote the study, interpretation, and enjoyment of the natural and cultural resources of the region.

*Question 8c.* If this park becomes a reality, how would NPS work to ensure local and state government as well as tribal input in developing policies for subsistence activities, wildlife management, and potential resource development in and around the park?

Answer. I agree that local, state, and tribal stakeholders should be engaged in the discussion of this Memorandum of Understanding and on other issues concerning the Beringia region. I understand that the NPS has made many public outreach efforts both recently and over the past 20 years regarding Beringia topics, including bringing 25 community leaders from Northwest Alaska to a conference in Anadyr, Russia, in September, 2013. If confirmed, I will work closely with the NPS to ensure that they fully engage the local, state and tribal stakeholders and work to address any concerns that they may have concerning the MOU or any activities of the NPS in the Beringia area.

*Question 9.* Law Enforcement—In Alaska, there has been an unfortunate and dramatic change in attitude that we are seeing from our Federal land management agencies' law enforcement officers. We have heard complaints from across the State, whether it was Ted Spraker feeling harassed in the Kenai National Wildlife Refuge, or the overzealous and heavy-handed approach that was used in the Fortymile mine raids.

*Question 9a.* If confirmed, will you work with me to help to scale back these heavy-handed ways, and to work to find less aggressive solutions to any issues that may arise?

Answer. If confirmed, I will work with you to help ensure that the Federal law enforcement personnel within the Fish and Wildlife Service act appropriately, professionally, and within the scope of their responsibilities to protect wildlife resources for the continuing benefit of the American public. I believe this can be achieved in communication and partnership with state, local and tribal counterparts.

*Question 9b.* What would you propose to improve this situation in Alaska and elsewhere?

Answer. If confirmed, I would promote the efforts of Federal land management agencies to build strong partnerships with state, local and tribal law enforcement

officials in the state of Alaska and elsewhere to ensure the fair and effective enforcement of Federal conservation laws.

*Question 10.* Tribal Self-Governance/Funding Agreements—The National Park Service and the Fish and Wildlife Service currently have authority under Title II of the Indian Self-Determination Act Amendments of 1994 to enter into funding agreements with tribes in Alaska in and around each National Wildlife Refuge and National Park Unit within my State.

*Question 10a.* Unfortunately, in fiscal year 2013, only one tribe was able to enter into such an agreement. How would you work to encourage more tribes to participate in this program?

Answer. A key element of the Indian Self-Determination Act is that Tribes having an interest in an Annual Funding Agreement (AFA) first inform the particular agency of their interest. It is then the responsibility of the agency to develop an agreement as interests and budgets allow. The Office of Self Governance and the Bureau of Indian Affairs currently encourage tribes that are eligible to participate in these programs. I understand that the Fish and Wildlife Service and the National Park Service have diligently responded to tribal inquiries, and resultant AFAs have been developed over the years.

*Question 10b.* Will you commit to me that, if confirmed, you will expand the use of Funding Agreements with Alaska Tribes?

Answer. If confirmed, I commit to increasing outreach to agencies and to Tribes to find new opportunities to expand Funding Agreements wherever they may be appropriate, including opportunities specifically in Alaska.

*Question 11.* International Expenditures—Have personnel from USFWS deployed overseas—either for short-term trips or long-term stationing-in support of the President's July 1, 2013 Executive Order on combating wildlife trafficking? If so, how many, how often, and to where?

Answer. I have been advised that in support of the President's July 1, 2013 Executive Order, the FWS has increased its international engagement to combat wildlife trafficking under existing authorities. Fish and Wildlife personnel have participated in a variety of international activities since July, 2013. In January, 2014, the FWS created the first position stationing a special agent at a U.S. Embassy to coordinate investigations of wildlife trafficking and support wildlife enforcement capacity building. The first posting was created in Bangkok, Thailand. This is the only long-term stationed employee the Service currently has overseas. The Service sends staff on short-term trips periodically to train wildlife law enforcement officers in other countries, particularly in Africa, and to conduct international coordination on wildlife trafficking issues.

*Question 12.* Natural Gas Development—You earlier referred to natural gas as the "greatest threat to the ecological integrity of the West." I understand that you now support the president's all-of-the-above energy strategy.

*Question 12a.* What is your current view of natural gas development?

Answer. I support the responsible development of natural gas on our public lands. Over the last decade, we have seen a remarkable transformation in the methods for developing energy resources, a transformation that has not only changed the energy portfolio of our nation but fundamentally improved opportunities for energy security, economic development and reduction of harmful emissions.

*Question 12b.* If confirmed, do you plan to take any action that restricts or prevents natural gas development on Federal lands?

Answer. If confirmed, I will continue to support the President's all-of-the-above energy strategy and work with all parties to facilitate safe and responsible energy development on public lands within the context of applicable laws and regulations.

*Question 12c.* Can you please describe any other factors that you believe threaten the ecological integrity of the West?

Answer. I believe that the prolonged drought is a threat to the ecological integrity of lands and to communities throughout the west, particularly in light of its direct relationship to wildland fire risk. Fire seasons are now longer and more costly than they have been in the past, as I have observed in my current position as the Assistant Secretary for Policy, Management and Budget. If confirmed, I am committed to working with local communities, Federal and state entities, and other interested parties to help address the risks to western communities from drought and the impacts of fire. We will strive to balance conservation and development on our public lands, and to continue managing our resources as efficiently and effectively as possible.

