

COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS
QUESTIONS FOR THE RECORD
U.S. FISH AND WILDLIFE SERVICE'S FY 2013 BUDGET REQUEST

Chairman Doc Hastings (WA)

1. **On February 28th, the U.S. Fish and Wildlife Service (FWS) released a proposed critical habitat designation that would encompass more than 10.2 million acres in three states – including 1.2 million acres of private land -- for the Northern Spotted Owl. This announcement will likely to exacerbate the impact of the 24.5 million acres of federal forests in the Northwest that have already largely been shut down due to federal spotted owl requirements over the past 20 years. Meanwhile, the rapidly expanding, more dominant barred owl population has become the greatest threat to the continued existence of the Northern Spotted owl. I am most concerned that FWS is pushing forward with this massive critical habitat designation, while taking no immediate concrete actions to stem barred owl populations. While the need to control barred owl populations was recognized by the FWS years ago, the agency has spent the last three years working on an Environmental Impact Statement (EIS) that merely explores the feasibility of doing experimental control on only a handful of sites of barred owl populations. Your agency's fact sheet on the draft EIS suggests that it is possible that no action may be taken, or if action is taken, it couldn't start until next year and no further decisions would be made for several years after the "experiment" ends. Why isn't the FWS expediting measures for an effective barred owl control program that moves forward now to stem the continued decline in spotted owl populations? Is this a priority for FWS? How does the FWS propose to implement a barred owl control program across tens of millions of acres of federal, state and private ownerships? What legal authority does it have to implement this type of program on state and private lands? What would the cost of such a program be? Please outline FWS' specific requested funds in the Fiscal Year 2013 budget request to implement a barred owl control program.**

Why isn't the FWS expediting measures for an effective barred owl control program that moves forward now to stem the continued decline in spotted owl populations? Is this a priority for FWS?

Response: Yes, recovering the spotted owl is a priority for the U.S. Fish and Wildlife Service (Service). The spotted owl recovery plan includes 34 recovery actions and makes three overarching recommendations, i.e.: 1) protect the best of the spotted owl's remaining habitat; 2) revitalize forest ecosystems through active management, and 3) reduce competition from the encroaching barred owl. Consequently, both habitat protection and barred owl management are key components of spotted owl recovery and should be conducted simultaneously. We have recently taken steps to issue a draft Environmental Impact Statement for barred owl removal

experiment and proposed critical habitat for the northern spotted owl for public review and comment. Due to the interest in these actions, we are expediting recovery efforts to the extent possible while maintaining adequate time for public review and comment.

While the evidence of threat is strong and persuasive, it is not yet sufficient for the Service to undertake a wider removal effort. We need data on the effectiveness of barred owl removal in improving spotted owl population trends as well as the efficiency of removal as a management tool. Conducting these studies will allow us to develop a better understanding of the correlation between barred and spotted owl populations. It will also allow us to determine our ability to reduce barred owl populations at a landscape level and keep them low enough to permit spotted owl population growth. Finally, it would allow us to estimate the cost of barred owl removal.

How does the FWS propose to implement a barred owl control program across tens of millions of acres of federal, state and private ownerships?

Response: No policy decision will be decided by the draft Environmental Impact Statement (EIS). If the Service moves forward with the proposed barred owl removal experiment to support northern spotted owl recovery, the soonest we would expect to implement the experimental removal would likely be late Fiscal Year 2013 or early FY 2014. Depending on the alternative chosen, results may not be conclusive for several years. Once the results of the removal experiment have been assessed, the Service will evaluate how to best manage barred owl impacts to spotted owls. At this time, we anticipate consideration of a number of options, including the possible expansion of removal efforts throughout the range of the spotted owl. However, any future decision would require additional permitting and National Environmental Policy Act compliance.

What legal authority does it have to implement this type of program on state and private lands?

Response: Interspersed state and private land occurs within the boundaries of many study areas but would only be included in the experiment with landowner permission. Incentives, or easily implemented agreements, may be offered to encourage participation.

