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SELL AND SCARLETT NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

TO

CONSIDER THE NOMINATIONS OF JEFFREY CLAY SELL TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF ENERGY AND PATRICIA LYNN SCARLETT TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF THE INTERIOR

MARCH 9, 2005

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SELL AND SCARLETT NOMINATIONS

WEDNESDAY, MARCH 9, 2005

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

The committee met, pursuant to notice, at 10:07 a.m. in room SD–366, Dirksen Senate Office Building, Hon. Pete V. Domenici, chairman, presiding.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. The hearing will please come to order. We are here this morning to consider the nominations of Clay Sell to be Deputy Secretary of the Department of Energy and Lynn Scarlett to be Deputy Secretary of the Department of the Interior. Before we begin, our colleague Senator Hutchison has asked to make a few remarks with reference to one of the nominees. We welcome you to the committee and would you please proceed because we know you have a busy schedule, Senator.

[The prepared statement of Senator Cornyn follows:]

PREPARED STATEMENT OF HON. JOHN CORNYN, U.S. SENATOR FROM TEXAS

Chairman Domenici, Ranking Member Bingaman, and committee members, it is a privilege to join Senator Hutchison today in supporting Clay Sell's nomination as Deputy Secretary of Energy. I believe that President Bush has made strong choice for this nomination. As many of the members of this committee are well aware, Clay possesses a number of personal and professional attributes that make him an ideal candidate for this critical position.

From his education in Texas, to working on national energy policy issues on Capitol Hill, to helping guide the Administration's formation and implementation of energy initiatives, Clay has demonstrated an intelligence and ability to negotiate complex policy matters.

There are few greater skills in Washington than the ability to perceive overreaching national needs, formulate a vision for moving forward to address those needs, then working tirelessly to attain that vision for the greater good. I believe that Clay has demonstrated these abilities.

There are many challenges that lie ahead to meet our energy needs. Our country has gone too long without a strategic, comprehensive energy policy. There are few things that have such a direct and pervasive affect on both our economy and our environment than ensuring our nation's energy security. Also, our good stewardship of our nuclear material and continuation of aggressive policies that assure nonproliferation have, perhaps, a greater importance now than in any other time in our history.

I am confident that Clay's leadership, breadth of knowledge and vision will help guide the Department of Energy through these many challenges. For your part and for mine, I also know that Clay will be an effective partner with Congressional members and leadership in working to enact beneficial policies.

Thank you for the opportunity to express my support for this nominee. I look forward to continuing to work alongside you, Secretary Bodman, and Clay on these important issues.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Well, thank you very much, Mr. Chairman. I am so proud to be here for my fellow Texan, Clay Sell. Mr. Chairman, I have to say that I know if you were not chairing this committee you would be sitting right here next to me also introducing him, because you and I have both worked with him, and especially you have.

I cannot think of anyone more qualified for the office of Deputy Secretary of Energy than Clay Sell. I want to say that Senator Cornyn particularly wanted me to mention what a great supporter he is as well. He could not be here this morning, but he is 100 percent supportive of Clay Sell for this position.

Clay graduated from Texas Tech University and the University of Texas School of Law. He served his country for the past decade, gaining all of the experience he needs for this type of job. Especially his experience with energy policy, coupled with his vision for the Department of Energy, I know he will be a valuable asset for Secretary Bodman.

For the last 19 months, Clay has served President Bush as Special Assistant on Energy Policy and Legislative Affairs. Prior to joining the White House, he served in the office of Congressman Mack Thornberry for 5 years and then in the Senate as Majority Clerk for the Energy and Water Development Appropriations Subcommittee for 3½ years. As the Majority Clerk for you, Mr. Chairman, Clay always worked well with me and all the members of the Senate, and I know that he will continue in this spirit of cooperation.

His qualification, his experience, and especially his integrity make him the right person for this job. On a personal note, I want to say that I have had such a great impression of Clay and his integrity. As we all know, in the Senate there are rough times and there are times when it is hard to get something done. Energy issues particularly seem to be divisive sometimes. But Clay Sell is always honest, always doing the right thing, and always trying to help everyone understand the issues and work to make a win for all of the people concerned. So on a personal note, I recommend him so highly.

I am very pleased that he has wonderful support with him, who I know he will introduce today. But I have also known his wife Alisa and worked with her. They brought their son Jack, who even has on a tie and a coat—I am very impressed—and two proud Texas parents, George and Judy Sell from Amarillo, Texas.

So I am very pleased to be here in support of this nomination, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Bingaman, did you have any comments with reference to the Senator, her remarks?

Senator BINGAMAN. No, I did not, Mr. Chairman. I appreciate her coming.

The CHAIRMAN. We will get to you in a moment.

Thank you very much, Senator. Obviously, you are excused and thank you for being here.

I think you all know that, as Senator Hutchison noted, Clay Sell worked for me as clerk of the Appropriations Energy and Water Development Subcommittee. During his tenure I was impressed by his combination of critical thinking skills and a wide range of knowledge of the numerous Department of Energy programs. Everyone on this committee and in this town that works in this area knows of the importance of the No. 2 job in the Department of Energy.

As DOE moves forward this year in submitting a license application for NRC for Yucca Mountain and working on the next generation of cool nuclear power plants and continuing to work on environmental cleanup from our old wartime legacy, these are just a handful of issues that need to be tackled in the Department and I do not think there is anybody that, based on training, education, and experience, that is better than Clay to do that now.

No less daunting is the task that you have, Secretary Lynn Scarlett. Your job as No. 2 person in the Department is a very difficult one. In your current position as Assistant for Policy and Management and Budget, which you have held since July 2001, you developed a grasp of the breadth of issues facing the Department, and I am hopeful that the increased authority that you will receive by virtue of this appointment will give you more opportunity to do things in the Department that are needed during the remainder of this President's term.

So I welcome both of the nominees and I want to thank both of you for your willingness to undertake this responsibility. It is of serious magnitude and we hope you will do well.

Now, I would now ask Senator Bingaman if he would like to comment and then we'll introduce your families.

STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Senator BINGAMAN. Thank you very much, Mr. Chairman.

First let me just welcome both nominees. I have met with both of them and indicated to them that I support their nominations and wish them well in these new jobs and feel they are both highly qualified. I did want to just refer to two broader issues. I will have a specific question or two of the nominees after their statement. But the two broader issues, one relates to science. These are issues related to the Department of the Interior.

One relates to science. There is a recent survey that I think is troubling, a survey of U.S. Fish and Wildlife Service scientists that was conducted by the Union of Concerned Scientists and Public Employees for Environmental Responsibility. They found what they saw as widespread political interference with the scientific work there in the Fish and Wildlife Service. I would be, obviously, concerned if that is the case.

Nearly half the scientists who responded in that poll, who worked on endangered species-related issues, said that they had been directed for non-scientific reasons to refrain from making findings that were protective of environmental species. I think we need

to run that down. Obviously, public trust in our institutions of government I think is eroded to the extent that people feel like all decisions are politically driven.

The second concern relates to the Department's responsiveness to the committee. I think 4 years ago the previous Deputy Secretary at his confirmation hearing pledged to work in a forthright, bipartisan and cooperative manner with the committee. Many of us have felt that that did not happen, as it should have. We have had difficulty getting technical and factual information without long delays, and career employees have apparently been forbidden to answer questions without first getting clearance from political appointees.

Those are issues that have obviously caused consternation among myself and others in the committee and they are issues—I thought this was an appropriate issue to raise with these two nominees since they will be in a position to correct that in their new positions.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bingaman.

Now, we would like to permit each of you, starting with you, Mr. Sell, to introduce family members that you would like to be introduced so they can stand up and we can see who they are and know who is supporting you.

Mr. SELL. Thank you, Mr. Chairman.

I am very proud today to have my wife here with me, Alisa Sell, as Senator Hutchison introduced; my oldest son Jack. I have two other children, Robert, who is 2, and Mary Margaret, who is 1, and I was tempted to bring them here today with the hopes that it might shorten the hearing. But I left them at home.

[Laughter.]

And my parents, George and Judy Sell from Amarillo, Texas, are here as well.

The CHAIRMAN. Very good. Thank you very much.

Ms. Scarlett.

Ms. SCARLETT. Yes, Senator. I have with me my mother Virginia Scarlett that I would like to introduce today. I regret that my husband is unable to be here. He is enjoying the warm weather of southern California in Santa Barbara.

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

Now, I think we have to do some things that we have to ask every nominee to do. The rules require that you be sworn in in connection with your testimony. So would each of you rise and raise your right hands.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth, and nothing but the truth?

Mr. SELL. I do.

Ms. SCARLETT. I do.

The CHAIRMAN. Be seated.

Before you begin your statements, I ask you three questions. One: Will you be available to appear before this committee and other Congressional committees to represent departmental positions and respond to issues of concern to Congress? First, Mr. Sell?

Mr. SELL. I will.

The CHAIRMAN. Ms. Scarlett?

Ms. SCARLETT. I will.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. SELL. Senator, my investments, personal holdings, and other interests have been reviewed both by myself and the appropriate ethics counselors within the Federal Government. I've taken appropriate action to avoid any conflicts of interest. There are no conflicts of interest or appearances thereof to my knowledge.

The CHAIRMAN. Ms. Scarlett?

Ms. SCARLETT. Yes, Senator, my investments, personal holdings, and other interests have been reviewed both by myself and the appropriate ethics counselors within the Federal Government. I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interest or appearances thereof to my knowledge.

The CHAIRMAN. Are you involved or do you have any assets held in blind trust?

Mr. SELL. I do not.

Ms. SCARLETT. No, Senator.

The CHAIRMAN. All right. Now we're going to proceed to have each of you give your statements, and I hope they will be as brief as possible, and then we'll proceed to questions.

Mr. Sell.

TESTIMONY OF JEFFREY CLAY SELL, NOMINATED TO BE DEPUTY SECRETARY OF ENERGY

Mr. SELL. Mr. Chairman, Senator Bingaman, and members of the committee, I'm honored to appear before you today as the President's nominee to be Deputy Secretary of Energy. I earlier introduced my family, but I would like to say particularly about my wife, one of my greatest assets is being married to a tough, strong, Texas woman. I want to publicly thank Alisa for not just permitting me to continue to serve in the Government, but for being a great source of encouragement in my continuation.

My educational background, as Senator Hutchison said, is in business and law. But for the last 10 years I've had the wonderful honor of serving my country and government. As such, I'm a product of my experiences in the House, Senate, and White House and of the outstanding individuals for whom I worked.

For 5 years I served Congressman Mack Thornberry of Texas. His interest in national security missions of the Department of Energy and his vision for the National Nuclear Security Administration allowed me great involvement with the Department early in my career. Thereafter, I was proud to serve Senator Ted Stevens and you, Mr. Chairman, as your lead staffer on the Energy and Water Appropriations Subcommittee for 3½ years. That experience allowed me to get to know and understand the programs of the Department in a way few people are permitted to know them, and the experience allowed me to work under one of the Nation's foremost leaders of energy, science, and nonproliferation policy.

For the last 19 months, as Senator Hutchison said, I've served President Bush as a Special Assistant on matters of energy policy and legislative affairs, a broadening experience that I believe further prepared me to help implement the President's vision for energy and national security.

The experiences in these three jobs will assist me in serving the Department and I hope complement the impressive qualifications of the new Secretary of Energy, Sam Bodman.

I have long thought that the Department's missions flow from two broad overarching themes, what can be and what must never be. The first mission theme allows us to lay out a vision of what can be: policies resulting in secure, reliable, and affordable sources of energy; new energy technologies that embrace the future and flow from the research occurring today in our laboratories and universities; world leadership in the management of resources in a way that increases and secures our Nation's wealth, but also allows us to share with the world our prosperity and the peace that follows prosperity. These are the Department's missions of energy policy, energy research and development, and science.

The second mission theme is one that requires a commitment to what must never be. For 48 years this Department and its predecessors going back to the Manhattan Project combined human ingenuity with the physical sciences to end World War II and then win the cold war, protecting us from what must never be. Today this Department and its scientists, its technicians, its civil servants, are again called to build upon this historic mission by protecting the American people from the threat of nuclear terrorism in a rapidly changing world. These are the missions of the Department's nonproliferation activities around the globe, of its national security programs, and of the requirements to be true to the environmental obligations resulting from this work.

These missions are among the most important to our Nation and to our world. The Department cannot succeed, however, without full management focus from the top on the safety and security of the Department's people and facilities. The Secretary has made this a top priority and if I am confirmed I intend to join him in making the management decisions and leading the operations of the Department in a manner that is true to the Secretary's commitment.

Finally, regarding the management of the Department, I should say that I have the greatest respect and regard for former Deputy Secretary Kyle McSlarrow and I thank him for the course that he has set.

In closing, I want to once again thank the President for the trust he has placed in me and thank the committee for the consideration of my nomination. Mr. Chairman, this concludes my statement and at the appropriate time I would be pleased to answer any questions.

[The prepared statement of Mr. Sell follows:]

PREPARED STATEMENT OF JEFFREY CLAY SELL,
NOMINEE TO BE DEPUTY SECRETARY OF ENERGY

Mr. Chairman, Senator Bingaman, and members of the committee, I am honored to appear before you today as the President's nominee to be Deputy Secretary of Energy.

Before I proceed further, I would like to introduce and recognize my wife of 12 years, Alisa Sell. Like many Texas men, my greatest asset is being married to a tough, strong Texas woman. I want to publicly thank Alisa for not just permitting me to continue to serve, but for being my greatest source of encouragement.

My oldest son, Jack, is here with me today, as well as my parents George and Judy Sell, from my home town of Amarillo, Texas. My two youngest children, Robert, age two, and Mary Margaret, age one, are not here today, but I believe I have their support as well.

My educational background is in business and law. But for the last 10 years, I have had the wonderful honor of serving my country in government. As such, I am a product of my experiences in the House, Senate, and White House; and of the outstanding individuals for whom I worked.

For five years I served Congressman Mac Thornberry of Texas. His interest in the national security missions of the Department of Energy, and his vision for the National Nuclear Security Administration, allowed me great involvement with the Department early in my career.

Thereafter, I was very proud to serve Senator Ted Stevens and you, Mr. Chairman, as your lead staffer on the Energy & Water Appropriations Subcommittee. For three and one-half years, that experience allowed me to get to know and understand the programs of the Department in a way few people are permitted to know them. And, the experience allowed me to work in the background of one of our Nation's foremost leaders of energy, science, and nonproliferation policy.

For the last 19 months, I have served President Bush as a Special Assistant on matters of energy policy and legislative affairs—a broadening experience that I believe further prepared me to help implement the President's vision for energy and national security.

The experiences in these three jobs will assist me in serving the Department and, I hope, complement the impressive qualifications of the new Secretary of Energy Sam Bodman.

I have long thought that the Department's missions flow from two broad overarching themes: what can be, and what must never be.

The first mission theme allows us to lay out a vision of what can be:

- Policies resulting in secure, reliable and affordable sources of energy;
- New energy technologies that embrace the future and flow from the research occurring today in our laboratories and universities.
- World leadership in the management of resources in a way that increases and secures our nation's wealth, but also allows us to share with the world our prosperity and the peace that follows prosperity.
- These are the Department's missions of energy policy, energy R&D, and Science.

The second mission theme is one that requires a commitment to what must never be:

- For 48 years, this Department, and its predecessors going back to the Manhattan Project, combined human ingenuity with the physical sciences to end World War II, and then win the Cold War—protecting us from what must never be.
- Today, this Department and its scientists, technicians, and civil servants are again called to build upon this historic mission by protecting the American people from the threat of nuclear terrorism in a rapidly changing world.
- These are the missions of the Department's nonproliferation activities around the globe, of its national security programs, and of the requirement to be true to the environmental obligations resulting from this work.

These missions are among the most important to our nation and to our world. The Department cannot succeed, however, without full management focus from the top on the safety and security of the Department's people and facilities. The Secretary has made this a top priority, and if I am confirmed, I intend to join him in making the management decisions and leading the operations of the Department in a manner that is true to the Secretary's commitment. Finally, regarding the management of the Department, I should say that I have the greatest respect and regard for former Deputy Secretary Kyle McSlarrow and I thank him for the course that he has set.

In closing, I want to once again thank the President for the trust he has placed in me and thank the Committee for considering my nomination.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions.

The CHAIRMAN. Thank you very much.

First, I want to apologize for misstating your name. I say "Scar-LETT," but it's "SCAR-lett." I hope I won't do that again.

Ms. SCARLETT. That's okay. Anything will do.