*Question 13.* CIRI Lands—The Cook Inlet Region Native Corporation in 1971 was promised a land conveyance from your Department under terms of the Alaska Native Claims Settlement Act. A complex land exchange in the 1970's in the Cook Inlet area resulted in the regional corporation's village entities seeking more land. Only

last year, after a court resolution, was it confirmed that CIRI is now about 42,000 acres shy of the amount of land it was promised at the time of the Act's passage. Secretary Jewell earlier this month in a letter to me seemed to confirm that the Department agrees that CIRI is owed additional lands. But the Secretary said "more work remains to be done" to resolve issues relating to CIRI's entitlement.

*Question 13a.* Exactly what work remains to finalize how many acres CIRI is owed, how the Department intends to finalize the CIRI entitlement and transfer those lands or other compensation, and exactly how soon that can all happen? There is an old saying, "Justice delayed is justice denied." Now 43 years after passage of the claims settlement act, now that the final litigation is settled, it only seems right that CIRI could quickly select its remaining lands so the corporation can gain revenues from them to better the lives of Southcentral Alaska Natives. I would appreciate more details on how the Department intends to resolve the CIRI land-shortage entitlement issue.

*Answer.* I understand and appreciate the importance of the CIRI land entitlement. I understand that recent research into the issue finds that the transfer of approximately 70,000 acres is required to fulfill the CIRI ANCSA entitlement. I have also been advised that the BLM is currently actively engaged in discussions with CIRI to fulfill their remaining entitlement within current law.

*Question 14.* Susitna-Watana DAM—THE STATE OF ALASKA IS SEEKING TO GAIN CONVEYANCE OF A STATEHOOD LAND SELECTION IT MADE A NUMBER OF YEARS AGO ALONG THE SUSITNA RIVER VALLEY, LANDS THAT COULD END UP INVOLVED AS PART OF A STATE PLAN TO BUILD A HYDROELECTRIC PROJECT AT WATANA, ON THE SUSITNA RIVER. I AND MY STAFF WERE LED TO BELIEVE THE DEPARTMENT WOULD BE ABLE TO PROMPTLY TRANSFER THE LANDS TO THE STATE.

*Question 14a.* Can you discuss where the transfer currently stands and whether there are any obstacles preventing finalization of the land transfer? The transfer certainly does not indicate Administration support for the hydro project, which has not even begun its environmental impact statement process. But it would clarify land ownership issues for the potential reservoir, clarity needed to help prevent costly delays in conducting the environmental studies, engineering and permitting needed for a decision on the project to be made.

*Answer.* I have been informed that the State of Alaska requested a Power Site Classification be opened for the purpose of conveyance to the State consistent with the Alaska Statehood Act. I have also been advised that the BLM in Alaska is actively engaged in discussions with the State regarding their request to lift the withdrawal. I am not aware of any obstacles associated with this process thus far.

#### RESPONSES OF RHEA S. SUH TO QUESTIONS FROM SENATOR HELLER

*Question 15.* As you may know, I recently released a discussion draft of Federal legislation, the same draft you mentioned in your confirmation hearing that you had seen, would implement a mix of conservation and funding measures to address the primary threats to sage grouse and its habitat. As I work through the drafting process, I have been coordinating closely with the State of Nevada, the Federal agencies, conservation groups, local governments, ranchers and many other stakeholders in the state to produce a product that is beneficial to the Greater Sage-Grouse and the people of Nevada.

Broadly, do you believe congressionally approved land management designations (such as Wilderness) within the framework of a listing decision?

*Answer.* Yes, generally speaking, I believe that congressionally approved land management designations, such as wilderness, can benefit species, and certainly are a factor in considering whether there are threats to the continued existence of species.

*Question 16.* Can public lands-related legislation positively affect a listing decision or allow the Fish and Wildlife Service to provide Nevada greater flexibility under Section 4(d) of the Endangered Species Act if the Greater sage-grouse is listed as threatened?

*Answer.* As I stated above, generally speaking, I believe that congressionally approved land management designations can benefit species. Any efforts to boost conservation efforts and mitigate threats for candidate species are helpful.

*Question 17.* What specific requirements must a state plan and/or corresponding Federal legislation meet to provide a state flexibility under Section 4(d)?

*Answer.* I have been advised that a 4(d) rule is just one of many tools available under the Endangered Species Act (ESA) for protecting species listed as threatened. The name of the rule is derived from section 4(d) of the ESA, which directs FWS to issue regulations deemed "necessary and advisable to provide for the conservation of threatened species." A 4(d) rule allows FWS the flexibility to customize prohibi-

tions and regulate only those activities needed to provide for the conservation of threatened species. If confirmed, I would be happy to meet with you and your staff along with FWS experts to provide better information in understating how FWS can grant flexibility under the rule.

*Question 18.* Contracting for permitting services: As you know, the DOI requires individuals and companies to seek permits for hundreds of different activities, from drilling on Federal lands to holding events in National Parks. As you also know, the systems in which taxpayers acquire DOI permits could use improvement. While there have been steps taken to improve the processes and technology for citizens to access permits electronically, there are still many paper-based permits and processes that are not as convenient or efficient as they could be. This means DOI loses out on potential revenues.

If confirmed as Assistant Secretary, I hope your experience with Management & Budget will help you find ways to improve FWS & NPS permitting processes to make them more userfriendly and save Federal dollars. How will FWS seek to continue to migrate their paper permits to online systems in a cost conscious manner? Will you consider innovative funding models to reduce the expense of contracting for these services?