For the Service to proceed with the removal experiment, it will require a permit under the Migratory Bird Treaty Act for scientific collection of barred owls. As a component of the issuance of that permit we are conducting a National Environmental Policy Act (NEPA) review. We will also conduct a consultation under section 7 of the Endangered Species Act (ESA). Depending on the study area and land management agency involved, the study may require additional Federal and State permits. Any study on National Parks or Recreation Areas will require a research permit. Study areas on National Forests will require a special use permit. Most proposed study areas for the experiment are focused on federal lands (U.S. Forest Service, Bureau of Land Management, and National Park Service). One proposed study area includes the Hoopa Valley Indian Reservation in California.

If a decision is made to implement the experimental removal, barred owl populations will likely be reduced if removal activities take place only on federal lands. Federal lands comprise the

majority of land ownership within the range of the spotted owl. Any effort to reduce or remove barred owls from the spotted owls' range is likely to be beneficial based on information collected to date from Green Diamond Resource Company lands in coastal northern California and efforts in British Columbia. In these cases, spotted owls returned to all sites after barred owls were removed. Successful spotted owl breeding in Canada was observed following barred owl removal.

What would the cost of such a program be?

Response: The draft EIS includes eight alternatives of targeted barred owl removal for public consideration and does not propose a widespread or range-wide removal program. Each alternative includes information on the experiment location(s), the estimated cost and duration, the approximate number of barred owls removed, the potential effect on other species, and any potential social, economic, cultural, and recreational effects. If it proceeds, the experiment would take place over a period of 3-10 years (the duration varies in the different alternatives). The cost of the targeted experiment will depend on the alternative chosen, but we estimate a range from \$1.2 million to \$17 million.

Please outline FWS' specific requested funds in the Fiscal Year 2013 budget request to implement a barred owl control program.

Response: The amount of funding required will depend on the alternative selected. There is no money specifically in our budget for this; however several sources of appropriated dollars could be used for it. Additionally, the Service anticipates working with partners to identify funding options appropriate for the selected alternative.

- 2. On February 28th, President Obama issued a "memorandum" directing the Secretary of Interior to publish by the end of May a "full analysis of the economic impacts" of the proposed spotted owl critical habitat rule, including job impacts, and directed that the analysis be made available for public comment. I understand that despite federal court rulings to the contrary, the FWS has for years, not done cumulative and quantitative economic analyses for its Critical Habitat designations even though at least one federal court held it must do so. Instead, FWS has typically considered only "baseline" incremental economic impacts, a method of analyses that significantly undercounts the true impacts of critical habitat designations. Can you please assure me that FWS, in response to the President's Memo to the Interior Secretary, that the "full economic analysis" directed by the President will be a cumulative and quantitative economic analysis? Can FWS summarize for the Committee all Critical Habitat designations issued by FWS since 2001 that have included a quantitative economic analysis, including cumulative impacts?**

Response: The economic analysis for the northern spotted owl will assess the direct impacts of the revised proposed critical habitat in a quantitative fashion; it will not evaluate any cumulative effects because the analysis only evaluates the direct effects from the regulation being proposed and no additional regulations.

Since 2001, in general, critical habitat designations have included a quantitative economic analysis of probable impacts. However, none have included an evaluation of cumulative effects, as the analysis only evaluates the probable impacts of the proposed and final critical habitat designation.

- 3. I am concerned about increasing reports that FWS is issuing “warning letters” to private landowners asserting that protected species are being threatened by the landowner's use of his or her private land (such as for farming, clearing, grading, harvesting or development), and that such letters warn that failure to stop the activity may subject the landowner to civil and/or criminal liability under the ESA. Many of these letters are based on mere suspicion, and provide no proof of violation nor an opportunity for the landowner to contest the FWS's claims. The effect of the threat is to intimidate and stop all productive use of the land for an indefinite period of time. This practice not only interferes with fundamental rights, it quite literally can and does rob some landowners of their very livelihood. What are you doing to ensure that ordinary landowners are not harassed by overzealous agency officials?**

Response: Landowners who receive letters advising them that their activities may be causing take of endangered or threatened species are encouraged to work with their local Service office to discuss the basis for the letter and options that would avoid or ameliorate adverse effects to listed species.