The CHAIRMAN. No, I used to cringe when everybody said "DOMM-inn-EE-chee" and it took them a long time to learn, and they still insist that I say it wrong and they say it right.

Would you please proceed.

TESTIMONY OF PATRICIA LYNN SCARLETT, NOMINATED TO BE DEPUTY SECRETARY OF THE INTERIOR

Ms. SCARLETT. Yes. Yes, thank you, Mr. Chairman and Senator Bingaman and all members of the committee. I am honored to be here today as the President's nominee for Deputy Secretary of the Department of the Interior. I've been privileged these past 4 years to serve as Assistant Secretary of Policy, Management, and Budget at Interior, a position with responsibilities that span the scope of the entire Department and its eight bureaus. I've experienced both the challenges and opportunities in helping the Secretary of the Interior set priorities at a Department that manages one in every five acres of the United States with a work force of 70,000 people who operate at 2,400 locations and manage over 40,000 facilities.

As manager of over 500 million acres, Interior has a mission that lies at the confluence of people, land, and water. What is our compass in tackling those responsibilities? Three themes underpin our efforts. First is an emphasis on partnered problem-solving and cooperative conservation so that our decisions sustain healthy lands, thriving communities, and dynamic economies. That focus has set the stage, for example, for our multi-state partnerships to protect sage grouse. It underpins the President's Healthy Forests Initiative and the bipartisan Healthy Forest Restoration Act. It lies behind our budget emphasis on cooperative conservation grant programs.

A second theme is our emphasis on balance. Americans want outdoor recreation opportunities. They want reliable and affordable energy and water. They want to ensure stewardship of this Nation's phenomenal natural, cultural, and historic resources.

Our third theme is management excellence. 4 years ago Congress gave us an "F" for our information technology security. Today 98 percent of our systems have been certified and accredited for their security measures. In 2002 it took us 4 months to close our financial books. This year it took us 45 days.

Should I be confirmed as Deputy Secretary of the Department of the Interior, I would anticipate maintaining the trajectory set by Secretary Norton to enhance cooperative decisionmaking, achieve balance among multiple goals and responsibilities, and modernize our administrative and management practices. My experiences over the past 4 years have deepened my familiarity with Interior's responsibilities. Those experiences have required diplomacy, openness to many voices and perspectives both within the agency and with the public, an ability to grapple with highly diverse and complex issues, and an attention to setting targets and time lines to achieve results. I have tried to bring those qualities to the position of Assistant Secretary. Should I be confirmed as Deputy Secretary, I will strive to apply those same qualities to the job.

Thank you and I would be very happy to answer any questions.

[The prepared statement of Ms. Scarlett follows:]

PREPARED STATEMENT OF P. LYNN SCARLETT, NOMINEE FOR THE POSITION OF DEPUTY SECRETARY OF THE DEPARTMENT OF THE INTERIOR

Mr. Chairman, Senator Bingaman, and members of the Committee, I am honored to appear before you today as the President's nominee for Deputy Secretary of the Department of the Interior. I have been privileged, these past four years, to serve as Assistant Secretary of Policy, Management and Budget at the Department—a position with responsibilities that span the entire Department and its eight bureaus. I have experienced both the challenges and opportunities of helping the Secretary of the Interior set priorities at a Department that manages one in every five acres of the United States, with a workforce of 70,000 employees who operate at 2,400 locations and maintain some 40,000 facilities.

As manager of over 500 million acres, Interior has a mission that lies at the confluence of people, land, and water. How well we do our job at Interior affects whether:

- people have water in their homes;
- farmers can irrigate their fields;
- families can warm and cool their homes with affordable, reliable energy;
- Indian children enjoy educational opportunities;
- communities avoid risks from catastrophic fires and natural hazards;
- our children and grandchildren can enjoy the grand vistas of the Grand Canyon, or the geologic rainbows of Arches National Park; and
- habitats flourish for this Nation's diverse flora and fauna

As this Nation's premier land manager, our mission inevitably places us amid conflict as different people have diverse aspirations for these public lands. As guardian of thousands of buildings, roads, trails, research facilities, and scientific systems, our mission also triggers many basic management challenges.

What is our compass in tackling these responsibilities? Three themes have underpinned our efforts over the past four years.

First is an emphasis on partnered problem solving and cooperative conservation so that our decisions sustain healthy lands, thriving communities, and dynamic economies. That focus has set the stage for multi-state partnerships to protect sage grouse. It underlies the President's Healthy Forests Initiative and the bipartisan Healthy Forests Restoration Act through which reduction of hazardous fuels in forests and on rangelands occurs through collaboration with communities. It lies behind our budget emphasis on cooperative conservation grant programs.

A second theme is our emphasis on balance. Americans want access to outdoor recreation opportunities; they want reliable and affordable energy; they want reliable supplies of clean water; they want to ensure the stewardship of this Nation's phenomenal natural, cultural and historic resources.

Our third theme is management excellence. Though unglamorous and often outside the public eye, how well we manage facilities, financial reporting, information technology, and other basic administrative functions significantly affects our ability to serve the public effectively and efficiently. Four years ago, Congress gave us an "F" for our information technology security. Today, 98 percent of our systems have been certified and accredited for their security practices. Four years ago, it took us four months to close our financial books. This year is took us 45 days after the close of the fiscal year. Four years ago, we had no idea what condition our facilities were in. Today, almost all of our bureaus have completed condition assessments on their thousands of facilities.

Should I be confirmed as Deputy Secretary of the Department of the Interior, I would anticipate maintaining the trajectory set by Secretary Norton over the past four years to enhance cooperative decision making, achieve balance among multiple goals and responsibilities, and modernize our administrative and management practices.

These three themes—cooperation, balance, and management excellence—will inform our decisions to ensure the Nation has access to energy; enjoys clean and sufficient water supplies; and maintains healthy forests. These themes will also continue to underpin our approach to protecting at-risk and endangered species. And, finally, the theme of management excellence is the benchmark against which we are striving to tackle our Indian Trust responsibilities.

My experiences over the past four years as Assistant Secretary of Policy, Management and Budget have deepened my familiarity with Interior's responsibilities. Those experiences have required diplomacy, openness to many voices and perspectives—both within the agency and with the public, ability to grapple with highly di-

verse and complex issues, and an attention to setting targets and timelines to achieve results. I have tried to bring those qualities to that position. Should I be confirmed as Deputy Secretary, I will strive to apply those qualities to the job.

Thank you. I would be happy to answer any questions.

The CHAIRMAN. Thank you very much.

Senator Bingaman, do you have any questions?

Senator BINGAMAN. Yes, Mr. Chairman. Thank you very much.

Let me just ask about one issue that we raised during our budget hearing with Ms. Scarlett and raised with Secretary Norton at that time. It's one that concerns me still. I know it concerns you, Mr. Chairman. It's one that you've worked hard on. This relates to the funding for the Middle Rio Grande Area and how we get the resources to comply with this 2003 biological opinion there.

It strikes me, as I understand it, we have a reasonable and prudent alternative in this 2003 biological opinion, and the estimate that I've seen from the Department is that it's going to cost $230 million over 10 years to essentially do what's necessary in that alternative. The administration has asked in each of the last 3 years for a little over $6 million to implement this rather than the $23 million that would be necessary if you were to do a tenth of it each year, and I'm not sure that's the right speed with which to do it.

Mr. Chairman, you've added funds in the appropriations process to try to get the funding up so that we could go ahead and get this done. It's very important to our State. I'm just concerned about what the level of commitment is in the Department to actually seeing this 2003 biological opinion followed through on, and I thought maybe this was a good time to ask Ms. Scarlett to give us any additional thoughts she has on this or how we can get this moved up on the priority list in the Department of the Interior. It seems to fall low on that priority list, or at least it has in recent years.

Ms. SCARLETT. Thank you, Senator, and of course first I'd like to say we applaud and thank you for your strong leadership and Senator Domenici in the Rio Grande, and with the challenging issues we have there.

Our overall Middle Grande Budget for 2006 is proposed at $19 million. That is somewhat less than what the Congress appropriated in 2005, but nonetheless an increase over past years in what we had proposed. That effort is a composite of efforts, very collaborative, and we certainly place a high priority on it. I know we had some success last year with the silvery minnow in protecting them during low water flows and being able to move them and save some 12,000 silvery minnows that would have been adversely affected. Our Bureau of Reclamation continues to work on the design and planning for a possible sanctuary, which I know you've expressed interest in.

So I look forward to working with you on continuing to focus on the Middle Grande, Middle Rio Grande, and the biological opinion there, and if we need to enhance our efforts we'll explore how we can do that.

Senator BINGAMAN. Thank you. I think that's important and it's an issue that's not going to go away in our State. It's been a good wet winter in New Mexico for a change and we're very pleased about that, but this is an issue that is long term and will continue

to require funding. I think any help you can get us in getting more administration support for that would be much appreciated.

As I said before, Mr. Chairman, I strongly support both nominees, and I do not have any other questions at this time.

The CHAIRMAN. If any members have questions, we want them submitted, what do you think, by the close of business today. Since there is no objection that we're aware of, no serious objection, we're going to proceed with dispatch. We need both of you confirmed as quickly as possible. So, Senators, if you've got questions get them in. Equally important that you get the answers in, so don't take 4 or 5 days if you can do it in 1 because it just delays your confirmation.

I have a number of questions, but I'm not so sure I'm going to ask them. I have maybe six or eight. I'm going to submit them to you and ask you to answer them.

Perhaps I could ask you, Mr. Sell, would you just discuss a little bit your views on nuclear power?

Mr. SELL. Thank you, Mr. Chairman, for the opportunity to speak to that. As you have said and as the President has said on many occasions, beginning with the National Energy Policy from June 2001, nuclear power is critical to our energy security. It produces 20 percent of our electricity today and it is important, both for reasons of domestic energy security as well as due to environmental concerns, that nuclear power continues to be a large and in fact growing part of the United States energy mix.

The Department has taken a number of efforts and started new initiatives in order to support nuclear power. The country has not ordered a new nuclear power plant since the 1970's, and the President has stated clearly his desire for that to change.

The nuclear budget in the Department of Energy has increased substantially in fiscal year 2006 and if I'm confirmed I look forward to the opportunity to work closely with you and other Members of the Congress to continue to promote nuclear power as a safe, clean energy alternative.

The CHAIRMAN. Thank you very much.

Again, I want to move things along, so I don't have any additional questions. I'll submit them.

I note the presence of—Senator, do you have some questions, observations? Are you for them, against them?

Senator BURR. I'm for them.

The CHAIRMAN. Well, that's good.

I understand there's a Senator who wants to be heard. Would you please call him up and tell him I'll be open here for 10 minutes. If he's not here we close the hearing down.

We stand in recess for 10 minutes.

[Recess.]

The CHAIRMAN. The hearing will please come to order.

Senator Wyden.

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

Senator WYDEN. Thank you, Mr. Chairman. Mr. Chairman, my apologies to you. This was a crazy morning even by Senate stand-

ards, and I want to thank you for your thoughtfulness and appreciate all the courtesies that you always extend to me.

I also want to note how extraordinarily helpful you've been to the people of our part of the country with respect to this administration proposal to privatize our power system, the Bonneville Power Administration. There's no question in my mind that the reason that we are well positioned legislatively to block it is we've had the good fortune of your support, and I want to thank you for that as well.

The CHAIRMAN. You're welcome, Senator.

Senator WYDEN. Mr. Chairman, I want to explore with Mr. Sell, the nominee, both his position with respect to privatization, but also the way in which he's dealt with me and my office with respect to this whole topic, because I regret to say that I don't think in his dealings with our office that he has been completely forthright and I want to discuss my concerns and give him a chance to respond.

Mr. Sell came——

The CHAIRMAN. Senator, let me just say from the offset, I have found him to be nothing but forthright always. And I respect the prerogative of every Senator to do what, ask what they like, but I do remind you that we all have feelings about this man, many of us. So I would caution you to be sure you know what you're talking about with reference to him. That is enough.

Senator WYDEN. Mr. Chairman, he came to my office, and I want to go through with some specifics exactly what happened. Frankly, I would have blocked the Sell nomination formally with a public hold, which has been my practice, other than the fact that he is well thought of by you. I said that when I went to the floor, and the fact that you think favorably about him carries enormous weight with me. And as I announced on the floor, I would put a formal hold on the Sell nomination already because of my dealings if it were not for my friendship and respect for you, Mr. Chairman, and I appreciate your bringing that up.

I want to go through with you, Mr. Sell, the events as I understand them and get your reaction to them so that the committee is aware of my concerns. You came to my office on January 17, when Secretary Bodman came to discuss his appointment as Secretary, and you were in the meeting when I asked Dr. Bodman on January 17 about privatization of Bonneville and he told me he opposed privatization, and you did not say that day that the White House had a privatization proposal.

Now, the next day you worked with my staff where we extended a courtesy to the Bush administration to say we would like to make sure that the administration understands our concerns about privatization, and my staff, after extending the courtesy to the Bush administration, worked with you on the questions that I would ask the Secretary. And again you didn't say that the White House had a privatization proposal, and then the Secretary came and testified to that effect on January 19.

Now, you came next to my office on February 16, to meet about your own nomination, and I asked if you knew about the administration's budget proposal affecting Bonneville when you accompanied Energy Secretary Bodman to my office on January 17. And

you admitted to me that day that you knew about the administration's proposal at that January 17 meeting.

Is that still correct? Is that still your understanding?

Mr. SELL. Senator Wyden, if I could, I would like to—your recitation of the facts is consistent with my recollection, with two points. I now understand, because you've been kind enough to meet with me three times, including the meetings that you've just outlined, I now have a much greater appreciation for your perspective and the perspective of your constituents on this matter.

Had I known at the time that you viewed privatization and a change in the law to charge market-based rates as the same thing, perhaps I could have handled the situation differently. I'm sure with the knowledge I have today, had I had it then I would have handled it in a different way.

But the administration does not view privatization, that is selling the Federal asset which is Bonneville Power to a private entity, as the same thing as our proposal. You asked Secretary Bodman that day if he was—then-nominee Bodman that day, if he was opposed to privatization of BPA, and he responded that he was personally opposed to privatization and he believed that was the position of the administration. And I will tell you today, Senator Wyden, that I am personally opposed to privatization and I believe that continues to be the position of the administration.

At that time in January, I did not perceive privatization, as I've just described it, as the same thing that was at that point under consideration in the White House. But as you said in your statement, I was aware that that proposal and other general proposals related to the power marketing administrations were under consideration inside the White House when I was in your office on January 16th.

Senator WYDEN. Do you think that at the time you should have told me that there was a proposal under consideration to move to market rates?

Mr. SELL. Once again, Senator Wyden, I do want to thank you for the courtesy that you've extended me in offering me, giving me a number of opportunities to visit with you about this. And once again, I'll say, if I fully appreciated your concerns then as I do today I believe I could have handled the matter and handled your questions in a better way.

Senator WYDEN. Well, I intend to talk to the chairman about this some more. As I say, because of my enormous respect and affection for Chairman Domenici, which goes, as he knows, beyond the question of energy to our families and our families' history, I'm going to talk to the chairman about it some more.

I would just make two points, Mr. Sell. First, if it looks like a pig and acts like a pig, it's a pig. And certainly, in our part of the world this approach with respect to market rates, this is seen as code for privatization, and I think that I should have been told at the time that there was an approach being advocated at the White House as it relates to market-based rates.

You've given your response today that, had you understood my concerns, you would have indicated that, and I think that's a step in the right direction. I want to have a chance to talk about this further with the chairman and ask—I would only ask you one other

substantive question, and the chairman has been helpful on this point as well. Do you believe that it would be wrong to try to go to a market-based rate structure system for Bonneville and the other PMA's administratively? Because there is great concern that, while Congress may block this legislatively—certainly there is support in this committee for doing it—that there could be an end run by the administration to do this administratively, and I hope to work with the chairman and other colleagues as we try to address that tomorrow.

But I would like to know your position substantively as to whether you would be opposed to an effort to administratively put in place this market-based approach to setting rates.

The CHAIRMAN. Before you answer, Mr. Sell, might I just say to you, Senator Wyden, I think I'm fully aware of the issue. However, to ask a nominee for a position that is not going to be able to make the decision as to whether they go administratively or not—that's not his decision. It's not even the Secretary's decision. The President of the United States would have to say we're going to do it administratively.

So I would think it's not relevant what he thinks personally. If you want to ask him—if you want to answer personally, I hope it's understood that whatever you say doesn't make any difference. The President of the United States will or won't.