Answer. I agree that in today's age of electronic communications the government must provide state-of-the-art processes to the public that we serve. I believe that my record as Assistant Secretary for Policy, Management and Budget demonstrates that view. I created and manage one of the largest consolidations of IT systems in the Federal Government, which will result in over half a billion dollars in savings. As Federal budgets become increasingly constrained, my role has been to identify and lead efforts to ensure that we are as efficient as we can be. If confirmed, I would carry into this new role that same focus and look to build off best-practices and pursue innovative ways to reduce the expense of the Federal permitting process. I strongly support efforts of the Fish and Wildlife Service to migrate paper permits to online systems and understand the BLM is undertaking a similar approach to its oil and gas permitting process. If confirmed, I would continue to promote initiatives that improve the efficiency and reduce the costs of carrying out the Department's mission.

#### RESPONSES OF RHEA S. SUH TO QUESTIONS FROM SENATOR BARRASSO

*Question 19.* The Asian American Press ran an article about you on October 29, 2013 that stated—

Over the last 4 years, Suh has led the development and implementation of Departmental goals on a number of key initiatives, including the strategic transformation of the Land and Water Conservation Fund, one of the government's most valuable and visible conservation funding tools. The new collaborative L WCF program was successfully piloted in the formulation of the FY13 budget, and is a core element of the President's FY14 budget for conservation."

Could you please elaborate as to how you "led the development and implementation" of "the strategic transformation of the Land and Water Conservation Fund"?

Answer. In response to requests from Congress and OMB to more clearly articulate the strategy and outcomes of the Department's LWCF program, I began the effort to better leverage the programs of the four land management agencies engaged in L WCF funds on cross-agency goals. Bureau land acquisition programs operate somewhat independently to address the separate and unique authorizations of each bureau, but conservation goals often transcend unit boundaries.

Through an, iterative and collaborative process, I worked with the four land management agencies—the Bureau of Land Management, the National Park Service, the Fish and Wildlife Service and the Forest Service—to develop a collaborative L WCF program that empowers the agencies to work with each other and other stakeholders to identify and leverage land acquisition projects that are (a) strategic, (b) based on the best available science and analysis, and (c) enjoy the support of local communities. The process builds on momentum at the field, regional and national levels for strategic, landscape-scale conservation in alignment with the existing authorities and priorities of each agency. LWCF funds are allocated to the Collaborative projects and to each agency for "core" mission-specific acquisitions, including, for example, acquisition of American battlefields.

#### RESPONSES OF RHEA S. SUH TO QUESTIONS FROM SENATOR ALEXANDER

*Question 20.* Senators Flake, Lee, and I sent you a letter asking if you would support legislation to reimburse states that used state funds to open national parks

during the government shutdown. Will you commit to working with Members of Congress to help pass legislation to reimburse states?

Answer. Yes, as I stated in my hearing, I commit to working with you and other Members of Congress on legislation that would authorize reimbursement to the States for the portion of any donated funding that was expended or obligated to operate the parks during the recent Government shutdown.

*Question 21.* I've spent a lot of time on mitigation fish hatcheries, including working with multiple agencies to find a solution to keep hatcheries in Tennessee open. I understand that the Fish and Wildlife Agency is conducting a review of the national hatchery system to determine the best approach for long-term sustainability. This may result in some mitigation hatcheries being closed or consolidated. While closures have not been announced, I'm concerned, that based on a memo from Sept. 2013, from Director Ashe, that the desired goal of the Fish and Wildlife service is to close mitigation hatcheries.

The fear of many is that the final report will be used not as an analysis to make our national hatchery system better but as cover to close mitigation hatcheries because the Fish and Wildlife service would rather use its resources toward other policies such as Endangered Species Act activities. If confirmed will you inform this committee about proposals to close or consolidate mitigation hatcheries, prior to any decisions being made?

Answer. I am aware of your engagement on this issue and greatly appreciate your efforts to ensure that hatcheries in Tennessee are kept open and running. I know that the Fish and Wildlife Service greatly appreciates your efforts as well.

I am aware that the FWS conducted a review of the National Fish Hatchery System to examine the challenges facing the system and how best to operate the system in a more sustainable manner while supporting the agency's highest fish and aquatic conservation priorities. I understand that the FWS does not intend to close any hatcheries i. Fiscal year 2014 and language in th. Fiscal year 2014 consolidated appropriations is consistent with that intent by directing that no funds will be used to close any hatcheries i. Fiscal year 2014. If confirmed, I commit to working with the FWS to ensure that the Committee is informed of any key decisions that may impact hatchery operations in the future.

*Question 22.* The Bald Eagle is America's national symbol, beloved by millions of Americans and protected by Congress since the 1940's through the Bald and Golden Eagle Protection Act. This Act makes it illegal to kill or disturb Bald or Golden Eagles without a permit. Currently, wind farms and other types of businesses can receive permits making it legal to kill eagles for up to 5 years under certain conditions. The U.S. Fish and Wildlife Service has finalized a rule to extend the length of these permits for up to 30 years, despite having stated when the permit regulations were created that 5 years was the maximum length for compatibility with the preservation of eagles. This proposed change to 30 years was opposed by more than 120 organizations including national conservation associations, Indian tribes, and local interests. What are your views on the Department's responsibility to protect eagles from impacts of the growing number of wind farms across the United States?

Answer. The Department is responsible for carrying out the mandates of the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act, both of which protect eagles. The permitting process is a key mechanism to avoid and minimize the take of eagles from activities that can impact eagles. It is important to note that the 30-year permit is a ceiling on permit length, and that the permit is subject to both annual reporting requirements and 5-year reviews, which allow for revisions to the permit requirements.