- 4. Under the ESA, Critical Habitat is defined as those areas "essential to the conservation of the species." However, the FWS is routinely designating large areas of "potential" habitat as Critical Habitat, beyond that which is “essential.” For example, I am aware that the FWS is currently proposing Critical Habitat for the Mississippi gopher frog in Mississippi and Louisiana that covers "potential" habitat to include private lands. Why is FWS designating areas as "potential" habitat beyond what is required by law—i.e. what is "essential" habitat? What is being done to ensure that the FWS is including only areas in its Critical Habitat designations limited to "essential" habitat, particularly on private property? I understand that at least two federal courts have ruled that Critical Habitat designations should be subject to NEPA requirements, but that FWS is not doing NEPA reviews for any of their Critical Habitat designations. Please explain FWS rationale for not doing NEPA reviews for its Critical Habitat designations.**

Response: All areas that have been proposed as critical habitat for the Mississippi gopher frog conform to the definition of critical habitat in the ESA and specifically meet the definition of critical habitat for the species. These specific areas include one unit that is currently occupied and other areas that are not occupied but that have been determined to be essential to the conservation of the species. Those areas that are essential for the conservation of the species were described in the proposed rule as providing potential habitat for the species meaning they may need management or possible restoration.

It is Service’s position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National

Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the ESA. We published a notice outlining our reasons for this determination in the Federal Register on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)). However, when the range of the species includes States within the Tenth Circuit, under the Tenth Circuit ruling in *Catron County Board of Commissioners v. U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996), we undertake a NEPA analysis for critical habitat designation and notify the public of the availability of the draft NEPA document for the proposed designation when it is finished.

- 5. Director Ashe, the FWS staff recommended that the valley elderberry longhorn beetle be delisted from the ESA list in 2006 because the species had been recovered. However, in 2009, FWS announced that a delisting rule was being reviewed. Now, nearly three years later, nothing has been done: the valley elderberry longhorn beetle remains a threatened species that imposes significant costs for flood control agencies and private property owners in California. Can you please explain the FWS' delay in acting on its own scientific recommendations to delist this species and what you personally will do to ensure that the delisting moves forward? How many species has the FWS delisted, either on its own initiative or in response to lawsuit, in the past 10 years? Please provide the Committee with a summary of this information.**

Response: The Service began work on a proposed rule to delist the species as a result of our 2006 5-year review of the status of the valley elderberry longhorn beetle. Work to complete actions to comply with court orders, settlement agreements, and other statutory deadlines has delayed completion of our delisting proposal. Moreover, new information on the beetle's status has become available in the last several years, which needed to be analyzed and incorporated into our decision-making process to ensure our decision is based on the best available information and is scientifically sound. I have asked our Pacific Southwest Regional Office to expedite completion of the proposed rule. I anticipate it will be published in the Federal Register by late summer.

The Endangered Species Act (ESA) was enacted in 1973 to prevent the loss or harm of endangered and threatened species and to preserve the ecosystems upon which these species depend. As one of our Nation's most important conservation statutes, the ESA has prevented hundreds of species from becoming extinct, stabilized the populations of many others, and set many species on the track to recovery. Each of these outcomes is a measure of success in achieving the purposes of the ESA. That said, delisting recovered species is also a measure of success, and the following species have been removed from the list of threatened and endangered species due to recovery:

American alligator
Robbins' cinquefoil
Tennessee purple coneflower
Maguire daisy
Columbia white-tailed deer, Douglas County DPS

Palau ground dove
Bald eagle
American peregrine falcon
Arctic peregrine falcon
Palau fantail flycatcher
Aleutian Canada goose
Tinian monarch
Palau owl
Brown pelican, Gulf coast DPS
Brown pelican, range-wide
Concho watersnake
Lake Erie watersnake
Eggert's sunflower
Gray whale
Gray wolf, Northern Rocky Mountain DPS
Gray wolf, Western Great Lakes DPS
Hoover's woolly-star