I'm hoping that we're finished with this issue. I've made it very clear I don't think we ought to keep sending that issue up here. You know that.

I hope you're not part, Secretary Bodman said he's not going to be part, of—he's been telling the administration, don't send it up again. It's just getting to the point where it's finished.

So, having said that, is that fair enough, that we understand the prerogative of his answer?

Senator WYDEN. Mr. Chairman, I think your comment is a very fair one. I just am interested in getting a sense from Mr. Sell with respect to how he would approach it, because he clearly is involved at the White House in these energy discussions. And while I think your point, Mr. Chairman, is very fair, I would be, with your leave, interested in having Mr. Sell's thoughts on the subject.

Mr. SELL. I'm happy to respond to your question, Senator Wyden. It is my understanding that the underlying statutes governing the power marketing administrations and Bonneville require that the rates be based on a cost recovery methodology. That is why the administration in seeking to propose, pursue a different policy, proposed a change in the law. If that change is not made—and that is a change that would have to first begin in this committee. And if that change is not made, then we will continue to comply with the requirements of the existing law.

Senator WYDEN. I will take that as an answer that you will not go the administrative route. That's constructive as well.

Mr. Chairman, you've been kind both in giving me this extra time and I just want to come back to what I have tried to say to the administration on this point, that I'm going to do everything in my power to make sure that there is a bipartisan coalition in this Senate to not inflict on our part of the world what amounts to economic poison. We have huge unemployment. Our whole eco-

nomic underbelly is hard-hit, and this would cause enormous harm right now.

Mr. Chairman, again I thank you both for your support in terms of the substance of this effort and your thoughtfulness with respect to my concerns about this appointment. And it's my inclination, before taking a position on this appointment, to have further discussions with you.

The CHAIRMAN. I do want to say for the record before I call on the two remaining Senators—in fact, I want to thank you, Mr. Sell, as the current nominee, for the work you did with reference to helping when the BPA had to increase its borrowing authority in 2003. That was very helpful to the same area that Senator Wyden is talking about, and you were very helpful in seeing to it that the additional borrowing authority was granted, which became—was a very important, positive step in the direction of assuring that power that he is commenting upon as being vital to the area.

I think the record should know that you helped then and we thank you for that. Those in the area ought to be thankful for it, too, including Senator Wyden.

Senator Thomas.

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. Thank you, Mr. Chairman. This is my fourth committee meeting this morning, so I did want to stop by for a moment and welcome both of our folks here today and thank them for being here, certainly have done a great job. Ms. Scarlett, Lynn Scarlett, has really worked so hard over at Interior and we appreciate that very much.

Just a couple of general philosophical kinds of things, I guess. In our bill in 1998 for parks, we set up a situation where we asked for a commission to specifically report about the rules and regulations with regard to concessions. Could you tell me where we are with that and what you expect?

Ms. SCARLETT. Yes, Senator. I am pleased that we have made significant progress on the concession issue. The advisory board has met and come to agreement on certain principles with respect to how to implement the new concession contracts. We have some 300 contracts that actually have been reissued and we are working on refining in particular some of the challenging issues, such as the possessory interest issue and how to translate into the new leasehold surrender calculations. I think we have agreement on that. We now look forward to moving ahead with the implementing details on that.

Senator THOMAS. Good.

One of the problems we're having, of course, is the endangered species thing, and working with the various agencies, whether it be Forest Service or whether it be Park Service or so on. It just seems to me that maybe we could resolve some of those problems a little more easily if there was more cooperative, apparently more cooperative work done prior to the listing and prior to the development of recovery, so that more of these agencies could work together. Does that sound reasonable to you?

Ms. SCARLETT. Senator, that exactly expresses the philosophy that Secretary Norton has tried to advance these past 4 years. She uses her phrase "Four C's—conservation through cooperation, communication, consultation." We have worked with the Congress on a number of grant programs that enable us to work with ranchers, other landowners, and citizens, States, tribes, and so forth to get ahead of the game.

I think one very good example of that in fact is beginning to occur on the Middle Rio Grande with the silvery minnow; also our recent sage grouse decision in which we'll be working cooperatively across multiple States to try to protect that habitat and the sage grouse itself, so that listing is not necessary.

Senator THOMAS. Good, I hope not. I hope you'll give some thought to wolves and grizzly bears. That seems to be a little bit of a problem.

Mr. Sell, glad to have you here, sir. I am pleased to have someone in this position with the kind of background that you have and energy, and I think that's very important. The Senator's gone from Oregon, but I also think when we talk about regional transmission organizations and other kinds of things that are going to be necessary to have a good national transportation system for electricity that places like Bonneville are going to have to be a little more cooperative and not be isolated quite as much as some would like to have them.

At any rate, congratulations, both of you, and we look forward to working with you.

The CHAIRMAN. Don't you even nod as he says that. Stay still. [Laughter.]

The CHAIRMAN. Senator Salazar.

STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Senator SALAZAR. Thank you, Chairman Domenici. Congratulations to both of you, Lynn Scarlett and Jeff Sell, for your appointments. I have just a couple of questions.

First to you, Mr. Sell, as the Deputy Secretary for Energy. I'm interested in hearing your views as we try to move our Nation more toward energy independence. All of us on this committee and with your background know what has happened to our country over the last 3 decades, where we've gone from a point where we were importing 30 percent of our oil to the point now where projections are it's going to be up to 70 percent.

I think that under the leadership of this committee and Chairman Domenici and his bipartisan approach to coming up with an energy bill, we hope to be able to get something for the President to be able to sign and create an energy framework for the future.

As part of that framework, for me one of the matters that is of great interest is the interest that I have in renewable energy. I've always felt that renewable energy was important from the perspective of helping rural communities economically, developing energy in a way that is environmentally friendly, and also to help us lessen our overdependence on foreign oil.

So I would like your views as Deputy Secretary on the renewable energy portfolio in terms of the components of that portfolio, as

well as your views concerning a national standard with respect to renewable energy.

Mr. SELL. Thank you, Senator, for the opportunity to respond to that. The President's view and Secretary Bodman's view—and it's mine as well—is that energy security must involve a diversity of many energy sources and that renewable power will continue to play a key and it must play a growing role as part of our energy mix.

When this administration's energy policy was developed, I understand a very hard look was taken at how to incentivize an increase in renewable production of electricity, and the method that this administration arrived upon was to choose to do that through the tax code, and the President has proposed a number of tax incentives, production tax credits, to incentivize the development of more renewable resources.

As you're well aware because you represent the National Renewable Energy Lab, we have also made a significant R&D effort and continue to do so, and if I'm confirmed as Deputy Secretary I look forward to returning to your lab out there and learning more about that.

But to get back to your question on the renewable portfolio standard, the administration has chosen to support and grow this sector through incentives in the tax code and we have not at this point chosen to support the other alternative, which is to mandate a certain percentage of power to come from renewable sources.

I understand from the hearing that this committee had yesterday, as well as Senator Domenici's statement and others, that the committee is considering that, and if I'm confirmed I would look forward to working closely with this committee and others in the Congress, because the one thing we all have in common, even though we may not agree on every point or initiative, is that we must get a comprehensive energy bill passed. And I look forward to working with you and the chairman in doing that.

Senator SALAZAR. Thank you, Mr. Sell.

Ms. Scarlett, I recognize that this may be the first time in history that we have a woman who is Secretary of the Interior and a woman who is Deputy Secretary of the Interior. So, given the fact that I have only two daughters and no sons, I think Interior is headed in the right direction in terms of gender balance. So I congratulate you.

Let me just ask you a question about a specific issue in Colorado, and that's with respect to the Roan Plateau. There has been a plan on the part of the BLM which would allow for drilling on the top of the Roan Plateau, but to be phased in over a period of years commencing probably 10 or 15 years from now. There are a number of communities around the Roan Creek Plateau that are very concerned about the drilling on the top of the plateau. Garfield County and all of the cities within Garfield County have passed resolutions expressing their concern.

Looking at that specific issue, how is it that you as Deputy Secretary of the Interior would take into account the feelings of those local elected officials who represent the county and the communities that are going to be affected by this drilling on the top of the Roan Creek Plateau in terms of how you move forward with those

decisions? I know we have a development program on developing our fossil fuels, but how would you go about making sure that the most immediately impacted communities are in fact heard, and use the Roan Creek Plateau as your real hypothetical to explain that approach to us?

Ms. SCARLETT. Thank you, Senator. You touch upon an issue that really confronts the Department of the Interior in the many places where we must make management decisions and juggle and balance multiple interests, multiple concerns and needs. We put a priority on collaborating with relevant communities, the tribes, States, counties, local governments, as well as the citizenry, and indeed, in the particular instance of the Roan Plateau had many open forums and extended comment periods in order to try and achieve an outcome which on the one hand, speaking to your desire for energy security in the United States, would allow us to access those energy resources, and yet at the same time lighten our environmental footprint.

The particular proposal in question is one that has the primary focus actually below the plateau and it is a performance-based plan, that is one that would require certain environmental performance to be achieved, and then over time through looking at that performance make determinations on any further extension of activity before actual oil activity would occur on the plateau itself.

I might point out that there already is some preexisting activity on the plateau on some State lands. But this is one of the balancing acts that we have in play, and very much welcome ongoing public input on that process.

Senator SALAZAR. Thank you.

The CHAIRMAN. Thank you, Senator.

I note that Senator Murkowski's here. I'm glad that you've arrived from Alaska and you didn't freeze up there, 48 degrees below or however cold it was. Was that the coldest, or 58, when we were there?

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

Senator MURKOWSKI. It was 48. We don't want to exaggerate.

The CHAIRMAN. Or 58. I was up there also with her and others, Senator. We invited you and you couldn't make it. But needless to say, it's rather exhilarating.

[Laughter.]

Senator SALAZAR. I look forward to going there some time.

The CHAIRMAN. You can't stay outside very long.

Senator SALAZAR. I want to go in the summer, though.

[Laughter.]

The CHAIRMAN. Well, I tell you, if you go in the summer the environmentalists will tell you you didn't go in winter when all the activity's going to take place. If you go in the winter and not the summer, they'll say you should have gone in the summer because that's when there's marshes around and you can have more damage. So I guess you have to go two times. I won't do that, however. I've had my share of ANWR. If we win, if we win I'll never have to go back, send somebody else. If we lose, that's the end for me. Somebody else can take up this cause.

Senator, we've got a few more minutes. You can proceed. If you want to go on very long, I'll leave the committee to you.

Senator MURKOWSKI. Mr. Chairman, I just have a couple quick questions, and I apologize that I wasn't here earlier. I was at Environment and Public Works. We're trying to get Clear Skies, and unfortunately we were not successful in that effort.

But thank you, and I hear very clearly that you won't be joining me on my next trip to ANWR. We don't have spring and fall, so I can't offer you those seasons. But I do appreciate you leading the delegation up north this weekend. It was very important.

A couple questions to both of you. First, thank you for being here this morning and congratulations to you as you move up and on.

First, Ms. Scarlett, if I can ask you just a couple questions about the U.S. minerals industry. The National Mining Association frequently observes that many areas in the U.S. are regarded as the least attractive for new mineral investment due to permitting and other public policy considerations. Countries like Chile are often cited as most favorable for mineral development.

What can the Interior Department do to improve the investment climate for mineral exploration here in the United States?

Ms. SCARLETT. Thank you, Senator Murkowski. We have worked hard these past 4 years at the Department of the Interior, whether it's with respect to energy development or minerals access, to ensure access to public lands where those resources are, doing so while balancing the environmental and other considerations.

To that effect, we have tried to improve our permitting processes where that is relevant. For example, particularly in energy development, we project to reduce our backlog of applications for permits to drill to virtually nothing by 2006. In the minerals realm as well, we have undertaken certain decisions that try to provide greater security to those who are investing in minerals resource development on public lands.

If you have particular issues that appear to be barriers, we would be happy to discuss those with you and determine how we might address them.

Senator MURKOWSKI. I'd look forward to that conversation because I know that some in Alaska feel that there are significant barriers. So we'd like to talk with you about that.

The U.S. Geological Survey has a robust program to help identify promising areas for mineral exploration, including some areas in Alaska under the NRAP and some other programs. Do you believe that USGS has a legitimate role in encouraging mineral exploration in the United States and, if so, what about the funding component?

Ms. SCARLETT. The U.S. Geological Survey has played a very significant role in this Nation's history, in exploring its geology and including the minerals assessments. We have coverage of minerals assessments data bases in the U.S. Geological Survey of virtually the entire United States. Our 2006 budget does propose to concentrate that effort on further assessments on Federal lands. We are making some very difficult balancing choices as we develop our budget and try to maintain fiscal discipline.

In that context, we have determined to focus the USGS effort on the Federal lands, also understanding that the private sector, in-

dustry and others, do undertake some mineral assessments on the non-Federal private lands. So we feel that this is a good and effective utilization of the resources that we have at Interior.

Senator MURKOWSKI. So you're suggesting then that there needs to be more of a private investment focus, rather than our involvement on the Federal lands?

Ms. SCARLETT. No, let me clarify. We are continuing on the Federal lands the minerals assessment program for the U.S. Geological Survey, believing that that focus on Federal lands is appropriate and is indeed a high priority. Our 2006 proposal calls for focusing that assessment on Federal lands while leaving the assessment of non-Federal lands to other entities such as the private sector.

Having said that, I want to note that we already do have and will continue to maintain the existing data bases that have coverage of mineral assessments on both Federal and non-Federal lands.

Senator MURKOWSKI. Okay. Very briefly on the fires that we suffered in Alaska last summer. It was the worst fire season in Alaska's history and, as you know, the wildfires in Alaska are attacked on an inter-agency basis, and the State took the lead in the southern part of the State and BLM's Alaska Fire Service took the lead in the northern part of the State.

There was a lot of concern last year as the fires kind of stepped up about whether Canadian air tankers that were under contract to the State could be used to fight the fires in the BLM-protected areas. I was up there at that time and there was a great deal of uncertainty, and the uncertainty was made even worse because you couldn't see. The smoke in Fairbanks was so dense that you got up in the air and you couldn't tell what was State land, what was Federal land. In fact, we couldn't even fly the aircraft.

But in terms of fighting the fires, it really is that initial attack, requiring an aggressive initial attack in our wildfires, sending all the heavy smoke into the urban communities like Anchorage and Fairbanks—and we recognize that we've got to do what we can to make these conditions so that you can actually breathe in the interior there. So I would like your assurance that you're going to work with me and the State of Alaska to ensure that the State's contracted air tankers can be deployed where they will be most needed to protect the health and safety of Alaskans.

We anticipate again another tough fire year up north.

Ms. SCARLETT. Yes, Senator, thank you very much. And I actually have looked into this specific issue because it is a high priority to ensure that interoperability. As you will recall, last year we had an issue of having to ground the Federal large air tankers because of some safety concerns. I am pleased to note that we now have gone through a safety assessment process and have eight large air tankers that were approved toward the end of last year and several more being approved going forward.

As we do that, we will have more of the large air tankers in the Federal force that we will be able to utilize on an inter-agency basis. What I am told is that the State assets, until we go through this process of safety assessment, the State assets will be utilized on the State lands, and in an emergency basis—that is, if there's a determination of threat to life or other significant emergency—

that the State assets can be deployed on an inter-agency basis on Federal locations as well.

But we will work hard to strengthen that interoperability and to ensure that we have seamless firefighting in Alaska and throughout the Nation.

Senator MURKOWSKI. Well, that's going to be important to us. When you say you will have the ability if there is threat to life, as you know, in many of these areas it's pretty wide open spaces. We don't have a lot of human life that is at risk, but it's the health safety factor with the intensity of the smoke that's coming in that causes real respiratory issues. So I'm not quite sure how we're defining that emergency when we can say we've got this seamless interoperability.

But I'd like to think that we can work with you on that so that it works when we're in the midst of these very terrible fires.

Ms. SCARLETT. Senator, we very much look forward to working with you on that. We are getting through some hurdles on the large air tanker safety issues, but as we move forward through that certainly interoperability is a key goal.

Senator MURKOWSKI. Mr. Chairman, I just have a couple questions for Mr. Sell, but if Senator Salazar still has more I don't want to monopolize more time right now.

The CHAIRMAN. Can we do it this way? Senator Salazar had some water questions, right?

Senator SALAZAR. Yes.

The CHAIRMAN. That's fine with me. Can you stay and if you want to ask a couple would you follow him, and then close the hearing?

Senator MURKOWSKI. I'd be happy to do that.

The CHAIRMAN. I thank you.