Wind farms have an impact on eagles, and for that reason it is critical that they implement the kinds of conservation measures that will be required under these permits. The permit process provides the Fish and Wildlife Service the opportunity to work closely with wind developers and other project proponents onsite selection, surveys and monitoring, and operational measures that will minimize impacts to eagles and other birds, as well as bats. It is my understanding that these long-term permits will incorporate an adaptive management framework under which the FWS will review the project and make adjustments to ensure the permitted activity is consistent with the preservation standard required by the Eagle Protection Act. I also understand the FWS has been working with the wind industry to develop guidelines and best management practices on siting and operations to avoid and minimize the take of eagles, other migratory birds, and bats. The FWS is also working to educate and communicate these guidelines to the industry so that they are broadly implemented, and so that companies are aware of the potential enforcement consequences of not following these guidelines and taking eagles and migratory birds.

*Question 23.* Do you believe there is enough information about the life-cycle of eagles, population levels across the states, and impacts from other man-made threats that would allow the Department to responsibly issue 30 year eagle take permits to the wind industry? Do you think the killing of birds by energy production poses an ecological threat?

Answer. I think it is important to recognize that the 3009year eagle take permits are not for the wind industry only. Any industry or entity, such as developers building strip malls, utility companies constructing and operating power lines, and highway departments building roads, are able to apply for these permits. And, the 30-year permit term, which is an increase of the Fish and Wildlife Service's previous 5-year permits, provides a maximum term for the permit; applicants can request permits of any length up to 30 years. This longer term permit is subject to annual reporting requirements and 5-year reviews. At the 5-year review, based on reporting data, population data, and other data, the FWS will determine whether changes to the terms and conditions of the permit are necessary to avoid and minimize take and can prescribe such changes going forward.

The benefit of this permit to industry is that it provides a greater level of predictability for longer term projects. The benefit to eagles is that it provides much needed data on the effects of longer term projects to eagles and on the effectiveness of the mitigating measures and terms and conditions of the permits.

More specifically, with respect to your questions, yes, I believe that the killing of birds is an ecological threat if the numbers of birds that are taken in a given area are high enough to result in a population decline. However, I understand that the FWS has limited the amount of take it will permit based on rigorous analysis of eagle populations and establishment of take thresholds for every region of the country. That ceiling, the 5-year review component of the longer term permits, and the annual reporting requirements, will, I believe, ensure that the longer term permits can be issued responsibly and will help the FWS conserve eagle populations at levels that are stable or increasing.

Finally, I understand that the FWS is currently engaged in numerous significant research projects, many in partnership with the U.S. Geological Survey, that are vastly expanding what is known about eagle life-cycles, population status, migration corridors, and impacts from human activities. All these research initiatives will continue to inform the Department's overall eagle management objectives.

*Question 24.* In it. Fiscal year 2013 Budget Request to Congress, the U.S. Fish and Wildlife Service estimated that 440,000 birds had been killed by wind turbines in the U.S. in 2009. The overwhelming majority of these birds would have been protected by the Migratory Bird Treaty Act. Yet only one wind company has been prosecuted for killing migratory birds protected by Federal law. What are your views on the protection of migratory birds in the context of energy production?

Answer. My understanding is that wind energy is a relatively young industry and the first and only prosecution you referenced was the result of careful law enforcement investigative work, coupled with careful and deliberate consideration by the Department of Justice. The first prosecution under a law sets precedent for future cases, and is an example for other potential violators of the law. For these reasons, it is important to work with industry to develop and communicate the guidelines broadly and promote best management practices that avoid and minimize the take of migratory birds, and to carefully consider law enforcement action against those who choose not to follow those guidelines. This is the best way to strike the balance between energy production, conservation of migratory birds, and effective use of limited law enforcement resources.

I understand that the Fish and Wildlife Service took a similar approach decades ago with other industries, including the oil and gas industry. Best management practices were developed for open oil pits that attracted and then killed waterfowl. Those practices were communicated to industry. Cases were made against entities that did not follow the practices and took migratory birds. Such cases are still made. I believe that the FWS anticipates a similar future for the wind industry, where most entities are following the guidelines and those that aren't will be subject to prosecution if and when take occurs.

*Question 25.* In a 2007 interview with the Hewlett Foundation you said, in reference to natural gas development, that "The pace and magnitude of this development is easily the single greatest threat to the ecological integrity of the West." This Administration has a tendency to pick winners and losers when it comes to energy production. If confirmed will you seek to stop or slow down natural gas development? If you think natural gas development is an ecological threat, do you also think wind energy development is an ecological threat?

Answer. I support the President's all-of-the-above energy strategy, including natural gas and wind energy development. I have demonstrated that commitment in



my record as Assistant Secretary for Policy, Management and Budget. Our energy needs continue to grow, and we must explore all appropriate ways to meet those needs. If confirmed, I am committed to pursuing pragmatic, balanced energy development that also ensures conservation of the Department's lands and waters. I will also support efforts to make our regulations and processes more consistent and transparent, so that those developing our energy resources operate on a level playing field when seeking permits and agreements for mitigating potential environmental impacts.

RESPONSES OF RHEA S. SUH TO QUESTIONS FROM SENATOR FLAKE

*Question 26.* In June, the Fish and Wildlife Service announced two proposed rulemakings. The first proposed to delist the gray wolf, but relist the Mexican wolf as an endangered subspecies. The second proposed revisions to the Mexican wolf management plan, including consideration of a massive expansion of the Mexican wolf population area in Arizona and expanded management of the Mexican wolf on private lands. Numerous communities throughout Arizona have expressed concern about the proposed rulemakings. Despite the impact on Arizona, the Fish and Wildlife Service initially decided not to schedule a public hearing on the rules in Arizona, changing its tune after considerable pressure. Since the Fish and Wildlife Service will be under your jurisdiction, if confirmed, can you guarantee that any future decisions, rulemakings, etc. on the experimental Mexican wolf population will include at least one such hearing in the affected parts of Arizona?