6. **On February 29th, the FWS released a status review report for the Gray Wolf that casts some doubt on whether the “lower 48 states” gray wolf population is legitimately listed. I am deeply concerned with the situation of the Gray Wolf in the eastern Washington district that I represent. Currently, the Gray Wolf is federally listed on the eastern side of Highway 395 and not listed on the other. This nonsensical, arbitrary approach to determining a population of wolves undermines the credibility that your agency is serious about meeting its responsibilities under ESA. It also is affecting my constituents directly. Wolves in the Pacific Northwest are not a discrete or significant separate population—they are members of the Northern Rocky Mountain distinct population segment that was already delisted in Idaho, Montana, Wyoming and other areas to the east. Please provide me with an explanation of FWS’ plans and any data relating to the gray wolf found in the Pacific Northwest supporting that are in any way different from than wolves that have been deemed recovered in the Northern Rocky Mountain distinct population segment.**

Response: We understand your concern with the western boundary of the Northern Rocky Mountain distinct population segment (DPS) of the gray wolf. Our DPS boundary was based on the best available science at that time and included consideration of a number of factors including distribution of known wolf packs, dispersal distance, and habitat.

You are correct that we recently completed a status review for the gray wolf which found that the current listing status of wolves in the coterminous U.S. was in need of revision. We also found that further review of the wolf's listing status in the Pacific Northwest was warranted. We are currently working on completing this status review for Pacific Northwest wolves, which will include a DPS analysis, with an evaluation of whether or not they are discrete from recovered wolves in the Northern Rocky Mountain DPS. We expect to complete this status review by September 2012 and will provide you with a copy of this review and any relevant supporting data upon completion.

We assure you that we are serious about meeting our responsibilities under the ESA. The Service has worked closely with the Washington Department of Fish and Wildlife (WDFW) to monitor and manage wolves in a responsible manner, using the best available science. We have supported WDFW's Wolf Conservation and Management Plan and recently (FY 2012) provided WDFW with financial assistance to monitor and manage wolves in the state.

- 7. In the FWS and NOAA's recently released draft policy interpreting the ESA phrase "significant portion of range," any species that is "threatened" across its entire range but "endangered" in a smaller portion of the range would be treated as "endangered" for the agency's regulatory purposes. Under what legal authority is FWS basing its decision to use the more restrictive "endangered" status when using "threatened" would provide more administrative flexibility?**

Response: In the situation described by the question, (i.e., a species is threatened throughout all of its range, but endangered in a significant portion of its range), the basic principles of statutory construction compel us to list the entire species as endangered. To do otherwise would fail to give meaning to all elements of the definition of "endangered species."

- 8. In 2010, the Fish and Wildlife Service released a document titled, "Rising to the Urgent Challenge: a Strategic Plan for Responding to Accelerating Climate Change," that described the FWS' vision to mandate consideration of climate change impacts in all major Endangered Species Act program activities, including listing decisions, recovery plans, habitat conservation plans, and section 7 consultations and biological opinions." The document states that FWS will "prepare guidance that can be used by FWS program offices in their assessment of climate change impacts." Can you please provide the Committee with a copy of any federally-funded guidance distributed to FWS program offices for these purposes? Also, could you please detail in the FWS' proposed FY 2013 budget the amount allocated specifically for climate change adaptation, implementation and other activities relating to this strategic plan? I note that you have requested a \$3 million increase for climate change "inventory and monitoring" for the National Wildlife Refuge System.**

Response: America's landscapes, and the fish, wildlife, plants, and cultural resources they support are increasingly impacted by a variety of conservation challenges. These challenges transcend agency and geopolitical boundaries and require the development and implementation of a new, more collaborative approach such as the effort to develop a National Climate Adaptation Strategy for Fish, Wildlife and Plants which the Service is part of. Information on that work can be found on the Service website at:

<http://www.fws.gov/home/climatechange/adaptation.html>

The Service also entered into an interagency agreement with the National Park Service and United States Geological Survey to work with the National Wildlife Federation to develop guidance on climate change vulnerability assessments for species, habitats and ecosystems. The expert workgroup convened by the National Wildlife Federation developed the document, "Scanning the Conservation Horizon: A Guide to Climate Change Vulnerability Assessment."