I wanted to say in closing, Mr. Sell, I didn't raise any issues about the pending RFP for management of the Los Alamos National Laboratory. I did not do that because I think you're familiar with the issues. But I think it would be only unfair when we—only fair when we're talking about your confirmation, that we spread on the record here and that you hear from me that I am very concerned at the RFP, the request for proposals, and what we ask of the bidders after 6 years of the same management is a very, very important issue for those thousands of employees who are there and ready to retire and those who are people we're looking at to try to recruit to come there.

I am not at all sure that in an effort to assure bidders, which seems to be a part of the religion of the Department—I don't mind it, but they seem to want more people bidding than they seemed to get an idea about 6 months ago—they thought maybe there weren't going to be enough, so changes are made.

I think that's a balancing act, and I'm very concerned that as you change it, like they have now to have a free-standing corporate entity be the management instrumentality—it sounds nice as a way of getting around the old University of California trust fund for pensioners and employment arrangements. But I think it cuts two ways. It may invite some more people, but it also may cause Los Alamos employees to say they don't want to work there under those

conditions or they're fearful or they don't know what's going to happen.

I thank the Department for at least considering a 180-day moratorium, so as to speak, meaning the new bidder if successful and it's not California, that the people up there will have 6 months to look and see what the new one is, so that they will know the reality of their decision.

But I'm not sure that's enough to kind of calm down the notion that maybe people want to leave before this change. I don't know that you want to comment, but I do think it's important that you hear that from me. I think Senator Bingaman would say it, and perhaps more eloquently, because there's no question it's a very, very serious issue. It's a serious issue for America. If that personnel capacity is diminished substantially, we can't stand that for 8 or 10 years. It's got to continue in a rather, to borrow your word, seamless manner.

Mr. SELL. Senator Domenici, I'm happy to briefly comment. I do know how important Los Alamos National Lab is to you. But more importantly, it is very important to this country. We must have it and they must be very successful. So the issues underlying this competition and the request for proposals are very serious, and I look forward to getting to the Department if I'm confirmed and involving myself in a way that can allow the Department to have a successful competition which will result in the continuation of excellence, which is the legacy of Los Alamos National Lab.

The CHAIRMAN. Thank you very much.

Senator, you're chairing and now we ask Senator Salazar if he'd like to ask some questions. Thank you.

Senator SALAZAR. Dr. Scarlett—I guess we should call you "Doctor," right?

Ms. SCARLETT. Well, actually you've just elevated me. I'm what's called "ABD," All But Dissertation.

Senator SALAZAR. All But Dissertation. We'll call you Assistant Secretary.

Let me ask you two questions about water. The first has to do with the Colorado River system and what is happening with the continued decline of water levels at Lake Powell and the conflict that currently is under way between the lower basin and the upper basin with respect to the allocation issues under the Colorado River Compact.

My question to you is, what is the status of the Department of the Interior's involvement on the allocation issues of water on the Colorado River? And second, from a personnel point of view, where is the Department in terms of appointing the Assistant Secretary for Water and Science to replace Bennett Raley in that position?

Ms. SCARLETT. Thank you, Senator. As you rightly note in alluding to the water issues, water shortages in the West are a very significant issue, one in which we have—to which we've paid a lot of attention. Indeed, in portions of the West we are experiencing drought that is as severe as has occurred in some 500 years.

With respect to the appointment of the Assistant Secretary, that decision is in process. No individual has been announced. But I can assure you that that is a very high priority for the Secretary to get that position filled. It is a critical position in the Department.

With respect to the Colorado River and the water allocation, let me step back more broadly and say that we have been very committed both with Assistant Secretary Bennett Raley and certainly going forward to working within the context of State water law; and also a second principle is to work in very close collaboration with the relevant States and the relevant water users. That is the approach that we have been utilizing as we move forward.

I would have to go back to the office and look at any specific details in terms of where we are in discussions on the Colorado River water allocation challenges and will be happy to do that.

I would add one more thing. As part of the larger water issues, Secretary Norton advanced our Water 2025 program. That is an attempt to try and get ahead of some of these water issues by improved water conservation, by water marketing where appropriate, and also by new technologies that ensure that the water that is there is delivered efficiently rather than evaporating or dispersing. And we look forward to working with communities on a competitive process through our grant programs to help address individual community water issues through that program.

Senator SALAZAR. I think for all of the seven States that share the water from the Colorado River and are subject to both compacts on that river, I would ask that the Department of the Interior keep us informed as to what happens relative to the current discussions on the sharing of water from the Colorado River and how the surplus criteria are determined and enforced.

Let me ask you a broader question, relative to process on Indian reserved rights claims. I've had the opportunity in my life to work on both successful negotiations that have resolved Indian reserved rights claims and I also have been a part of and watched massive expenditures of time and resources being spent on Indian reserved rights cases which really have led to nothing. And it's not a Republican deal, it's not a Democrat deal; it's not a Secretary Norton initiative or a Secretary Babbitt initiative. It's just I think the nature of the beast whenever you are dealing with these very complicated cases where there is so much at stake.

I think it would be useful for the Department of the Interior to consider having a special position that is not a political appointed position, but where someone can have continuity with respect to some of these major cases that go on year after year. In my own experiences, what I have found is about the time that you get somebody up to speed on an Indian reserved rights claim that person moves on and somebody else comes in.

I think that the Department of the Interior can play a major role in helping us resolve some of these issues that consume so many resources all across the Western United States at least. I just suggest that you take a look at the processes that have been used historically by the Department of the Interior to try to bring those cases to some resolution.

Ms. SCARLETT. Yes, Senator, we certainly concur that these are very complex, challenging issues and they take very many years. We remain committed to a focus on settlement rather than litigation. I believe the Secretary announced at our budget hearings last week that we have appointed Jennifer Gimbell within the Department to have as her portfolio a complete focus on the Indian water

rights settlement issues. We think that should help to bring us some continuity over time and also some significant attention as we move forward.

Senator SALAZAR. She's a very good choice.

With that, Senator Murkowski, I'm finished and I wish you very well. Thank you.

Senator MURKOWSKI [presiding]. Thank you, Senator Salazar.

Mr. Sell, welcome again. Nice to see you here in this capacity. As you know, we achieved some success in the last Congress as it related to moving forward at the Federal level with certain incentives for an Alaska natural gas pipeline, helping to address what we recognize in this country is an ever-increasing shortage of natural gas, and up in my State we've got the ability to supply vast quantities. We've just got to figure out how to get it from there to here.

That process is moving forward at the State level. Now there are several applications that are pending. We don't know yet who the project sponsor will be, but there is going to be a lot of coordination that will be required at the Federal level. The DOE is going the play a vital role as this project moves forward regardless of who the project sponsor will be.

DOE's responsibilities will include granting the necessary authorizations, establishing an Office of Federal Coordinator, conducting environmental reviews, and really just a lot of coordination amongst various Federal agencies. We learned at the budget hearing last week that DOE does not have funding in its fiscal year 2005 budget to carry out its responsibilities under the Alaska gas pipeline legislation and that DOE would need reprogramming authority to fund the responsibilities; and also, looking at the 2006 budget, doesn't include any funding as well.

So I am looking for your assurance that you will work with us as we are moving forward to make this very important national project a reality as we determine what funding is required, certainly for instance with the Office of Federal Coordinator. These are things that we need to get in the pipeline, so to speak, as soon as possible. So just looking for your assistance on this very important issue.

Mr. SELL. Senator, if I'm confirmed and make my way over to the Department of Energy, you will absolutely have my assistance in doing that. Your leadership in the last Congress in getting the relevant authorizations passed was critical. The lower 48 desperately needs the natural gas of Alaska and we need to build the pipeline to get it to the marketplace. It's a very important issue for the President and for this country and for the Department, and I look forward to the opportunity of getting over there and resolving these initial—or working with you to try to resolve these initial funding issues, and then as the project proceeds.

Senator MURKOWSKI. Good. Well, I appreciate that. I'm sure we will have a great deal of contact as we're moving forward to make this very important project a reality.

We had an opportunity, I guess it was about a month and a half, 6 weeks or so ago, when this committee took up the issue of natural gas and the supply, and we, the committee, heard testimony from a gentleman from Alaska, they have the director of the Alaska

Division of Oil and Gas, Dr. Mark Meyers, talking about the potential not only in Alaska but in the country for an unconventional gas source, natural gas hydrates, with the recognition that in my State we've got about 590 trillion cubic feet of onshore hydrate reserves, potentially 32,000 trillion cubic feet of potential offshore hydrate reserves—really, enough gas out there to supply the Nation for generations.

And it's not just, these hydrates are not just located in Alaska, but down in the Gulf of Mexico, and truly a huge potential for us. Dr. Meyers was actually here in Washington yesterday and gave a presentation to some of us after lunch to just kind of educate a little bit more about the potential for this.

Now, in 2000 the Congress passed the Methane Hydrate Research and Development Act and this had authorized appropriations through fiscal year 2005 for the methane hydrate research and development. Those appropriations and authorizations are set to expire this year. I'm working with Senator Akaka to renew this, to make sure that we will continue the funding for what I feel is incredibly important research in the hydrate area.

We've been working with the Department of Energy. We've been working with the National Academies. We've read the National Research Council review of the act and view this again as something that has the potential to really make a difference. It's not something that has been focused on because we're either looking at our conventional reserves here domestically or we're looking to foreign sources of LNG.

This is not so pie in the sky that we should not be focusing our attention and our funding in this area. Again, the fiscal year 2006 DOE budget does not include any funding to continue the research that was done—that was begun under the 2006 act. So again I want to point this out to you as an incredible opportunity for the Department. I've had the opportunity to speak with Secretary Bodman about this and just let him know of the great potential, and I would ask for your enthusiastic support as we move forward in good research on this as well.

Mr. SELL. Senator Murkowski, I appreciate you bringing this very important issue to my attention. I was aware, although not involved in the development of, I was aware of our proposal or the Department's proposal in the fiscal year 2006 budget, and you will have my enthusiasm in working with you. And I would like perhaps also to have the opportunity to meet with your expert from Alaska as I myself pursue an education on this important opportunity. So I look forward to doing that.

Senator MURKOWSKI. We'll make sure that you have an opportunity to meet with him. He's got some great, great information.

Ms. Scarlett.

Ms. SCARLETT. Senator, might I add something on that? Our Minerals Management Service and our U.S. Geological Survey have also done some methane hydrate research work and perhaps we ought to work together with the Department of Energy to coordinate those efforts and ensure that we have a good program.

Senator MURKOWSKI. Absolutely.

And I would feel remiss in not taking the opportunity with both of you under the spotlight today to extend an invitation to you both

to come up to Alaska's North Slope, visit ANWR, visit the operations that we have. We feel that we have really taken the technology to its highest level and beyond as we have figured out a way to provide for exploration and production in an Arctic climate and do it in balance with the environment.

I think that I can speak for the others that joined me on this trip this weekend that they were beyond just impressed, but really quite amazed at how well we have been able to balance what we do up North. The greatest example was the trip out to an exploration well from a facility, a production facility that is not connected by road. It is its own little island out on the northern plain, and it's connected to the exploration rig by an ice road that was built last month, and the rig was hauled out there on the ice road. The pad is built out of ice.

They're exploring right now. They'll be done in another 10 days or so. When they're done, they haul it out on the ice road. In another couple months, spring is going to come. Spring will be brief. But that ice road will melt. That ice pad will melt. There will be nothing out on that tundra except a plug that's about as tall as probably you, Mr. Sell, and about this big around [indicating], and if there was nothing found it will be capped so you won't even be able to view it from the tundra.

But again, it's our recognition that we're dealing with a fragile ecosystem up there during the summer. So we only do our operations in the winter, operations of the exploration. It's fascinating. I could go all day long, but we've got votes beginning right now.

I want to thank you for your time here this morning. I thank you for your willingness to serve the President, the administration, and the country. So thank you for joining us.

And with that, we're adjourned.

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

APPENDIX

RESPONSES TO ADDITIONAL QUESTIONS

RESPONSES OF MR. SELL TO QUESTIONS FROM SENATOR DOMENICI

OIL PRICES

Question 1. When President Bush introduced his National Energy Policy in May 2001, oil was $27 a barrel. Today it is well over $50.

What, if anything, do you think the Department of Energy should do to address the continuing rise in oil prices?

Answer. Senator, the Department will continue to seek to work with Congress to pass comprehensive energy legislation, support efforts to open the Arctic National Wildlife Refuge to environmentally responsible exploration and production, and continue to move forward in our efforts to develop new, sustainable sources of alternative energy like ethanol and hydrogen.

Almost seven out of every ten barrels of oil we use are for transportation fuel, so our efforts to promote more efficient cars and trucks in the near term, and alternatives to petroleum such as hydrogen in the long term, are likely to be the most effective in reducing petroleum demand.

NUCLEAR POWER

Question 2. Last week Secretary Bodman testified before this committee on the DOE's FY 06 budget request. During that hearing I asked him if he would look into a delay occurring in the Office of Nuclear Power 2010 (NP2010) regarding disbursing the awards made by the DOE to two energy consortia last November.

We have real momentum for the first time in three decades on the course for new plants, I would hate to think our own Department of Energy is the major impediment at the beginning of this historic process. The Secretary gave me his word that he would look into the delay and get things rolling.

If you are confirmed, will you make that same commitment?

Answer. Senator, I am aware of the exchange between you and Secretary Bodman and I will commit to reviewing the circumstances should I be confirmed.

YUCCA MOUNTAIN LICENSE APPLICATION

Question 3. The Department now plans to submit a license application to NRC late in 2005 for the construction of the repository, a year later than the schedule the department provided to us last year. Last week I asked Secretary Bodman to provide this committee with a status update on the Yucca Mountain project.

When you get to the DOE in your new role, will you commit to this committee that you will work to expedite getting a completed license application submitted to the NRC?

Answer. Yes.

YUCCA MOUNTAIN LICENSING SUPPORT NETWORK

Question 4. The NRC has indicated they will not docket a license application until six months after certification of the License Support Network, a web-based data collection of all relevant documents for the application.

Will you provide me with a status of the work being done at the department to address the shortcomings the NRC identified in the earlier license support network submission?

Answer. Although I am not personally familiar with the details of the Yucca Mountain Licensing Support Network, I have been informed that the Department is currently working through the schedule with its contractor and about half of the documents have been reviewed. I understand the Department anticipates certifying the LSN by mid-year. Completing the licensing support network has evidently prov-

en to be a more difficult challenge than the Department initially projected. Nevertheless, it is necessary that the Office of Civilian Radioactive Waste Management provide a document collection that is accurate and as open as possible to the participants in the licensing process.

RESPONSES OF MR. SELL TO QUESTIONS FROM SENATOR SMITH

Question 1. For the last several years, the Administrator of the Bonneville Power Administration has reported directly to the Deputy Secretary of Energy. I believe this has been beneficial for the Administration and for the ratepayers of the Northwest. Will this direct line of reporting continue when you are confirmed as Deputy Secretary?

Answer. Senator, I appreciate your experience and knowledge on the issue and place great weight on your recommendation. If confirmed, I plan to review all the operations relating to the activities and responsibilities of the Deputy Secretary and will take your sentiments into consideration. If I ultimately conclude that a change in the reporting relationship is needed, I will discuss that matter with you before any change is finalized.

Question 2. As you may know, BPA has invested a great deal of effort over the past year to develop a Strategic Direction document to provide guidance for Bonneville and the region as we seek to clarify load obligations and assess infrastructure needs in the Northwest. The development of this plan is the result of many discussions between the congressional delegation, Bonneville, the Department of Energy leadership and BPA's customers and stakeholders in the Northwest. In fact, the Administration recently offered support for BPA's Strategic Direction. In the even that the legislative proposals discussed in the President's fiscal year 2006 budget proposal are not acted upon, is it reasonable to assume that you and the Department of Energy would continue to be supportive of Bonneville's Strategic Direction?

Answer. Senator, at this time I am not familiar with the status of the development of the Strategic Direction for Bonneville Power. However, if I am confirmed, I will become familiar with the actions to date and work with you on this issue.

Question 3. It has been my observation that most Administrations, regardless of party, do not want Administration officials discussing agenda items that may be in the President's budget proposal prior to the actual release of the budget. Has this Administration requested that officials not discuss budget provisions prior to the submittal of the budget to the Congress? Did you feel obligated not to discuss budget proposals prior to the transmittal of the budget to the Congress?