*Answer.* It is my understanding that there was a public hearing held in Pinetop, Arizona, on December 3, 2013, to solicit comments on both FWS proposals. I am committed to ensuring the strong engagement of local communities in our decision-making processes, and I will work with FWS to ensure a robust public engagement surrounding Mexican Wolf recovery.

*Question 27.* As of last Friday, state and Federal officials announced that the experimental Mexican wolf population in the recovery area rose for the fourth straight year to 83 wolves in 15 packs. Can you explain what the Fish and Wildlife Service believes is a sufficient population of Mexican wolves in this area?

*Answer.* I understand that a revised recovery plan will be prepared by the FWS that will likely establish a target population number for the experimental population area and, more importantly, describe how this population contributes to the recovery of the species as a whole.

*Question 28.* What impact do you believe a large experimental population of wolves would have on communities in the area?

*Answer.* My understanding is that the Fish and Wildlife Service is preparing an environmental impact statement to evaluate the impacts of its proposed experimental population rule. If confirmed, I would be happy to meet with you to discuss the draft EIS once it is published.

*Question 29.* How does the Department intend to protect people and property in these communities from threats posed by the Mexican wolf population?

*Question 30.* Specifically, what can be done to protect livestock and domestic animals, such as dogs, from being attacked by these experimental populations?

*Question 31.* To what extent can individuals within the experimental wolf population area use lethal force to protect their property?

*Answer.* (Questions 270929) I have been advised that under the current and proposed 10(j) rule, any person has the right to "take" including kill—a wolf that is threatening their safety at any time, regardless of their location. Any person also has the right to harass (non-injurious harassment) a wolf that is within 500 yards of people, buildings, facilities, pets, livestock, or other domestic animals. Livestock owners and operators also have the ability to "take" a wolf including kill—if a wolf is in the act of attacking livestock on public, private, or tribal land, pursuant to the conditions set forth in Fish and Wildlife Service regulations. The FWS is working on, and committed to, processes that allow people to use appropriate measures to protect lives and property within the experimental wolf population area.

*Question 32.* I have heard from cattlemen in Arizona, for example, that the losses associated with wolf predation from these experimental packs have reached millions of dollars. How does the Department intend to reimburse those livestock owners for their losses and compensate communities?

*Answer.* It is my understanding that through the recently signed consolidated appropriation, there is \$1,000,000 included for the FWS-led Wolf Livestock Demonstration Project. This program is designed to provide states and tribes with funding for deterrence of and compensation for livestock loss from wolf depredation.

The FWS has established a Mexican Wolf/Livestock Coexistence Council to address financial impacts to local landowners living with wolves. The associated Mexi-

can Wolf/Livestock Interdiction Fund will provide monetary incentives for proactive efforts to minimize the likelihood of depredations and compensation funding when depredation events occur. The Council is composed of a diverse group of ranchers in Arizona and New Mexico, conservation groups, Native American tribes, and two coalitions that represent rural counties in Arizona and New Mexico. The Interdiction Fund has received funding in the past through the Wolf Livestock Demonstration Project.

*Question 33.* In addition to predation on livestock, the Mexican wolf population affects big game herds, such as elk and deer. To what extent do you believe Arizona's big game herds should be used to sustain the experimental Mexican wolf population?

Answer. I have been advised that the FWS is in the process of projecting and analyzing impacts to wild ungulates from the proposed 10(j) rule in a draft environmental impact statement, which I am told will be available for public review in the spring of 2014. The Service is working closely with the game management divisions of the Arizona Game and Fish Department and the New Mexico Department of Game and Fish to gather and analyze this data.

*Question 34.* Since most of the Mexican wolfs historic range extends into Mexico, can you explain what is being done to promote recovery there?

Answer. I understand that the government of Mexico implements its own Mexican wolf recovery program, which includes a recovery plan within Mexico and semi-annual management plans. Mexico began reintroducing wolves to the wild in Mexico in 2011, with limited success so far due to illegal killing. The FWS coordinates with, and supports, Mexico through a number of programs and processes including the captive breeding program, information and equipment transfer by field staff from both countries; and coordination efforts within the Trilateral Committee.

*Question 35.* Do you support expansion of the Mexican wolf recovery area?

Answer. My understanding is that the June 13, 2003, proposed section 10(j) rule does not expand the wolf experimental population area, although it would allow wolves to range throughout the entire experimental population area in order to improve the recovery prospects for the species. I support that proposal.

*Question 36.* What role do you believe states should play in administering the Endangered Species Act generally and the experimental Mexican wolf program specifically?

Answer. The states are key partners in administering the ESA, particularly with regard to the reintroduction and management of the Mexican wolf. We greatly appreciate their assistance in implementing the Act. We coordinated closely with the states in developing the proposed 10(j) rule and the environmental impact statement that accompanies the proposed rule.