The Guide describes various scientific methods that are available and in use for assessing the vulnerability of species and habitats to climate change; it does not prescribe the use of any particular method. This document can be obtained at:

http://www.habitat.noaa.gov/pdf/scanning_the_conservation_horizon.pdf

While climate change has been identified as a key factor contributing to landscape change, all the work the Service does considers the implications of changes in the environment. Refuge Inventory and Monitoring funding is not specific to climate change. The National Wildlife Refuge System invests in Inventory and Monitoring activities in order to efficiently target our management actions to achieve the System's mission in the face of environmental change. Investments in understanding species distributions and responses to management actions and environmental stressors allow us to continually refine our management actions for specific outcomes.

The Service is developing the long-term monitoring efforts of the Refuge System in close coordination with other DOI Bureaus, other Agencies and key conservation partners (Tribes, States, and NGOs) to reduce duplication, minimize costs, and leverage information from multiple sources for the greatest conservation benefit.

The \$3 million increase for FY 2013, when coordinated with our key partners, will generate necessary information that will contribute to the efficiency of the conservation actions of our partners and the Service.

9. **In the Fish & Wildlife Service's FY 2012 budget request last year for endangered species, FWS requested a cap on the amount of species listing petitions the Department would be required to handle, noting that between 1994 to 2006 an average of 20 petitions to list species was filed with FWS, but from 2006 until last year, petitions for listing more than 1,200 separate species were filed. In this year's budget request, the FWS requests \$22.4 million for ESA listing activities—an increase of \$1.5 million. How is that \$1.5 million allocated, and how is it connected with the settlements the Department of Interior signed last year with two plaintiffs? What is the total FY 2013 FWS budget associated with implementation of this settlement? How many employees, man hours and financial resources do you estimate will be dedicated within FWS solely to implement the agreement with the Center for Biological Diversity and WildEarth Guardians?**

Response: The Service requests \$22.431 million for the Listing and Critical Habitat program in FY 2013. Of these funds, \$14.887 million, including the \$1.5 million increase, is requested to implement the court-approved settlements such as the agreements with the Center for Biological Diversity and Wild Earth Guardians. The Service estimates that 80 FTEs will be supported with these funds to implement the agreements. If the cap language within the appropriations language continues, no additional Service funding can be used to implement the agreements. The Service requests that the appropriations language limiting funding for petition findings to \$1.5 million continue in FY 2013 to allow the Service to balance the statutory requirements of the ESA while addressing the highest biological priorities of the Listing program.

10. On page 11 of the FWS budget justification for Endangered Species Program states that in this fiscal year, the Service anticipates publishing 10 final and 2 proposed critical habitat rules for 112 species, and will make 53 final and proposed listings and critical habitat determinations for 135 species, and 8 determinations for 44 foreign species. Can you please identify each of the species mentioned and your estimated timeframe to complete each? Are these determinations all connected to FWS' multi-species settlement with the Center of Biological Diversity and the WildEarth Guardians signed in 2011? Does that multi-species settlement set deadlines that require FWS to act within this fiscal year? Please summarize each species action that FWS intends to take in FY 2013 broken down by state, date, and action.

Response: The settlement agreements require that we complete final rules within the statutory timeframes. The agreements leave the timing of most of the actions to the discretion of the Service as long as all are proposed by FY 2016 and the agreement with Wild Earth Guardians requires that we meet cumulative targets.

For the domestic species, the following list includes the candidate species for which we anticipate making a proposed listing determination or not warranted finding in FY 2013. Several of these determinations are due in FY 2013 as set forth in the settlement agreements, however, many are due by FY 2016, but are scheduled in 2013 to balance our workload.