Answer. Senator, as you are aware, the development of the President's Budget is an important process. The confidentiality of internal deliberations is important to a thorough exploration and consideration of issues. As such, staff are not authorized to release details or discuss potential budget proposals with individuals outside of the executive branch prior to the time the President authorizes the release of the budget or specific details therein. As you note, confidentiality considerations are not unprecedented and are, in fact, necessary to a well-functioning policy development process in all branches of the government.

RESPONSE OF MR. SELL TO QUESTION FROM SENATOR BUNNING

Question 1. Mr. Sell, the Department of Energy has reduced spending for cleanup at the Paducah plant. Why was the funding for cleanup reduced? Was the funding reduction expected as part of the accelerated cleanup agreement for Paducah? Is the Paducah Plant on target to meet its completion date for accelerated cleanup that was agreed upon with the state of Kentucky?

Answer. Senator, I am aware of your great interest in Paducah and your concerns about the proposed reduction in the FY 2006 Budget request. If confirmed, I will ask the Office of Environmental Management to provide me with a full explanation for the proposed reduction as well as a briefing on the status of the clean up.

RESPONSES OF MR. SELL TO QUESTIONS FROM SENATOR BINGAMAN

NORTHERN NEW MEXICO MATH AND SCIENCE ACADEMY

Question 1. I am concerned about the projected shortfall in the development of our 21st century math and science workforce. New Mexico, in partnership with Los Alamos National Laboratory, has a very successful professional development program called the Northern New Mexico Math and Science Academy. We would like to export this model program throughout DOE's national laboratory complex, which has a vast untapped potential for addressing needs in math and science education. We

are in the process of putting together a planning meeting in New Mexico to try to figure out how to do this.

- Do you share my concerns about math and science education?'

Answer. Senator, I share your concern and I appreciate your support for the Department's effort to strengthen America's place as a world leader in math and science education. If I am confirmed, I look forward to working with you and with Secretary Bodman in this effort.

- Would you be willing to lend your support—and the Department's resources—to the putting together the planning meeting?

Answer. Senator, I am not in a position today to commit the Department's resources. Should I be confirmed, I will look forward to working with you to determine the most appropriate avenues for moving forward and to determine how best to utilize the tremendous assets we have in the Nation's laboratories.

PAJARITO HOMESTEADERS

Question 2. Section 3147 of the Ronald Reagan National Defense Authorization Act established a fund in the Treasury to compensate the Pajarito Plateau homesteaders whose homesteads were taken by the Army for the Manhattan Project more than sixty years ago. The Act directed DOE to deposit $10 million into the fund. The Act was signed into law last October, more than four months ago, but the Department has yet to deposit the necessary funds.

- Are you familiar with this situation?
- What is causing the delay?
- Will you take whatever action is needed to see that the funds are deposited promptly, to correct this longstanding injustice?

Answer. Senator, I am not personally familiar with the legislation, but should I be confirmed, I will look into the issue and take whatever actions are necessary to meet the requirements of the statute.

RESPONSES OF MR. SELL TO QUESTIONS FROM SENATOR SALAZAR

RENEWABLE ENERGY ECONOMIC MODEL

Question 1. Mr. Sell, I am concerned that the current estimates used by the Department of Energy to determine the costs and benefits of a Renewable Portfolio Standard are not realistic. For example, the Energy Information Administration's economic model has oil prices at about $35 dollars per barrel for the year 2005, even though actual prices are currently $53 dollars per barrel. The projected costs of renewable energy would compare much more favorably than current estimates allow if a credible model for oil and natural gas prices were used in the baseline assumptions. Secondly, that same model does not account for a modest reduction in the price of wind power over time.

I do not expect that you are intricately familiar with these models or the numbers used. But what I would like from you, Mr. Sell, is your assurance that if confirmed, you will provide me with cost and benefit estimates of an RPS using a better set of input numbers. Specifically, I would like to see a model that starts oil above $50 per barrel in 2004 dollars, steadying out at a new price floor of $40 per barrel by 2025. I would like to see the results of this model for two different approaches: one with wind power prices held constant and one with a modest reduction in those prices over time. I am positive that using this more realistic approach will show renewable energy compares much more favorably than it does under current EIA analysis.

Mr. Sell, can I have your assurance that if confirmed, you will provide me with that analysis?

Answer. Senator, I am not familiar with the modeling associated with the analysis you reference. The Energy Information Administration (EIA) is an independent statistical and analytical agency within the U.S. Department of Energy. If I am confirmed, I would be happy to work with you and EIA to develop analysis that you will find helpful to better understanding the impacts of a renewable portfolio standard.

RURAL AREAS

Question 2. Mr. Sell, I am also interested in the development of rural America. As Deputy Secretary, what approaches would you recommend to make sure that rural America will benefit from the Department of Energy's policies?

Answer. Senator, I appreciate your raising the issue during my confirmation hearing. Rural America, as well as all other parts of the country, need abundant, affordable and reliable sources of energy. If confirmed, I look forward to working with you

on this issue. I appreciate the importance you place on the development of renewable sources of energy and the importance these resources could play in rural communities. Certainly, the Administration's policies to encourage greater use of ethanol, biodiesel, and wind energy have had a very positive impact on rural areas. Furthermore, rural communities, particularly in the West, have enjoyed a long and beneficial relationship with the Power Marketing Administrations. I look forward to working with you on other approaches we may be able to develop together that will be good for rural America.

RESPONSES OF MR. SELL TO QUESTIONS FROM SENATOR CANTWELL

HANFORD—HIGH LEVEL WASTE RECLASSIFICATION

Question 1. The President's 2006 budget proposes to cut funds for the Environmental Management program by $548 million—the on-going cleanup at Hanford would be required to bear more than half of all the proposed reduction. Hanford clean-up is not optional. It is disturbing to me that these cuts at Hanford, in addition to being poor cleanup policy, are also at odds with the Secretary's commitment to the Department's ongoing financial obligations under the TriParty Agreement.

Secretary Bodman and I have talked about my ongoing concern about waste reclassification. In response to my requests, he stated for the record, that DOE-authored language in FY '05 Defense Reauthorization bill applies exclusively to Idaho and South Carolina AND NOT WASHINGTON. Despite the commitment of the Department for the record, the President's budget cites "uncertainties" regarding the classification of waste that is scheduled to be removed from the 177 underground tanks at the Hanford Site. Your experience in working on the Hill—your potential new role as Deputy Secretary—combined with this "uncertainty," and deep budget cuts raises a red flag to me.

Will you give me your assurance that you and those you will supervise in your new position, if confirmed, will not pursue the same type of legislative end run—previously supported by the Department of Energy—that we saw during the Defense Reauthorization bill last year—a policy that would have compromised DOE's commitment to cleaning up "everything that is technically feasible but no less than 99 percent" of the waste in Hanford's tanks?

Answer. Senator, I agree with you on the importance of cleaning up the Hanford site in a manner that protects human health and the environment. The remediation of waste in Washington, Idaho and South Carolina is by far the greatest environmental challenge facing the Department of Energy. If confirmed, I will seek to work with you on these very important issues in a direct and open manner. I will assure you that the Department will consult with you and the State of Washington on the cleanup of tank waste.

Question 2. I also want to ask you some questions about the Department's efforts to implement Section 3116 of the fiscal year 2005 Department of Defense Authorization Conference Report, which became law last October. Section 3116 establishes new procedures for the disposal of high-level radioactive waste in South Carolina and Idaho that resulted from the reprocessing of spent nuclear fuel at DOE facilities.

Forty-eight members of the Senate supported my efforts voted to remove these provisions during Senate floor consideration of the fiscal year 2005 Department of Defense Authorization bill. I remain concerned that the provisions in the Senate-passed bill allow DOE to leave millions of gallons of high level nuclear waste next to drinking water supplies in South Carolina, and that this same approach will be proposed for Hanford. While this section was modified in Conference, I feel loopholes still remain that cast serious doubt about whether the environment near these facilities will be protected. I want to ask you about the actions the Department is taking to implement this new law.

The opening lines of Section 3116 specifically eliminates the ability of the federal government to regulate these tanks under the Nuclear Waste Policy Act of 1982, the Energy Reorganization Act of 1974 or any other laws that define classes of radioactive waste. This language is silent on states' authority, delegated to them by the federal government under the Clean Water and Safe Drinking Water Acts, to issue permits protecting surface water and drinking water.

Do you agree that conferees did not exempt the Savannah River and Idaho sites in Section 3116 from the requirements of the federal Clean Water and Safe Drinking Water Acts, and that those laws and the regulations that implement them, which do contain lists of radioactive pollutants, are not overridden?

Answer. Senator, I am aware that this legislation was enacted in the last Congress but I am not familiar with last year's conference proceedings or the resulting

statute at a level of detail to provide an answer to the question you have posed. If confirmed, I intend to familiarize myself with the tank waste issue and this new law.

Question 3. The National Academy of Sciences issued its report on DOE's on-site nuclear waste disposal program, a report mandated fiscal year 2005 Department of Defense Authorization Conference Report. The report also urged stronger and more comprehensive risk-based planning to govern DOE decisions about on-site disposal. I want to ask you about these findings, and how the proposed fiscal year 2006 budget will help DOE address the National Academy's recommendations.

As I understand it, cleanup of DOE's nuclear complex over the next several decades will cost at least over $140 billion, but you are seeking to reduce costs. The proposed fiscal year 2006 environmental cleanup budget is about $6.5 billion, a steep cut from the fiscal 2005 appropriation.

I understand that the report says that recovery of "every last gram" of the nuclear waste at these sites is "technically impractical and unnecessary," but it also finds that DOE cannot credibly make decisions about exempting wastes from deep burial.

The report also calls for outside technical review of risk assessments and, crucially, said final decisions should be in the hands of another federal agency, U.S. EPA or the NRC. Specifically, the report says that "a separate federal entity is needed as the regulatory decision maker" with respect to reclassification.

Another NAS panel this week took major issue with the plan to reclassify High Level Waste criticizing DOE for trying to reclassify material by mixing it with cement and also seconded the notion for the need for some review of DOE's reclassification of tanks.

The Secretary did not have a chance to review the report when he testified before the Committee on March 1, 2005. I assume that you have had a chance to review its findings. Do you agree with the report's findings, and if so, are you willing to work with this Committee to implement the findings?

Answer. Senator, I appreciate the question. I have not had the chance to review the report but will do so and will commit to working with you and the committee on this issue if confirmed.

Question 4. I am also concerned that nuclear waste greater than Class C, and generally not suitable for near surface disposal, will remain on-site with limited oversight. Section 3116 allows these wastes to stay on-site at Savannah River and Idaho pursuant to a plan developed by the DOE in consultation with the NRC. I would have preferred that NRC be explicitly required to follow existing regulations regarding disposal of greater than Class C waste.

As I read it, Section 3116 instead requires a new "plan" to be developed that as no particular requirements. Have you examined this issue and do you concur with that interpretation?

Answer. Senator, I have not had the opportunity to review the language but, if confirmed, I will do so in order to more fully understand what is required in the new law.

Question 4a. Can you detail for me the resources that will be allocated to be doing to make sure that DOE and NRC develop clear guidelines and a plan for disposal of this waste?

Answer. Senator, I am not familiar at this time with the requirements of the legislation, but if confirmed, will commit to you that I will review the law and the Department's plans for implementation.

Question 5. The National Academy report is effectively calling for far more oversight than currently exists in the program and questions DOE's ability to make judgments on waste management in calling for final decisions by another agency. It states "The credibility of DOE's planning and decision making is reduced by the apparent conflict of interest created by DOE's authority to both propose and approve of disposition plans for radioactive wastes."

Ultimately, I think we may need additional legislation on this matter, but I want to know whether, should you be confirmed, you plan to conduct another internal review of this issue this year?

Answer. Senator, I have not been associated with this issue in great detail so I cannot comment at this time on the need for another formal internal review. But, if I am confirmed, I will personally review the issue as part of assuming my new duties. I will look forward to working with you on these very important matters.

Question 6. Your budget also sites some seismic issues as reasons for the budget cut backs for the construction of the Waste Treatment Plant. This seems a little counter intuitive to me—that is to cut budgets when you find more problems instead of addressing the issue head on.

Can explain how these seismic issues come to the fore and how your cut to the budget helps move us through these problems?

Answer. Senator, I am only generally aware of the seismic issues and cannot comment at this time on how the issue has affected both the construction of the Waste Treatment Plant and the budget. Should I be confirmed, I intend to learn more about the challenges that exist for the Hanford cleanup and I would look forward to working with you on your concerns.

Question 7. As you're probably know by now, it's been estimated that this proposal would raise Northwest power rates by $1.7 billion, and reduce the incomes of Northwest residents by another $1.3 billion. I agree with some of my colleagues on this committee that this plan represents an effort to privatize BPA—which is deeply disturbing. Further, this proposal truly represents a one-two punch to our regional economy.

The reason I keep raising the issue of the BPA rate hike proposal is because of the devastating economic impact it would have on the Northwest economy and my constituents. Are you aware that the West as a whole has lost about $35 billion and an estimated 589,000 jobs because of the energy crisis of 2000-2001 (according to an article in the journal, Competition & Trade)?

Setting aside all of the economic devastation this plan would cause in my region, I've read in the press that the administration has said that this Northwest rate hike plan would somehow "level the playing field" because our region has been blessed with affordable, cost-based electricity. I'm a little bit confused by that statement, however. Are you under the impression that, somehow, if you jack up power rates in the Northwest that-magically-power rates in other parts of the country, say Texas or the Southeast or even the Northeast, will actually go down?

Answer. Senator, I am not under that impression and appreciate the opportunity to clarify this aspect of the President's proposal. It is my understanding that this proposal addresses price anomalies within a region, not across regions.

Question 7a. If raising Northwest power rates doesn't lower power rates anywhere else, how do consumers anywhere in this country benefit from your proposal?

Answer. Senator, it is my understanding that the President's proposal would benefit consumers in the Northwest by removing the price disadvantage that some customers of other energy suppliers in the region have.

Question 8. As I think you know, a 1996 federal law requires BPA to pay higher interest rates on its debt due to an agreement with their ratepayers to pay $100 million immediately. The customers received assurances that rates would remain cost-based and reserved the right to sue the federal government if that plan was amended.

Is it your view that BPA power is a subsidy to the Northwest?

Answer. Senator, it is my understanding that GAO, CBO, and DOE's Energy Information Administration have each concluded that the taxpayers do not recover the full cost of the power produced by hydroelectric facilities they financed. I recognize that there is a difference of opinion on this issue, and I would welcome the opportunity to review credible analysis to the contrary.

RESPONSES OF MS. SCARLETT TO QUESTIONS FROM SENATOR DOMENICI

INDIAN WATER RIGHTS SETTLEMENTS

Question. I have repeatedly expressed my frustration over the Department's failure to seriously engage in the ongoing Indian water rights settlement negotiations in New Mexico. In responses to questions at last week's hearing on the President's Budget, Secretary Norton committed to address this issue.

Will you commit to meaningful participation by a high-level Department official in all future New Mexico water settlement negotiations?

Answer. I share your concerns regarding Indian water right settlement negotiations in New Mexico. These negotiations are of great importance to the Secretary. If confirmed as Deputy Secretary, I will commit to ensure that a high-level Departmental employee is assigned to work with the Department of Justice (DOJ) and the Department's bureaus to resolve future water settlement negotiations.

Question. Can you also assure me that you will work to ensure that the Department seeks enough funding to implement these settlements?

Answer. If confirmed, I will work with the Department's Bureaus, the Office of Management and Budget, and other appropriate agencies to seek adequate funding to implement the water settlements.

OIL AND GAS

Question. In spite of a commitment by this administration to expand oil and gas development on public lands, recent reports indicate that fewer acres have been

leased during the past four years than were made available during the preceding four years under the Clinton Administration.

What are the primary reasons for this?

Answer. The law requires BLM to hold quarterly sales. The majority of parcels offered at these sales are requested by industry. The BLM only leases lands pursuant to land use plans that designate certain areas as suitable for leasing. The BLM deferred leasing on 2.7 million acres bureau-wide in 2004 so that we could update land use plans or complete Endangered Species Act or National Historic Preservation Act consultations.

In addition, the number of protests of parcels being offered for oil and gas leasing in the last two years has dramatically increased. For example, during the period 1997 to 2000, the BLM received 666 protests (the first level of appeal) on leases the BLM offered for sale, and 366 appeals of leases the BLM offered for sale. During the period 2001 to 2004, the BLM received 4,425 protests and 925 appeals. Most of the protests and appeals concerned environmental issues. These protests slow the issuance of new oil and gas leases. Even after protests have been dismissed, some parties are challenging the leases at the Interior Board of Land Appeals (IBLA) and Federal Court to prevent new leases from being issued. The IBLA and court decisions have often imposed more land-use management requirements before oil and gas leases can be issued, resulting in further delays.