RESPONSES OF RHEA S. SUH TO QUESTIONS FROM SENATORS FLAKE, LEE, AND ALEXANDER

*Question 37.* Despite earlier commitments, the Department of the Interior (the "Department") has been seemingly unable to find "common ground" among diverse interests, even on comparatively small matters. With your nomination to be Assistant Secretary for Fish and Wildlife, and Parks, there is an opportunity to reset, and your nomination hearing provides an ideal occasion for you and the Department to express in concrete terms that it is shifting away from its current "politics-as-usual" posture. For our part, you could begin by making a commitment to support legislation that would reimburse states that provided funds to temporarily reopen national parks during last year's government shutdown. If confirmed, this would be an area squarely within your purview.

When previously asked about this issue, you stated, "I understand that an act of Congress is needed to provide the National Park Service with the authority to reimburse the State . . ." You declined, however, to indicate whether you would support such legislation.

Given your current role overseeing the Department's budget and financial policy, you are presumably aware that following the government shutdown the Continuing Appropriations Act, 2014 (Pub. Law No. 113-46) provided retroactive pay to all Federal employees and provided retroactive funding for Federal agencies. What's more, those parks that were temporarily reopened during the shutdown collected gate entry fees. Nevertheless, it would appear that the National Park Service retained a shutdown windfall by keeping the money that some states provided to temporarily pay salaries and maintain park operations during the shutdown—both items Congress later retroactively funded.

We can likely all agree that the best scenario would have occurred if we had been able to avoid a shutdown in the first place. But, we also hope that we can agree

that those states, municipalities, companies, and individuals that came together to mitigate the damage created by one, should not needlessly continue to bear its consequences. So, we ask again, would you support legislation that requires the National Park Service to reimburse those states that provided funds to reopen national parks during the shutdown?

Answer. As I stated in my hearing, I support repayment to the states in these circumstances, and understand that an act of Congress is needed to provide the National Park Service with the authority to reimburse the states for the portion of any donated funding that was expended or obligated to operate the parks during the Government shutdown. If confirmed, I commit to working with you and to other Members of Congress on legislation that would authorize reimbursement to the states for these donated funds.



## APPENDIX II

### Additional Material Submitted for the Record

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STATEMENT OF JONATHAN B. JARVIS, DIRECTOR, NATIONAL PARK SERVICE,  
DEPARTMENT OF THE INTERIOR

Thank you for your letter dated November 13, 2013, regarding the donation the State of Arizona (State) made to the National Park Service (NPS) to reopen Grand Canyon National Park (park) during the recent government shutdown. Our national parks truly are natural and cultural treasures and major economic drivers.

As you are aware, the State donated to the NPS a total of \$651,000, equivalent to funding for 7 days of operations at the Park (at the rate of \$93,000 per day). When the shutdown ended, the park had been open for 5 days. The NPS promptly returned the unobligated, unexpended balance of \$186,000 to the State. In 1995, the NPS returned all donated funds to the State because they had not been obligated or expended when Congress enacted appropriations that allowed Grand Canyon National Park to reopen.

The original shutdown Contingency Plan for the NPS specifically stated that the NPS would not entertain offers from other agencies or organizations to cover the cost to reopen parks, memorials, trails, roads, or other facilities. This initial determination was made in light of the complex legal issues involved with negotiating individual agreements with an unlimited number of potential donors. As the shutdown continued, the economic impact of national park closures across the country began to amass. Visitor spending generates an estimated \$32 million in spending per day in communities near national parks and contributes \$76 million each day to the national economy. On October 10, 2013, Secretary Jewell announced that the Department would consider agreements with Governors who indicated an interest and ability to fund NPS personnel to reopen national parks in their states. We then began the process of negotiating individual agreements with the states that had expressed an interest in reopening certain national parks. This was a practical and temporary solution to lessen the pain for the businesses and communities that rely on the National Park System for their economic well-being.

As enacted, the Continuing Appropriations Act of 2014 (Act) does not authorize the NPS to return to the State of Arizona donated funds that were obligated or expended during the government shutdown. The donation agreement between the State and the NPS expressly specified that the NPS would be unable to return obligated or expended funds without express direction from Congress:

“C. The parties further agree as follows:

1. If the U.S. Congress appropriates funds for the operation of the National Park System before the funds donated to the NPS by the State are fully obligated, then the NPS will refund to the State the unobligated balance of the State-donated funds. Unless the U.S. Congress appropriates funds and expressly directs the NPS to reimburse the State for State-donated funds previously obligated or expended by the NPS, the NPS will not reimburse the State for such previously obligated or expended funds.”

Sec. 116 of the Act does not provide the required statutory authority to return the funds donated by Arizona or other states and obligated or expended for the operation of individual park units during the shutdown. Sec. 116 applies to certain Federal grants “to continue carrying out a Federal program.” Sec. 116(b) explains that this authority applies only to “a Federal program that the State or such other grantee had been carrying out prior to the period of the lapse in appropriations.” The donations by the states to the United States were neither Federal grants nor a program carried out by a state prior to the lapse in appropriations.

I appreciate the opportunity to address your specific questions:

*Question.* Do you believe Congress intended to provide a windfall to the Park Service when it enacted the Continuing Appropriations Act of 2014?

*Answer.* The NPS can only carry out budget and financial actions to the extent actually authorized by Congress. Several bills pending in Congress would authorize the NPS to return in full the donations made by the State of Arizona and the other states. In the absence of such an enactment, the return of the moneys donated by various states would have been a loan that Congress never authorized NPS to make.

*Question.* When drafting the 2013 agreements with Arizona and other states, why did the Park Service include both a reimbursement clause, which was not included in the 1995 agreement, as well as a refund clause?

*Answer.* When the NPS and the states negotiated and executed the donation agreements that allowed the NPS to reopen and operate the parks, the NPS did not know whether Congress would retroactively restore the funding and provide the statutory authority necessary to do so. The inclusion of the reimbursement clauses in the agreements was necessary to be clear that NPS lacked the authority to return the obligated funds without explicit Congressional action.