Fiscal Year 2013 expected and required species proposed listing determinations

Species common name	Scientific name	States or Territories within the historical range	Specific due date in FY2013 from settlement agreements?
Bat, eastern small-footed	<i>Myotis leibii</i>	AR, CT, DE, GA, IL, IN, KY, MD, ME, MA, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VT, VA, WV	Yes
Bat, northern long-eared	<i>Myotis septentrionalis</i>	AL, AR, CT, DE, DC, FL, GA, IL, IA, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VA, VT, WV, WI	Yes
Brickell-bush, Florida	<i>Brickellia mosieri</i>	FL	
Buckwheat, Churchill Narrows	<i>Eriogonum diatomaceum</i>	NV	
Buckwheat, Las Vegas	<i>Eriogonum corymbosum</i> var. <i>nilesii</i>	NV	
Buckwheat, Red Mountain	<i>Eriogonum kelloggii</i>	CA	
Butterfly, Bartram's hairstreak	<i>Strymon acis bartrami</i>	FL	
Butterfly, Florida leafwing	<i>Anaea troglodyta</i>	FL	

	<i>floridalis</i>		
Cinquefoil, Soldier Meadow	<i>Potentilla basaltica</i>	NV	
Cuckoo, yellow-billed (Western U.S. DPS)	<i>Coccyzus americanus</i>	AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, WY	
Flax, Carter's small-flowered	<i>Linum carteri</i> var. <i>carteri</i>	FL	
Frog, mountain yellow-legged (Sierra Nevada DPS)	<i>Rana muscosa</i>	CA	Yes
Frog, Oregon spotted	<i>Rana pretiosa</i>	CA, WA	Yes
Gartersnake, northern Mexican	<i>Thamnophis eques megalops</i>	AZ, NM	Yes
Goldenrod, Yadkin River	<i>Solidago plumosa</i>	NC	
Ivesia, Webber	<i>Ivesia webberi</i>	CA, NV	
Knot, red	<i>Calidris canutus rufa</i>	CT, DE, FL, GA, MA, MD, ME, NC, NH, NJ, RI, SC, VA	Yes
Loon, yellow-billed	<i>Gavia adamsii</i>	AK	
Massasauga (=rattlesnake), eastern	<i>Sistrurus catenatus catenatus</i>	IA, IL, IN, MI, MN, MO, NY, OH, PA, WI	
Milkvetch, Goose Creek	<i>Astragalus anserinus</i>	ID, NV, UT	
Milkvetch, Packard's	<i>Astragalus cusickii</i> var. <i>packardiae</i>	ID	
Mouse, New Mexico meadow jumping	<i>Zapus hudsonius luteus</i>	AZ, CO, NM	Yes
Murrelet, Kittlitz's	<i>Brachyramphus brevirostris</i>	AK	Yes
No common name	<i>Cordia rupicola</i>	PR	
No common name	<i>Gonocalyx concolor</i>	PR	
No common name	<i>Agave eggersiana</i>	VI	
Orcutt's hazardia	<i>Hazardia orcuttii</i>	CA	
Phacelia, Brand's	<i>Phacelia stellaris</i>	CA	
Pipit, Sprague's	<i>Anthus spragueii</i>	AL, AR, AZ, CA, GA, LA, MI, MN, MT, ND, OH, OK, SC, SD, TX	
Prairie dog, Gunnison's (central and south-central Colorado, north-central New Mexico SPR)	<i>Cynomys gunnisoni</i>	CO, NM	
Redhorse, sicklefin	<i>Moxostoma</i> sp.	GA, NC, TN	
Sage-grouse, greater (Bi-State DPS)	<i>Centrocercus urophasianus</i>	CA, NV	Yes
Shiner, sharpnose	<i>Notropis oxyrhynchus</i>	TX	
Shiner, smalleye	<i>Notropis buccula</i>	TX	
Skipper, Dakota	<i>Hesperia dacotae</i>	IA, IL, MN, ND, SD	Yes