Question. What steps do you believe should be taken to improve access to development of our nation's oil and gas resources?

Answer. The BLM has taken a number of steps to improve processing of Applications for Permits to Drill (APDs) and to improve the process for leasing lands for oil and gas development. For example, the BLM tracks the processing of APDs on a weekly basis so that managers can make necessary adjustments in workloads. The BLM has implemented a computerized tracking system to better identify bottlenecks in the process for approving APDs. The BLM is providing technical assistance to industry to ensure submission of complete applications. Between 2001 and 2004, we approved over 17,000 APDS, an 88 percent increase over the numbers of APDs approved between 1997 and 2000.

The BLM has formed Quality Assurance Teams to identify tasks that Field Offices are successfully implementing so that these successes can be duplicated in other offices. These Quality Assurance Teams also identify areas for improvement. The BLM has worked with State Historic Preservation Officers to streamline cultural resource clearances.

The BLM has implemented Best Management Practices, which provide guidance for companies to use in developing their operating plans. This should allow the BLM and the energy industry to minimize the amount of surface disturbance to the public lands while maintaining access to energy resources. We continue to look for ways to improve the permitting process to allow increased access to oil and gas development on the public lands. For example, we are nearing completion of revised guidance for oil and gas companies that will assist them in developing complete APD packages. Complete application packages will allow the BLM to process the applications while minimizing delays to obtain additional information.

Question. It has now been nearly four years since President Bush unveiled the report of his National Energy Policy. At that time, oil was $27 a barrel, now it is well over $50. Natural gas has seen a similar rise in prices.

What, if anything, do you think the Department of the Interior should be doing to address this situation?

Answer. The Administration's efforts to increase production of oil and gas from Federal lands and waters will serve to sustain and promote domestic supply and help moderate prices. Oil and gas production from onshore and offshore Federal lands currently accounts for about 35% of the U.S. domestic production. The Department is actively working to increase the opportunities for development of oil and gas resources on the Federal lands it manages and on the Outer Continental Shelf while maintaining and enhancing environmental protections.

In support of the Administration proposal, the Department is also working to promote exploration and development of the area within the Alaska National Wildlife Refuge (ANWR), where the U.S. Geological Survey estimates a mean expected volume of 10.4 billion barrels of technically recoverable oil if Congress acts to lift the ban on development. The President's FY 2006 budget assumes enactment of legislation to open ANWR to exploration and development, with the first lease sale held in 2007 expected to generate an estimated $2.4 billion for bonus bid revenues. The Department is also working with other Federal agencies on the approval and permitting processes for the Alaska Natural Gas Pipeline.

Question. The Nation's land management agencies have a long history of continually creating new processes and procedures that, in total, have nearly paralyzed their ability to accomplish their missions.

What do you propose to do to improve streamlining of procedures by agencies within the Department?

Answer. The Department is committed to encouraging and facilitating increased access to oil and gas resources, in a manner that is consistent with land use plans and the BLM multiple-use mandate. To this end, the BLM has made significant progress in expediting and facilitating access to energy resources. Recent funding increases and management improvements instituted by the BLM have greatly increased the capacity to process applications for permits to drill, resulting in an 88 percent increase in APDs approved between 2001 and 2004 compared with APD approvals from 1997-2000. The BLM has established quality assurance teams to review field office processes for applications permits to drill (APDs) in order to identify opportunities for employing best practices. Utilizing cost and demand data, the BLM has shifted resources to field offices where they will have the greatest impact. The BLM is currently evaluating additional ideas, including streamlining the NEPA process, pursuing e-Permitting, and sharing personnel across field office boundaries and program.

Similarly, the MMS is implementing a number of directives under the National Energy Policy designed to improve and, where appropriate, streamline procedures to ensure safe and efficient operations on the Outer Continental Shelf and promote OCS oil and gas leasing and approval of exploration and development plans on predictable schedules. MMS completed the 5-Year OCS Oil and Gas Leasing Program for 2002-2007 in July 2002. The Program proposed up to 20 lease sales in the Gulf of Mexico and offshore Alaska. All sales have been held on schedule. MMS also continues to process exploration and development plans in a timely manner. MMS regulations require that all exploration plans must be processed and final action taken within 30 days, and Development and Production Plans must be processed and final action taken within approximately 120 days. For the last two years, all plans for the Gulf of Mexico OCS met these goals. In addition, MMS works closely with a number of other Federal agencies and State and local governments to streamline many of its activities. MMS works closely with the Coast Guard to promote consistency and improve coordination on joint regulatory oversight responsibilities for OCS operations and on coordinating reviews for permitting deepwater ports (e.g., for Liquefied Natural Gas imports). To further streamline its procedures, MMS's ongoing e-Government Transformation project will re-engineer business processes, using technology to receive and process data and information, resulting in more efficient and effective work processes.

I would be pleased to keep you informed of our progress as we continue to develop improvements to the process.

LAND ACQUISITION

The Department continues to put in large requests for land acquisition each year, and at the same time bemoans the maintenance backlog that continues to grow.

Question. Why should Congress provide money for land acquisition when it seems we cannot afford to manage the lands for which the Department is already responsible?

Answer. Mr. Chairman, I agree that taking care of what we already manage is a top priority. The Department of the Interior manages one in every five acres of the United States. We believe significant conservation results are possible by work in partnership and cooperatively with landowners, Tribes, states, local agencies, and other organizations. Such partnerships leverage Federal funds sometimes at a ratio of more than 4 to 1. They enable us to achieve conservation goals while maintaining productive economic activity and thriving communities. They also enable us to achieve significant conservation goals without taking on long-term operating expenses that accompany land acquisition projects.

Consistent with this perspective, over the past four years, the Department's budget has emphasized: 1) taking care of the lands and facilities currently managed by the Department; and 2) addressing conservation goals through partnerships with private landowners, Tribes, States, and local communities. Our budget over the past four years has proposed significant funding increases for these activities. Consistent with that focus, we have, in turn, significantly decreased proposed funding for land acquisition since 2001.

Nonetheless, the Department continues to propose some funding for land acquisition, including purchase of easements in which the base property remains in private ownership. Under this Administration, these acquisitions have focused on trans-

actions: 1) within existing park and refuge boundaries; 2) national priorities such as enhancing commemoration of the Lewis and Clark expedition and the site of the Flight 93 plane crash; and 3) lands through which acquisition can resolve conflicts and help solve land use and water problems, such as the proposed acquisition of the Barnes property in the Klamath Basin.

The Department proposes $107 million in FY 2006, which contrasts to an enacted level of Interior federal land acquisition funding in 2001 of $303 million. In making decisions about each proposed acquisition, the Department looks at the cost of operation and maintenance associated with the purchase of the interest in land to be sure that it is affordable and appropriate—and that alternatives to land acquisition do not exist.

WESTERN WATER

Question. How does the Department plan to deal with water storage needs in the West?

Answer. First, the Department intends to maintain and preserve the existing storage infrastructure that has been developed over the past 103 years. This includes continuing to maintain and operate projects such as Glen Canyon Dam and Lake Powell. These storage projects have been critical to the West in coping with drought and ensuring water supplies to maintain community well being and economic progress.

Second, we are looking at new storage capacity in key locations. For example, the CALFED legislation that Congress passed late last year includes studies of four storage sites that would benefit farms, fish and wildlife, and municipal and industrial uses.

At the same time, we must ensure that any new storage projects are economically and environmentally justified. The Department intends to maintain its standards for thorough review of project justifications.

Ensuring adequate water supplies requires storage; it also requires enhancing the efficiency of water usage through better technologies that reduce evaporation, provide water flows in more targeted ways, and enable water trading, where appropriate. The Department's Water 2025 Initiative focuses on enhancing water availability through these means.

Question. Is Water 2025 the Department's primary mechanism for addressing future western water needs? Please describe the program's achievements to date.

Answer. As beneficial as Water 2025 is, the Department recognizes that addressing future water needs in the West requires a mix of different strategies. These include vigilance in the efficient operation and maintenance of existing facilities, particularly the array of storage projects installed over the last century. We also look for additional storage opportunities that are justified from economic and environmental perspectives. The Department is collaborating with the Western states to address Western water needs.

The Challenge Grant Program, a key feature of Water 2025, elicited an overwhelming response in FY 2004 and 2005. We received over 100 proposals in both years, enabling the Department to select an impressive array of water conservation and water management projects for Federal cost-sharing.

With the $4 million available for the FY 2004 Challenge Grant Program, 19 projects were selected in 10 different states throughout the West. Those projects broke ground in 2004 and will be completed during 2006. One of the 19 projects, Springville Irrigation District in Utah, was completed just six months from the date of the award and the rest are progressing according to schedule.

The 19 selected projects represent a total of almost $40 million in on-the-ground water delivery system improvements, including Reclamation's contribution of $4 million and a non-Federal contribution of approximately $36 million. This represents a 10% investment from the Federal side. These projects improve water delivery systems and involve a combination of different measures to improve water management and conserve water.

Ten projects will collectively convert almost 20 miles of leaky dirt canals to pipeline, eliminating water losses due to seepage and evaporation, resulting in substantial water savings. Five projects focus on the installation of measuring devices; several also involve the installation of Supervisory Control and Data Acquisition (SCADA) systems. Both greatly improve water delivery control and reduce spillage. Three projects involve installation of automation technology allowing precise, remote control of water diversions and/or deliveries. Two projects involve water marketing, including one project to establish a pilot water bank in the Deschutes River Basin in Oregon to facilitate the voluntary transfer of water among water users.

In addition, under the Water 2025 funding, Reclamation is entering into a strategic alliance with a consortium of universities, including the International Center for Water Resources Management at Central State University in Ohio, the Ohio View Consortium, and Colorado State University in Colorado (collectively, "Alliance Universities" or "AU"). Reclamation and the AU will develop remote sensing technologies to aid in making water management decisions.

In October 2004, Reclamation entered into a Water 2025 cooperative agreement with the Middle Rio Grande Conservancy District (MRGCD), awarding the district $1.3 million for delivery system improvements. The award was a 50/50 cost share between Reclamation and MRGCD, for a total of $2.6 million for the project. This project will improve and modernize irrigation surface water conveyance facilities through the replacement of turnouts and old gates, concrete lining of canals, installation of telemetry, measurement devices, and automation. The project also involves the development of a computer system able to manage hundreds of gates, with information being published on the internet which will be made available to other water agencies to aid in managing flows of the Rio Grande. MRGCD expects to begin construction and implementation of the improvements in the spring of 2005, and will complete the project in the fall of 2007.

Of the $19.5 million appropriated in FY 2005, $10 million has been allocated to the grant program. Reclamation has received 117 proposals requesting $35.5 million in Federal assistance, $10 million more than was requested in FY 2004. The combined Federal and partner funding totals $115 million in water delivery system improvements across the West, of which $79.5 million would come from non-Federal matching funds. Reclamation will select the projects by July 2005.

The FY 2005 funding for Water 2025 also included $1.75 million for continued water conservation and efficiency improvements related to the MRGCD. Reclamation and MRGCD are working together to develop a plan for application of this additional funding.

Taken together, these projects advance the purpose of making water delivery and use more efficient.

Question. Why isn't there a construction component to the Water 2025 program?

Answer. Larger Reclamation construction projects have traditionally been authorized by Congress individually, while Water 2025 work in the field has focused on competitive, cost-share grants for projects such as conservation improvements and installing technology for measuring and accurately delivering water. Although some conservation improvements aimed at preventing leakage in canals involve significant capital investment (headgates, canal lining, pipe replacement, water measurement flumes), these improvements are not regarded by Reclamation as part of its construction program.

TITLE XVI RECYCLING AND REUSE

Question. Every year Congress supports the authorization of new Title XVI recycling and reuse projects, despite the Administration's stated objections to the program. Last Congress, Commissioner Keys appeared before this Committee and testified that the program has a 15-year funding backlog.

The Administration's FY 2006 budget requests approximately $10 million to support a handful of projects. As you know, this Committee will hold a Water Conference in April to examine numerous water issues, including the Title XVI program.

What role do you believe the Department should play in the area of water recycling and reuse?

Answer. Since 1992, the Department has actively supported water recycling and reuse through its Title XVI Water Reclamation and Reuse program. The program has provided significant financial assistance to local water agencies and has helped to demonstrate that water recycling is an excellent water management tool to extend water supplies. The Department is committed to continuing to fund those projects that have been supported in the President's budget request in prior years but questions the need for more Federal dollars through Reclamation to fund additional projects, given other potential funding sources throughout the West. However, the Department is committed to focusing Federal funding on research to lower the cost of desalination and recycling. By advancing the science of water treatment technologies, we believe the cost of implementing water recycling and desalination projects can be reduced to a level that makes these types of new water supplies more affordable to a greater number of local communities.

The Secretary's Water 2025 initiative currently focuses on projects and awards matching challenge grants on a competitive basis to help finance these projects. One of the components of the initiative is to reduce the cost of new water treatment tech-

nology, such as desalination, through research and development efforts funded by competitive cost shared grants.

Question. What criteria does the Department use for either supporting or not supporting projects authorized to receive federal assistance?

Answer. The Department is frequently asked to testify on proposed new authorizations for Title XVI projects. While we understand the importance of many of these efforts, we have focused our budget proposals on completing projects already started rather than funding additional Title XVI projects. Our budget has proposed focusing on improving existing water projects and water availability by addressing aging Federal water infrastructure and the safety and security of these facilities and by helping to prevent conflict over water in the West through Water 2025 competitive grants.

Question. In the recently enacted CALFED legislation, Congress directed the Department to review, within 180 days of enactment, the feasibility of proceeding to construction of a number of projects studied as part of the Southern California Comprehensive Water Reclamation and Reuse Study and the Bay Area Water Plan. What is the status of this effort?

Answer. In January and February of this year, the Bureau of Reclamation wrote to more than 160 water and wastewater agencies and organizations associated with the two comprehensive water reclamation and reuse studies in northern and southern California seeking information on any water recycling projects that the agencies may have sponsored as part of the studies. Reclamation requested that the agencies provide copies of existing planning and environmental studies and other supporting documentation that may have been produced for each potential project. When the reports and supporting documentation have been transmitted to Reclamation, a review of each project will commence. I would be pleased to keep you informed of our progress.

DROUGHT

Question. As you are well aware, the Southwestern U.S. has been experiencing drought conditions since 2000. The Pacific Northwest is also experiencing water supply shortages and the current snow pack is well below average. In anticipation of our upcoming water conference, this Committee has asked for proposals to address the drought situation.

What is the status of the voluntary protocol that the Department is working on with the basin states to deal with water shortages on the Colorado River?

Answer. The Department has asked the seven Colorado River Basin States for consensus recommendations by April regarding the development of "shortage guidelines" for the Lower Basin of the Colorado River. In light of the significant drought in the Colorado River Basin since 1999, the Department anticipates initiating a public process to develop Lower Basin shortage guidelines later this year. The Department anticipates that this process will follow a development protocol similar to that utilized by the Department for the development and adoption of Lower Basin Interim Surplus Guidelines in 2001. In that process, the seven Colorado River Basin states submitted a consensus-based recommendation that formed the basis of the Surplus Guidelines adopted by the Department and now relied upon by the Secretary in the preparation of each year's Annual Operating Plan.

Question. What other measures is the Department using or proposing to deal with the drought situation?

Answer. The Department is currently using Reclamation's existing drought authority to provide some water management tools, on an emergency basis, such as moving non-project water through Federal project facilities, allowing temporary water transfers, encouraging water banking and markets, and providing small grants to affected communities for drought emergencies. On a larger scale, we have found that the best time to prepare for drought conditions is not during the drought but during times of plenty. Reclamation has been working over the past decade to assist our water contractors in upgrading their facilities, installing new water management technologies, and generally improving their ability to manage water much more efficiently, especially during times of shortages. Water 2025 helps promote these activities and projects through the competitive challenge grant program, especially in areas of the West where we can predict conflict over water is likely. Drought occurs somewhere in the West almost every year, but other pressures on western water supplies exist, such as population growth and environmental needs. The tools we are currently implementing through Reclamation programs will work for both drought and other water-shortage situations.

All of the foregoing efforts are in addition to continued operation and maintenance of our storage infrastructure, which has made an impressive contribution to the ef-

forts throughout the West to meet water requirements in the face of sustained drought.