*Question.* In the case of Arizona, were the non-Federal, state-based funds formally obligated? If so, what was the mechanism or instrument that formally obligated those funds?

*Answer.* In the case of Grand Canyon National Park, the park was operated for 5 days with state-based funds. Obligations were incurred the moment the park reopened. Personnel costs make up the majority of park operating costs. In the case of personnel, an obligation was created as soon as park employees reported for duty.

*Question.* Were those non-Federal, state-based funds expended? If so, when were they expended?

*Answer.* Expenditures occurred when payroll was processed and other expenses necessary to operate the park were paid.

*Question.* Under normal circumstances, what would have been the cost out of the Park Service's budget to operate all of the parks that were opened under agreements like the one Arizona signed? How much in non-Federal, state-based funds was made available to the Park Service under agreements like the one Arizona [signed]? Has that money been refunded to those states?

*Answer.* National parks in six states were operated for varying periods of time during the government shutdown using money donated by the respective states—Arizona, Colorado, New York, South Dakota, Tennessee, and Utah. The cumulative daily cost to operate the parks that were opened was \$437,000. States donated a total of \$3.6 million to fund park operations. The unobligated portion of each state's donation, totaling \$1.6 million, has been returned to the respective states.

An identical letter is being sent to the Honorable John McCain, U.S. Senate; the Honorable Trent Franks, House of Representatives; the Honorable Kyrsten Sinema, House of Representatives; the Honorable Ron Barber, House of Representatives; the Honorable David Schweikert, House of Representatives; the Honorable Ann Kirkpatrick, House of Representatives; the Honorable Paul Gosar, House of Representatives; and, the Honorable Matt Salmon, House of Representatives. ,

U. S. SENATE,  
Washington, February 3, 2014.

Hon. RHEA SUH,  
Assistant Secretary-Policy, Management and Budget, Office of the Secretary, Department of the Interior, Washington, DC.

DEAR ASSISTANT SECRETARY SUH.

Despite earlier commitments, the Department of the Interior (the "Department") has been seemingly unable to find "common ground" among diverse interests, even on comparatively small matters. With your nomination to be Assistant Secretary for Fish and Wildlife, and Parks, there is an opportunity to reset, and your nomination hearing provides an ideal occasion for you and the Department to express in concrete terms that it is shifting away from its current "politics-as-usual" posture. For our part, you could begin by making a commitment to support legislation that would reimburse states that provided funds to temporarily reopen national parks during last year's government shutdown. If confirmed, this would be an area squarely within your purview.

When previously asked about this issue, you stated, "I understand that an act of Congress is needed to provide the National Park Service with the authority to reimburse the State . . ." You declined, however, to indicate whether you would support such legislation. Given your current role overseeing the Department's budget and financial policy, you are presumably aware that following the government shut-

down the Continuing Appropriations Act, 2014 (Pub. Law No. 11 3–6) provided retroactive pay to all Federal employees and provided retroactive funding for Federal agencies. What’s more, those parks that were temporarily reopened during the shutdown collected gate entry fees. Nevertheless, it would appear that the National Park Service retained a shutdown windfall by keeping the money that some states provided to temporarily pay salaries and maintain park operations during the shutdown—both items Congress later retroactively funded.

We can likely all agree that the best scenario would have occurred if we had been able to avoid a shutdown in the first place. But, we also hope that we can agree that those states, municipalities, companies, and individuals that came together to mitigate the damage created by one, should not needlessly continue to bear its consequences. So, we ask again, would you support legislation that requires the National Park Service to reimburse those states that provided funds to reopen national parks during the shutdown?

We hope that you will embrace this hearing as an opportunity to find common ground on issues like this, and we look forward to your response.

Sincerely,

JEFF FLAKE,  
*U.S. Senator.*

MIKE LEE,  
*U.S. Senator.*

LAMAR ALEXANDER,  
*United States Senator.*

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STATEMENT OF FLOYD MORI, PRESIDENT & CEO, ASIAN PACIFIC AMERICAN  
INSTITUTE FOR CONGRESSIONAL STUDIES

The Asian Pacific American Institute for Congressional Studies (APAICS) is writing to you to ask that you affirm the nomination of Rhea S. Suh to be the next Assistant Secretary for Fish and Wildlife, and Parks. Ms. Suh is superbly qualified for the position and her experience in the Department will allow her to immediately provide expert leadership. With few people in the Department from communities of color, her confirmation will demonstrate a continuing effort to expand participation in our National Parks System.

APAICS agrees with documentarian Ken Burns’s thesis that National Parks feed America’s soul. In this position Ms. Suh would oversee and coordinate all policy decisions for the National Park Service and the U.S. Fish and Wildlife Service. This is a position she is well suited for and where she will thrive. Throughout her illustrious career, Ms. Suh has been an advocate for our open spaces, the conservation of our land and water and the importance of local communities to forge a connection with the best of America’s resources. This commitment includes introducing the importance of our National Parks to the youth, who will be the next to inherit and care for our wide open plans.

Since 2009 Ms. Suh has been Assistant Secretary for the Department of the Interior’s Policy, Management and Budget office. In this position she has accumulated vast knowledge of the working groups including budget, law enforcement, security management, human resources and procurements. She has worked well with her peers in the Department, with Legislative staff and most importantly those who utilize these resources everyday: the community.