Springsnail, elongate mud meadows	<i>Pyrgulopsis notidicola</i>	NV	
Squirrel, Washington ground	<i>Spermophilus washingtoni</i>	OR, WA	
Stonecrop, Red Mountain	<i>Sedum eastwoodiae</i>	CA	
Storm-Petrel, ashy	<i>Oceanodroma homochroa</i>	CA	Yes
Sucker, Zuni bluehead	<i>Catostomus discobolus yarrowi</i>	AZ, NM	
Talussnail, Rosemont	<i>Sonorella rosemontensis</i>	AZ	Yes
Toad, Yosemite	<i>Bufo canorus</i>	CA	Yes
Treefrog, Arizona (Huachuca/Canelo DPS)	<i>Hyla wrightorum</i>	AZ	
Turtle, Sonoyta mud	<i>Kinosternon sonoriense longifemorale</i>	AZ	
Wolverine, North American	<i>Gulo gulo luscus</i>	CA, CO, ID, MT, OR, UT, WA, WY	Yes
Wormwood, northern	<i>Artemisia campestris</i> var. <i>wormskioldii</i>	OR, WA	

Consistent with the listing work plan settlement agreements, we will complete final listing determinations in accordance with statutory deadlines; therefore, in FY 2013 we will finalize listing determinations that were proposed in FY 2012.

Fiscal Year 2013 expected and required species final listing determinations

Species common name	Scientific name	States or Territories within the historical range
`Aku	<i>Cyanea tritomantha</i>	HI
`Ala `ala wai nui	<i>Peperomia subpetiolata</i>	HI
`Anunu	<i>Sicyos macrophyllus</i>	HI
Amphipod, diminutive	<i>Gammarus hyalleloides</i>	TX
Bat, Florida bonneted	<i>Eumops floridanus</i>	FL
Bladderpod, White Bluffs	<i>Physaria douglasii tuplashensis</i>	WA
Butterfly, Mt. Charleston blue	<i>Plebejus shasta</i> ssp. <i>charlestonensis</i>	NV
Buckwheat, Umtanum Desert	<i>Eriogonum codium</i>	WA
Cactus, Acuna	<i>Echinomastus erectocentrus</i> var. <i>acunensis</i>	AZ

Cactus, Fickeisen plains	<i>Pediocactus peeblesianus</i> var. <i>fickeiseniae</i>	AZ
Cactus, Florida semaphore	<i>Consolea corallicola</i>	FL
Checkerspot butterfly, Taylor's (= Whulge)	<i>Euphydryas editha taylori</i>	WA, OR
Darter, diamond	<i>Crystallaria cincotta</i>	KY, OH, TN, WV
Fleabane, Lemmon	<i>Erigeron lemmonii</i>	AZ
fly, Hawaiian Picture-wing	<i>Drosophila digressa</i>	HI
Gladecress, Texas golden	<i>Leavenworthia texana</i>	TX
Ha`iwale	<i>Cyrtandra oxybapha</i>	HI
Haha	<i>Cyanea asplenifolia</i>	HI
Haha	<i>Cyanea kunthiana</i>	HI
Haha	<i>Cyanea obtusa</i>	HI
Hala pepe	<i>Pleomele fernaldii</i>	HI
Horned lark, streaked	<i>Eremophila alpestris</i> <i>strigata</i>	OR, WA
Ko`oko`olau	<i>Bidens campylothea</i> <i>pentamera</i>	HI
Ko`oko`olau	<i>Bidens campylothea</i> <i>waihoiensis</i>	HI
Ko`oko`olau	<i>Bidens micrantha</i> <i>ctenophylla</i>	HI
Ko`oko`olau	<i>Bidens conjuncta</i>	HI
Kolea	<i>Myrsine vaccinioides</i>	HI
Mallow, Gierisch	<i>Sphaeralcea gierischii</i>	AZ, UT
Mucket, Neosho	<i>Lampsilis rafinesqueana</i>	AR, KS, MO, OK
No common name	<i>Schiedea salicaria</i>	HI
No common name	<i>Platydesma remyi</i>	HI
No common name	<i>Stenogyne cranwelliae</i>	HI
No common name	<i>Phyllostegia bracteata</i>	HI