Question. Is Interior coordinating with any other federal agencies to address the drought situation?

Answer. USGS hydrology programs relate to predicting and monitoring droughts. The US Water Monitor website has been developed in cooperation with NOAA, NRCS and the National Drought Mitigation Center. In addition, the Department, through the Bureau of Reclamation, is coordinating with the U.S. Department of Agriculture's Natural Resource Conservation Service, both at the headquarters level and, more importantly, at the watershed level. The USDA-NRCS provides runoff predictions on a bimonthly basis for most of our Western watersheds. We work closely with them in analyzing and disseminating this important water management information to affected water users. Also, through Water 2025 and other Memoranda of Understanding, we work with USDA to identify where Federal programs and projects can be coordinated more effectively, communicating and contributing our resources where practicable.

RESPONSES OF MS. SCARLETT TO QUESTIONS FROM SENATOR SMITH

Question. I would like to be supportive of the Administration's request in the Fish and Wildlife Service budget for the acquisition of the Barnes Property. However, in order for me to be supportive of this $6 million request, I need to know how any water created by the inundation of the Barnes Property and the adjacent Agency Ranch property will be managed within the federal project (i.e. will this water be available for irrigation, will it be water bank water, etc.?). Please let me know how this water will be used by the federal project and how it will be credited against the Endangered Species Act obligations of the federal project.

Answer. The Barnes tract would be passively managed in conjunction with Agency Lake Ranch to accomplish three goals. These include:

1. Helping protect and recover the endangered suckers at Upper Klamath Lake by providing additional habitat for the suckers, especially juvenile-rearing habitat. A major problem in recovering the fish is that there is little recruitment from the juvenile stage to the adult population. Providing additional juvenile-rearing habitat in most years is a key step in recovering the suckers.

2. Storing additional water in Upper Klamath Lake to provide water that can be counted as part of the water bank. Storing water on Agency Lake Ranch alone adds approximately 12,000-15,000 acre feet of water in most years to Upper Klamath Lake (when Upper Klamath Lake fills). This water is counted as part of the water bank and is managed to meet coho salmon flows under the NOAA biological opinion. Any additional storage at currently managed sites would flood the adjacent Barnes Ranch, a private holding. With Barnes acquired by the FWS as part of Upper Klamath Lake National Wildlife Refuge and managed conjunctively with Agency Lake Ranch, between 34,000 and 42,000 acre feet of additional water would be stored in Upper Klamath Lake. This water would be counted as part of the water bank. By increasing this component of the water bank, Reclamation will be able to reduce the amount of land idled and/or ground water pumped to provide the water needed for the water bank. Additionally, the consumptive use portion of water rights that go with the Barnes property (roughly estimated at 2,700 acre feet) can be counted as part of the water bank, further offsetting the need for land idling and groundwater pumping to meet the water bank requirement.

3. Contributing, over the long term, to improving water quality in Upper Klamath Lake and downstream in the Klamath River. Typical operations for Barnes Ranch involve using the Barnes' water rights to irrigate their land for forage, and then pump the tail water into drainage canals connecting with the lake. This water has a high phosphorous and nitrogen content and adds to the nutrient loading of Upper Klamath Lake. This contributes to the severe algae problem in the lake, a serious water-quality problem for fish in Upper Klamath Lake and also a significant source of water-quality problems downstream. The additional wetlands habitat will also add substantially to the prime waterfowl and wetland habitat contained in Upper Klamath National Wildlife Refuge.

Question. How much money will be needed to stabilize the levies at the back of the Barnes Ranch property?

Answer. A preliminary estimate from the Bureau of Reclamation is approximately $2 million, a portion of which can be met through account work by the Reclamation to increase the storage on Agency Lake Ranch.

Question. If Barnes Ranch is acquired by the U.S. Fish and Wildlife Service, it will be adjacent to the Agency Ranch property owned by Reclamation and near another federal parcel managed by the Bureau of Land Management. How does the

Department of the Interior intend to coordinate the management of these three parcels? Is the Department considering consolidating these three parcels under the management of one Interior agency?

Answer. Our intention is to develop an efficient, effective, and coordinated approach to managing these parcels. The area actually includes four parcels, counting Upper Klamath Lake National Wildlife Refuge. Agencies have had preliminary discussions about combining the other three parcels with Upper Klamath Lake National Wildlife Refuge, since one option would be to manage them efficiently and at modest cost by FWS.

Question. Next year, the power rates in the Klamath Basin could go up ten-fold from the current rate. What is the Department doing now to prepare for these increased power rates? Is the Department studying ways to reduce power use by the Fish and Wildlife Service, by Reclamation and by the BLM in the Upper Basin? How much of Reclamation's annual reimbursable operations and maintenance costs are attributable to power? What does the Department anticipate that cost to be once power rates increase?

Answer. The Department is negotiating with PacifiCorp and the power users. Key issues include the Federal Energy Regulatory Commission re-licensing of the PacifiCorp's power project, provisions of the Interstate Compact, falling water charges, and rate equity for all users. It appears that the FERC re-licensing process will not be completed by 2006 and an extension will be requested. The Department believes the provisions of the 1956 contract between CopCo (now PacifiCorp) and Reclamation should similarly be extended. Energy efficiency has been an ongoing concern of the Department, and the operation of Bureau facilities is continually being reviewed to ensure cost savings where ever possible.

The specific amount of Reclamation's annual reimbursable operations and maintenance costs attributable to power is difficult to determine because the data currently on hand do not separate maintenance costs from power costs. Reclamation estimates that operation and maintenance costs for electrical power to operate numerous pumps within the Klamath Project currently range between $100,000 and $175,000 each year. These costs represent between 25% and 50% of all O&M reimbursable costs. If power costs to the Project were to increase 10 times, as some have predicted, reimbursable costs to the irrigation Districts would range between $1,000,000 and $1,750,000 each year and become the single largest reimbursable O&M expense. I would be pleased to keep you informed as we proceed through this process.

RESPONSES OF MS. SCARLETT TO QUESTIONS FROM SENATOR BUNNING

Question. Ms. Scarlett, has the Department of Interior examined how to fix the expected funding shortage for the Combined Benefit Fund which receives funding from the AML program?

Answer. The Surface Mining Control and Reclamation Act requires that OSM transfer an amount equivalent to the amount of interest earned on the Abandoned Mine Land (AML) Fund to cover the health benefits of unassigned beneficiaries of the Combined Benefits Fund (CBF). We are required to transfer annually up to $70 million or the actual needs of the CBF, whichever is less.

In recent years, the amount of interest earned has not been sufficient to meet the needs of the unassigned beneficiaries. The Administration has taken several steps to improve this situation:

- We have implemented and extended a prescription drug program which lowers the cost of prescription drugs to the CBF members saving an estimated $190 million thus far.
- We have changed our investment strategy to generate more funds for CBF.
- We have proposed making available to the unassigned beneficiaries more than $100 million in funds equivalent to the amount of interest that was credited to the account or otherwise not available for use in prior years.
- We have proposed removing the $70 million cap so that all interest earned in a year, up to an amount equal to the needs of CBF for unassigned beneficiaries, could be utilized to transfer funds to the CBF.
- In order to help defray the costs of health benefits for coal miners even if Congress allows the Abandoned Mine Land (AML) fee to expire, the Department has taken steps to honor its responsibility to continue to transfer funds to the CBF. The Energy Policy Act of 1992 amended SMCRA with an additional requirement providing that even if the AML fee expires, operators must continue to pay fees to fund annual transfers to the CBF. That is, although AML fees for use in reclamation would no longer be collected, the fee will be established at a rate sufficient to continue to provide for transfers to the Combined Benefit

Fund with respect to unassigned beneficiaries. The Department is currently reviewing public comments provided in response to its published, proposed rule that will implement this provision.

- As proposed, the new fee rates will be based upon estimates of the CBF's needs for unassigned beneficiaries, the AML fund's estimated interest earnings, and projected coal production for which there is a reclamation fee payment obligation. The rates will be adjusted as necessary to reflect any differences between estimated and actual CBF expenditures, AML fund interest earnings, and fee collections in prior years.

RESPONSES OF MS. SCARLETT TO QUESTIONS FROM SENATOR BINGAMAN

1. SCIENTIFIC INTEGRITY

Question. A recent poll of scientists at the Fish and Wildlife Service conducted by the Union of Concerned Scientists and Public Employees for Environmental Responsibility found a very disturbing level of political interference with the agency's scientific work. It also found that many USFWS scientists feel unable to express their concerns without fear of retaliation.

Will you commit to looking into this problem in a way that avoids further intimidation?

Answer. The Department places great importance on the integrity of science and the role which it plays in the decision-making process. The Department has over the past four years taken a number of actions to enhance both the integrity of our science and the role which it plays in the decision-making process. We take seriously any concerns employees or others might have about scientific integrity. To that end, our Inspector General has investigated several allegations of interference.

In two recent cases cited by critics as instances in which Department leadership interfered with flows of scientific information, neutral observers have closely examined the accusations and found them unsubstantiated. For example, regarding the Missouri River, in a letter to former Senator Daschle dated May 14, 2004, the Inspector General stated that he "found no evidence to suggest the Assistant Secretary's decision to remove scientists was made for any reason other than to resolve the stalemate between the Corps and FWS; no evidence that the Assistant Secretary attempted to influence the team members in any way; and no evidence that the team co-chairs and members perceived any undue influence or political pressure." Also, regarding the Klamath Basin, in a letter to Senator Kerry dated March 1, 2004, the Inspector General stated that his office "found no evidence of political influence affecting the decisions pertaining to the water in the Klamath Project" and that "the administrative process followed in this matter did not deviate from the norm."

The Inspector General also noted that his "review of the available documents and the rulings of the U.S. District Court for the Northern District of California support the conclusion that the Department had compiled the necessary information to support its various decisions related to the Klamath Project" and that "none of the individuals interviewed—including the Whistleblower—was able to provide any competent evidence that the Department utilized suspect scientific data or suppressed information that was contained in economic and scientific reports related to the Klamath Project." Rather, the Inspector General noted that, to the contrary, the National Academy of Sciences specifically disagreed with the criticism that had been directed against the Department for using "junk science".

Notwithstanding these particular findings, upon receipt of the recent PEER statements regarding concerns among employees about science integrity, Assistant Secretary Craig Manson is evaluating options for improved communication and procedures for ensuring high scientific standards and information flows throughout the Fish and Wildlife Service.

I have a personal commitment to scientific integrity and look forward to working throughout the Department and with the Secretary to meet our goals for scientific integrity.

Question. Will you further commit to looking into ways to prevent further political interference with science at the Department?

Answer. The Department of the Interior has over the past four years taken a number of actions to enhance both the integrity of our science and the role which it plays in the decision-making process. Responsible for managing approximately 1 in every 5 acres of land in the United States, the Department of the Interior frequently faces challenging ecosystem and resource management issues. Interior has addressed such challenges by significantly enhancing the use of science in its decision-making processes.

The U.S. Geological Survey (USGS), our primary scientific agency, seeks through its Science Impact Program to replace conflict with a solutions-oriented focus underpinned by a spirit of cooperation and consensus seeking. To further these research activities, the Science Impact Program has established external partnerships with universities, including one with the University of New Mexico, to focus external innovation in the use of USGS science information and to provide specialized skills beyond those traditional to the USGS. The Department has also taken significant steps to ensure the quality of the science we use. We have, for example, (i) crafted Information Quality Guidelines to ensure and maximize the quality, objectivity, utility, and integrity of information disseminated to the public; and (ii) are developing a draft Code of Scientific Conduct that has been independently reviewed by a panel of leading scientists and ethicists to help ensure the integrity of all scientific work done by both our employees and our contractors.

2. RESPONSIVENESS

Question. Our experience over the last several years has been that it is oftentimes difficult to get factual information and technical and legal support from the Department without long delays and clearances. We also believe that career employees have been forbidden to provide such information and support to us without clearance from political appointees.

Will you pledge to work in a bipartisan manner with us on the energy bill and the many other legislative matters relating to the Interior Department? In committing to address our concerns, will you review, and modify as necessary, any guidance or instructions that have gone out to career employees to ensure that they understand that they are free to take our calls and to be responsive to our requests? I have particular concerns about employees in the Solicitor's office feeling constrained in their interactions with us.

Answer. I pledge to work with you in a bipartisan manner on comprehensive energy legislation and any other legislation before the Committee. During my four years working as Assistant Secretary of Policy, Management and Budget, I have tried always to work in a bipartisan, fair, and open fashion with members of Congress and their staff.

The Department has a process for responding to requests from Committee staff. We ask that Committee staff call our Office of Congressional and Legislative Affairs. Housed within that office are the Legislative Counsel and her staff of legislative attorney advisors. I believe that office has been responsive to all calls or letters received by Committee staff and has made staff available from the Solicitor's Office when legal questions are asked. This process of interoffice coordination is a longstanding policy set forth in the Departmental Manual.

Our policy of coordination helps to ensure that relevant offices are aware of any Congressional concerns or issues so that they can provide complete, accurate information. Notwithstanding this Departmental policy of coordinating responses to Committee staff requests, I want to ensure that the Department is fully responsive to requests for meetings or information at all times.

3. HYDROELECTRIC RELICENSING

Question. Last month, I sent Secretary Norton a letter co-signed by several other Senators of both parties expressing serious concern about a rulemaking pending before the Department relating to hydroelectric relicensing. The rulemaking proposes a new appeals process at the Interior Department that would give a license applicant the right to an appeal a license condition or fishway prescription if the applicant is not in agreement with the Department's actions. However, the proposed rule grants no such right of appeal to Tribes, States, or other interested parties. I am strongly opposed to this provision.

When can we expect to see the final rule issued?

Answer. The Department received numerous comments reflecting various perspectives on this issue during the 60-day comment period on the proposed rule. Those comments are now being reviewed. The Department expects to publish a final rule in late spring.

Question. Do I have your commitment that you will look carefully at this provision, which I believe raises serious issues of procedure and fundamental fairness?

Answer. I can assure you I will look closely at this issue and the procedural and fairness elements associated with it.

4. NATIONAL PARK MANAGEMENT

Question. The National Park Service Organic Act states that the purpose of the National Park System is "to conserve the scenery and the natural and historic ob-

jects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." The National Park Service management policies address the potential conflict between the two directives protecting park resources and providing for their enjoyment. Specifically, section 1.4.3 of the management policies states "when there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant. This is how courts have consistently interpreted the Organic Act. . . ."

At the confirmation hearing of Fran Mainella to be the Director of the National Park Service, I asked her whether she agreed with those management policies, that the conservation of park resources is the primary mission of the National Park Service. Her answer was "I am advised that the courts have consistently interpreted the Organic Act this way. Therefore, I would agree that the resource is always the primary focus."

Can you tell me whether you agree with this policy, that conservation of park resources is the primary mission of the National Park Service, and can you assure me that the Department will not seek to modify or overturn the Park Service management policies to that effect?

Answer. The National Park Service Organic Act makes it clear that the National Park Service mission is to conserve park resources unimpaired so that each generation of Americans may fully enjoy them. The Park Service views this as a combined mandate to: (1) conserve park resources in an unimpaired condition; and (2) provide the public with opportunities to enjoy those unimpaired resources. I am totally committed to meeting both these responsibilities. These goals can be achieved in tandem, as the Organic Act envisions. As Director Mainella has noted, visitor enjoyment depends upon conserving park resources in an unimpaired condition. Should I be confirmed as Deputy Secretary, I will work closely with the National Park Service to fulfill the vision set forth in the Organic Act.

If confirmed, I will work to ensure that NPS Management Policies continue to conserve park resources as set forth in the Organic Act and as required by the courts.

5. TESHEKPUK LAKE LEASING

Question. A 1998 Record of Decision for the Northeast Planning area of the National Petroleum Reserve-Alaska opened 87 percent of the area for oil and gas leasing, but kept much of the area around Teshekpuk Lake closed to leasing because of its importance to wildlife. The Department is now considering opening the Teshekpuk Lake area to leasing. The Bureau of Land Management claims that "new information since the 1998 ROD" and "various scientific studies on the biological resources of the area" support opening the area to leasing. Many ornithologists and wildlife professionals have said that they are "not aware of any new studies" that would lead to that conclusion.

Please provide copies of the "various scientific studies completed on the biological resources of the area" since completion of the 1998 ROD.

Specifically, what biological studies were conducted and what new information did they provide, regardless of whether that new information does or does not justify opening the area to leasing?