Ms. Suh’s academic achievements are on par with her professional ones. She has a B.A. from Barnard College, Columbia University and an M.Ed from Harvard University. She has been awarded both a Fulbright Fellowship and a Marshall Memorial Fellowship. She is proud Coloradan which houses four of this country’s National Parks and where she developed a life-time love affair with nature.

## The William and Flora Hewlett Foundation

Hewlett Grantees	Grantee's Mission	Year	Amount
<b>American Council for an Energy-Efficient Economy</b>	Acts as a catalyst to advance energy efficiency policies	2013	\$100,000
<b>American Lung Association</b>	Works to save lives by improving lung health and preventing lung disease through education, advocacy and research	2013	\$200,000
<b>Bipartisan Policy Center</b>	The only Washington, DC-based think tank that actively promotes bipartisanship, BPC works to address the key challenges facing the nation	2013	\$1,000,000
<b>Catholic Charities, Diocese of Stockton</b>	Services for the frail elderly, families, children, and abused women, and legislative advocacy	2013	\$35,000
<b>Christian Coalition</b>	One of the largest conservative grassroots political organizations in America; mobilizes Christians for effective political action	2013	\$150,000
<b>National Association for the Advancement of Colored People</b>	Works to ensure the equality of rights of all persons and eliminate race-based discrimination	2012	\$200,000
<b>Theodore Roosevelt Conservation Partnership</b>	Works to preserve the traditions of hunting and fishing	2013	\$1,000,000
<b>Western Governors Association</b>	Serving Governors of 19 States and 3 US-Flag Pacific Islands	2012	\$150,000



## The David Lucile & Packard Foundation

Packard Grantees	Grantee's Mission	Year	Amount
American Farmland Trust	Working to stop the loss of productive farmland and promote healthier farming practices in the U.S.	2012	\$600,000
Monterey Bay Aquarium Foundation	Inspiring conservation of the oceans	2013	\$54,050
National Academy of Sciences	Committed to furthering science in America	2013	\$50,000
National Geographic Society	Inspiring people to care about the planet since 1888	2013	\$25,000
National Trust for Historic Preservation	Helps people protect, enhance and enjoy the places that matter to them	2013	\$150,000
R Street Institute	Supports free markets, limited, effective government, and responsible environmental stewardship	2013	\$200,000
Taxpayers for Common Sense	Serves as an independent voice for American taxpayers	2013	\$250,000
Theodore Roosevelt Conservation Partnership***	Works to preserve the traditions of hunting and fishing	2013	\$50,000
Woods Hole Research Center	Works to advance scientific discovery and seek science-based solutions for the world's environmental and economic challenges	2012	\$92,000

\*\*\*Also a Hewlett Grantee

## **The David Lucile & Packard Foundation**

### **University Grantees**

University of California, Berkeley

University of California, Santa Barbara

University of California, San Diego

University of California, Santa Cruz

University of Chicago

University of Colorado at Boulder

Columbia University

Duke University

University of Illinois at Urbana-Champaign

University of North Carolina at Chapel Hill

Oregon State University

University of Rochester

University of Texas at Austin

University of Texas Southwestern Medical Center

University of the South Pacific

University of Utah

University of Washington

Yale University

## RHEA SUH'S ACCOMPLISHMENTS

## AS ASSISTANT SECRETARY FOR POLICY, MANAGEMENT AND BUDGET

As Assistant Secretary for Policy, Management and Budget, Rhea Suh has saved the Department of the Interior more than \$500 million in spending cuts and untold millions more through budget and management changes.

These savings result from:

- the launch of the Information Technology Transformation;
- completion of the Department's integrated financial and acquisition enterprise system; and
- implementation of improvements in acquisition, finance, and facilities.

More specifically:

- Conversion of the Department's enterprise business system to cloud computing will save \$2 million a year;
- Renegotiation of the Department's telecommunications contract will save \$7.3 million in annual cost avoidance and an additional \$2.7 million in consolidation of circuits.
- During 2011–2013, the Department saved of \$217 million in travel, supplies, and other support costs with implementation of the Campaign to Cut waste.
- Consolidating reporting tools will save \$300,000 annually.
- Deployment of the Department's new travel system saved \$1.6 million.
- Improvements in acquisition, including increased competition and reduced risk implemented 2010–2013, saved over \$200 million.

In addition to Information Technology Transformation, Ms. Suh also guided the use of six priority performance goals and a new strategic plan to focus the decentralized diverse efforts of bureaus and offices and allowed Interior to leverage increasingly scarce Federal resources.

By aligning strategic goals and annual operating plans, the Department of the Interior has:

- Increased youth employment by over 30 percent in 2011 and 2012 as compared to 2009.
- Developed 14,000 megawatts of new renewable energy capacity on public lands through 2013.
- Conserved over 730,000 acre-feet of water between 2010 and 2013.
- Reduced violent crime by 35 percent in 4 communities where Interior conducted its community policing initiative.
- Inspected 87 percent of the high risk cases for oil and gas production on public lands.

Ms. Suh has also led the development and implementation of Departmental goals on a number of key initiatives, including the strategic transformation of the Land and Water Conservation Fund, one of the government's most valuable and visible conservation funding tools. The new collaborative LWCF program was successfully piloted in the formulation of the Fiscal year 2013 budget, and is a core element of the President's Fiscal year 2014 budget for conservation.

Ms. Suh has also led efforts to enhance the Department's connection to local communities, including "Youth in the Great Outdoors," which helped hire thousands of youth each year to work on natural and cultural resource conservation efforts, and engaged millions of youth about our wildlife, public lands, culture, and heritage.