Answer. At the time the 1998 plan was crafted, we had very little sub-surface information. During the past seven years, however, 18 wells have been drilled which have provided real data that demonstrates the ability to drill in the sub-surface. We are providing copies of all of the reports, with the exception of one that will be provided as soon as the BLM receives it from the BLM Alaska State Office.

Biological studies completed since 1998

Influence of oil/gas development on nest success of shorebirds. A statistical consultant was hired to analyze pilot data comparing nest success of shorebirds in the oil fields with undisturbed areas of the Arctic Coastal Plain, such as the NPR-A and the Arctic National Wildlife Refuge. The report of that analysis has been completed and additional fieldwork has begun based on the results. (Report included.)

Effects of oil field development on population and distribution of tundra swans. This study and its report are complete. The objectives were to determine whether swans have shifted their nesting distribution in response to facility development and whether swan population trends in the oil fields differ significantly from trends for the North Slope population as a whole. (Report included.)

Workshop to review studies of impacts to vegetation from winter oil/gas activities. This workshop has been completed. The current Research Monitoring Team has chosen not to include impacts to vegetation among the highest priority issues for a monitoring plan for the NPR-A currently in development. (Report included.)

Workshop to discuss a cooperative monitoring program to document subsistence concerns. This workshop has been completed, but follow-up actions are ongoing. The goal is to provide a means by which subsistence hunters and other local residents can express concerns to the appropriate agency about industrial impacts to subsistence activities and resources, and be assured they will receive some type of resolution to their concerns. (Report included.)

Workshop to standardize aerial bird surveys on the North Slope. Agencies and private industry have conducted low-level aerial surveys using various methods to monitor populations of large waterbirds on the North Slope of Alaska. This workshop has been completed and will result in more consistent and comparable survey results, increasing the utility of these data sets for the management of migratory birds. (Report included.)

On-going studies

Summarize subsistence harvest and seasonal land use data for four villages. The analysis and summary of these data are near completion. The objectives are to describe the current subsistence land and resource use by residents of Nuiqsut, Atqasuk, Wainwright and Barrow; document the annual harvest of wildlife and fish resources within the NPR-A; identify areas within the NPR-A that are of particular importance to subsistence users; document hunter/industry interactions and determine whether those interactions have led to changes in hunters' behaviors; and identify and minimize potential impacts to subsistence hunters from industry actions.

Impacts of Seismic Trails, Camp Trails and Ice Roads on Tundra Vegetation in the Northeast NPR-A. This study is similar to one that has been ongoing in the Arctic National Wildlife Refuge (ANWR) since 1985. It will give us a better idea of how impacts to the tundra and recovery by tundra vegetation compare to that in ANWR.

Overlapping vs. off-setting ice-roads year-to-year. A stipulation in the 1998 ROD requires offsetting ice roads from one year to the next. This would impact a greater area, but presumably with less intensity of impact per acre and thus provide a benefit through less severe impacts and quicker recovery. This study is meant to suggest which alternative is environmentally preferable.

Caribou demography, distribution and movements in relation to oil field infrastructure. This study is ongoing. It is intended to model, using real data from caribou ranging through oil fields, the effects of oil field infrastructure on caribou productivity. This is the most critical issue in the caribou vs. oil fields debate, and one which has never been directly addressed.

Determine relative importance of avian nest predators. This study is ongoing, with the final year of data collection in 2005. The objectives are to identify predators responsible for nest failure of selected species of waterfowl and shorebirds; compare the relative impact of various predator species within the oil fields and away from development; and develop better methods to identify predators responsible for nest failure.

Distribution, density and productivity of yellow-billed loons in the NPR-A. The fieldwork for this study was completed in 2004; data analysis and report preparation are ongoing. The primary objective is to design and implement yellow-billed loon breeding and production surveys in the NPR-A. This research will also assess the feasibility and justification for a long term study to address potential impacts of climate variation on abundance, breeding biology, distribution and productivity.

Population size and productivity of raptors along the Colville River. This is a long-term monitoring effort, and is ongoing. The objectives are to provide managers with current raptor nest site information; monitor population size and productivity trends for arctic raptors; and identify factors contributing to recent poor productivity for peregrine falcons.

Effects of noise from vibroseis equipment on arctic fish. The fieldwork for this study is complete and report preparation is ongoing. The objective was to measure sound energy levels of vibroseis equipment at various distances from the sound source; use underwater video to record the reactions of fish from the noise generated by the vibroseis equipment; and use caged fish for both treatment and controls to determine the physical and physiological effects of sound exposure.

Population distribution of molting geese near Teshekpuk Lake. The fieldwork for this study was completed in 2003. Data analysis using a Geographical Information System and report preparation are ongoing. The objective is to monitor and assess potential changes in the populations and distribution of molting brant and other geese and to document habitat selection of specific shoreline habitats.

Document local knowledge of subsistence fish life histories. This study is ongoing. Its objectives are to conduct detailed interviews with "key informants" in Nuiqsut, Barrow, Atqasuk and Wainwright; collect spatial and temporal data on fish; focus

on life histories of key subsistence fish species; identify fish bearing lakes and rivers; and digitize data in Geographical Information System format.

L*iterature review of effects of pipeline height on crossing success by caribou.* This review is ongoing. The objectives are to review all published and unpublished information regarding potential effects of pipelines on caribou movements, and to prepare and publish a synthesis and annotated bibliography of the information. This will summarize a wide body of knowledge in a single document.

Literature review of rare plant distribution on Alaska's North Slope. This review is ongoing. The objective is to detail in a single, comprehensive report all known information on rare plant distribution and habitat types in the NPR-A. This information will better suggest to managers where unrecorded populations of rare plants may occur.

We would be happy to provide a briefing for you or your staff if you need further information.

RESPONSES OF MS. SCARLETT TO QUESTIONS FROM SENATOR SALAZAR

BLM/OIL & GAS

Question 1. As you are aware, Ms. Scarlett, Colorado and the BLM is experiencing a boom in the number of drilling permits (APDs) applied for and the resulting boom in wells actually being drilled on our public lands. I am concerned that while the BLM is emphasizing and funding the personnel needed to process APDs in a timely fashion, it is not funding the needed oversight to enforce the stipulations and conditions under which those APDs are approved.

The President's budget calls for maintaining funding for Oil & Gas Management programs at 2005 levels by increasing user fees for processing APDs, will this fee be implemented? If the fee is not implemented, what effects will that have on BLM oversight of oil & natural gas exploration and production?

Answer. The BLM will publish a proposed regulation shortly. We will request comments from the public and then publish a final regulation by Fall 2005. The regulation, to be implemented in FY 2006, will provide funding to allow the BLM to more effectively meet increased customer demand by processing additional leases and APDs. The BLM expects to collect $9.7 million through cost recovery in the oil and gas program primarily from a new fee for APD processing. With these additional funds, the BLM will be able to process virtually all of the remaining backlogged APDs, except for those few that are delayed through litigation or complex environmental review. In FY 2006, BLM plans to process 500 more APDs and 250 more oil and gas leases than in FY 2005. If the regulation is not implemented, BLM will not process as many leases and APDs.

Question 2. The increase in drilling activity in Colorado demands an increase in the number of inspectors and inspections in Colorado to insure it is done properly. Can you please tell us what the Department's priorities are in regards to Oil & Gas Management in terms of inspectors and inspections and how those priorities are reflected in the BLM budget justification? Will more funds be provided to the BLM in the Rocky Mountain West for more inspectors?

Answer. Inspection and Enforcement (I&E) are integral and key components of Departmental management of both onshore and offshore oil and gas operations. In fact, I&E activities are identified as a high priority in the Department's Strategic Plan. The Department has committed considerable resources in recent years to ensure that we have an effective I&E program. Over the past four years, the BLM recognized the need to strengthen its I&E program as the number of APDs approved and drilled increased. The BLM has been successful through its budget justifications to document its need for additional inspectors and obtain additional funding. Those funds have been used to hire additional inspectors in priority Rocky Mountain locations, including in the Piceance Basin of Colorado.

The FY 2006 President's Budget Request maintains the past level of funding for the I&E program for oil and gas, coal, and other minerals. The BLM is committed to ensuring that priority inspections are completed even if adjustments within the oil and gas program are needed to keep pace with industry demand.

Question 3. Would the Department be amenable to an increase in Oil & Gas Management funding for increased oversight of oil and gas operations on Federal Lands as well as "split-estate" lands?

Answer. Senator, the Department very much appreciates your interest in and concern about these issues. We believe the funding level in the FY 2006 President's Budget Request, when combined with the amounts we expect to collect through cost recovery, provides adequate funding to accomplish oversight of oil and gas oper-

ations on Federal lands as well as for oversight of oil and gas operations on split estate lands.

Question 4. How does the BLM view the "split estate" issue in the west and what is their position on retaining mineral rights when they sell or trade BLM property?

Answer. Many of the split estate lands in the West were patented under the Stock Raising Homestead Act of 1916. This Act allows surface owners to be compensated for damages to crops and stock raising values of the land as a result of mineral development. The BLM's policy is to include the surface owner at the earliest possible time to assure that his or her desires are included in the use authorization. The BLM cannot force the surface owner to respond when the mineral estate owner files an application to drill a well. However, the BLM will make a good faith effort to involve the surface owner and will accommodate their requests if at all possible without significantly reducing the mineral developer's right to enjoy the minerals. The BLM requires that the mineral operator make a good faith effort to reach an agreement with the surface owner prior to entering upon the lands. The BLM allows the mineral developer to post a bond for the benefit of the surface owner in lieu of an agreement, but only if a good faith effort fails to achieve an agreement. The BLM then makes an effort to contact the surface owner to assure that he or she understands their rights. The BLM is committed to working with mineral operators and surface owners to assure that fair and equitable treatment is afforded to all. For the sale of lands, the BLM must retain the mineral estate, as required by section 209 of the Federal Land Policy Management Act. For exchanges of lands, the BLM can determine whether to dispose of the mineral estate, based on an evaluation of the public interest, which includes consideration of the mineral potential and the mineral value.

Question 5. Is the Department willing to let the BLM get involved in disputes between landowners and energy companies when there is unmitigated damage to the surface rights of the landowner?

Answer. Many of the split-estate lands in the West were patented under the Stock Raising Homestead Act of 1916. This Act allows surface owners to be compensated for damages to crops and stock raising values of the land due to mineral development.

The Act, and its implementing regulations, provides a mechanism for surface owner involvement and compensation while the mineral estate owner retains the right to develop the mineral estate. The BLM encourages all parties to work together under principles of accommodation. Absent any agreement, the law provides a remedy through the posting of a bond for the benefit of the surface owner. It is our experience that surface owners will fare better if they negotiate an agreement for compensation. Mineral operators also fare better with a negotiated agreement because they do not suffer lengthy delays that will result from bond filing and appeal even if the bond is deemed adequate. The agreement is a private contract between the surface owner and mineral developer. The BLM is generally not privy to the contents of the agreements because often the parties to the agreements prefer to keep confidential the terms of their agreement. The BLM will advise either party about their legal rights and recommend appropriate terms for the protection of resources.

DEPARTMENT OPERATIONS

Question 1. Recent media reports have uncovered that the Department of Education was paying media figures to promote the No Child Left Behind law. Can you assure us that no contracts of a similar nature have been, or will be, provided by DOI? Will you direct your IG to conduct a full review in order to prove a full accounting of the contracts, especially to so-called "personal service contracts," entered into by your office? Will you submit those findings to this committee?

Answer. GovWorks is a Federal acquisition center within the Department of the Interior created pursuant to franchise fund authority provided by Congress in the Government Management Reform Act of 1994. GovWorks provides a variety of procurement, cooperative agreement, and grant agreement services to other Federal agencies on a service-for-fee basis.

GovWorks has not awarded or administered public relations contracts using paid media figures.

We are developing procedures for future public relations contracts to include language prohibiting the use of paid media figures unless explicitly authorized by public law.

GovWorks does not enter into "personal service contracts".

We have worked closely with our Inspector General over the past several years to review GovWorks and its practices. As a result of the IG's reviews, we have made

numerous changes to how GovWorks operates. Our IG is continuing to review GovWorks fee-for-service activities. We would be happy to share the results of that review with you.

Question 2. As we work to reduce the federal deficit the Department of Interior has had to make tough choices, choices that not all of us agree with. Cuts to PILT and the LWCF stateside grants are examples of these cuts. While there have been cuts to these important programs can you please walk me through the reasoning behind increasing the funding for Departmental Management?

Answer. The increased funding in the 2006 budget request for Departmental Management is primarily for investments in Department-wide systems that will improve the effectiveness and efficiency of business practices throughout the Department's programs and covers fixed costs, including the January 2006 pay raise and health benefits and other costs that are not discretionary. The Department Management budget also includes budget-neutral shifting of funding of the appraisal function to Department Management. While this shift appears to increase the DM budget, it is simply a result of relocating existing functions from one set accounts to another.

Specifically, the 2006 request for Departmental Management is $120.2 million, a net program increase of increase of $10.8 million above 2005. Almost all of this program increase—$9.4 million of the total is for deployment of the second phase of the Financial and Business Management System. This increase provides Department-wide benefits and involves all 8 bureaus under the Department. The new system will replace the financial and business systems now used by the Department's bureaus and offices with a single system that provides improved access to information and results and will facilitate more productive operations.

As with the proposals for the Department's bureaus, the Departmental Management proposal includes the full amount needed to cover pay and other fixed cost increases for 2006. The fixed cost increase for DM is $6.1 million.

Finally, the request for Departmental Management includes the transfer of $7.4 million to support integration of the real property appraisal services. These costs were previously included on a decentralized basis in bureau budgets. The transfer is one of a number of efforts implemented by the Department to address longstanding concerns related to the integrity and transparency of appraisal work.

Question 3. As you know, Colorado has over 8 million surface acres and over 25 million sub-surface acres in Colorado managed by the Department of the Interior. It is very important for my office, as well as the offices of my fellow Senators, to be able to rely on the Department and its agencies for timely and accurate information regarding those federal lands in our state. Will you assure me that your office will do everything possible to respond in a timely manner to requests from my office and from my colleagues for information from the Department?"

Answer. You have my assurance that I will work to ensure that requests from your office and all members of Congress receive timely and accurate responses.

ROAN PLATEAU

Question. In the West, many people feel that oil and gas leasing and drilling decisions are often being made with little public input or review. Other times, the BLM approves oil and gas drilling or leasing against the strong objections of citizens and local governments, who might want to limit drilling, or who favor stronger protections or other public uses.

How will you work with the BLM to ensure that public land use decisions are honoring local communities, involving the broad public, and considering updated science and current public uses regarding these national lands?

Answer. Involving the public in decisions that affect them is a central principle of the Department under Secretary Norton's vision of cooperative conservation. Public lands issues have a direct affect on the health of a community and the community issues have a direct affect on the health of the public lands. The Department of the Interior is strongly committed to engaging the public and giving them that voice. Over the past 4 years, Interior has enhanced the public's role by: 1) strengthening the role of Resource Advisory Councils; 2) establishing NEPA guidance to enhance consensus-based decision-making and adaptive management; and 3) establishing a cooperative conservation interagency team to enhance training and other measures that build agency capacity to work closely with the public. On August 26, 2004, the President issued an Executive Order on Cooperative Conservation. Under the umbrella of that Order, we continue to invest significant effort in making cooperative conservation and strong public input into our decision making a keystone of the Department. We will continue to work with local communities, involve the public, and at all times ensure that citizen input and science inform important land use decisions. These issues are complex, interrelated, and defy easy answers. I am

committed to ensuring that the BLM and all Interior agencies work cooperatively with our Federal, state, tribal and local government partners and all interested parties.

Specifically in the case of the Roan Plateau, since 1997 when Naval Oil Shale Reserves 1 and 3 were transferred to BLM, the Bureau has worked diligently in an open public process to develop a balanced resource strategy for the Roan Plateau planning area. The Draft Roan Plateau RMP/EIS is the result of an extensive cooperative effort with state, local and federal government agencies, private partners and the public. The State of Colorado, Garfield and Rio Blanco Counties, and the communities of Rifle and Parachute are official cooperating agencies for the planning process. Numerous public meetings have been hosted by the BLM and cooperating agencies. Public input is being carefully considered by the BLM and its cooperators in developing a final plan which will guide the management of a wide range of multiple uses on these very important public lands.

The Roan Plateau Draft EIS also utilizes science and updated methodologies to analyze effects of current and projected resource use as noted in your question. Examples include comprehensive sensitive plant and wildlife inventories, state-of-the art air quality modeling, and thorough natural gas reserve assessments.

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