No common name	<i>Phyllostegia floribunda</i>	HI
Nohoanu	<i>Geranium hanaense</i>	HI
Nohoanu	<i>Geranium hillebrandii</i>	HI
Pearlymussel, slabside	<i>Lexingtonia dolabelloides</i>	AL, KY, TN, VA
Pocket gopher, Brush Prairie	<i>Thomomys mazama douglasii</i>	WA
Pocket gopher, Cathlamet (Louie's Western)	<i>Thomomys mazama louiei</i>	WA
Pocket gopher, Olympia	<i>Thomomys mazama pugetensis</i>	WA
Pocket gopher, Olympic	<i>Thomomys mazama melanops</i>	WA
Pocket gopher, Roy Prairie	<i>Thomomys mazama glacialis</i>	WA
Pocket gopher, Shelton	<i>Thomomys mazama couchi</i>	WA
Pocket gopher, Tacoma	<i>Thomomys mazama tacomensis</i>	WA
Pocket gopher, Tenino	<i>Thomomys mazama tumuli</i>	WA
Pocket gopher, Yelm	<i>Thomomys mazama yelmensis</i>	WA
Prairie-chicken, lesser	<i>Tympanuchus pallidicinctus</i>	CO, KS, NM, OK, TX
Pricklyapple, aboriginal (shellmound applecactus)	<i>Harrisia aboriginum</i>	FL
Rabbitsfoot	<i>Quadrula cylindrica cylindrica</i>	AL, AR, GA, IL, IN, KS, KY, LA, MO, MS, OH, OK, PA, TN
Reedgrass, Hillebrand's	<i>Calamagrostis hillebrandii</i>	HI
Rose-mallow, Neches River	<i>Hibiscus dasycalyx</i>	TX
Sage-grouse, Gunnison	<i>Centrocercus minimus</i>	AZ, CO, NM, UT
Salamander, Austin blind	<i>Eurycea waterlooensis</i>	TX
Salamander, Georgetown	<i>Eurycea naufragia</i>	TX
Salamander, Jemez Mountains	<i>Plethodon neomexicanus</i>	NM
Salamander, Jollyville Plateau	<i>Eurycea tonkawae</i>	TX
Salamander, Salado	<i>Eurycea chisholmensis</i>	TX
Sculpin, grotto	<i>Cottus sp.</i>	MO

Shrimp, anchialine pool	<i>Vetericaris chaceorum</i>	HI
Skipper, Mardon	<i>Polites mardon</i>	CA, OR, CA
Snail, Diamond Y Spring	<i>Pseudotryonia adamantina</i>	TX
Snail, Lanai tree	<i>Partulina semicarinata</i>	HI
Snail, Lanai tree	<i>Partulina variabilis</i>	HI
Snail, Newcomb's tree	<i>Newcombia cumingi</i>	HI
Snail, Phantom cave	<i>Cochliopa texana</i>	TX
Springsnail (=Tryonia), Phantom	<i>Tryonia cheatumi</i>	TX
Springsnail, Gonzales	<i>Tryonia circumstriata</i> (= <i>stocktonensis</i>)	TX
Sunfish, spring pygmy	<i>Elassoma alabamae</i>	AL
Thoroughwort, Cape Sable	<i>Chromolaena frustrata</i>	FL
Tiger beetle, Coral Pink Sand Dunes	<i>Cicindela albissima</i>	UT

We have court-ordered or settlement agreement obligations for FY2013 other than those described in the listing work plan agreements with WildEarth Guardians and Center for Biological Diversity.

Other Fiscal Year 2013 listing program obligations

Species common name	Scientific name	States or Territories within the historical range	Action	Specific due date in FY2013 from court orders or settlement agreements?
Salt Creek tiger beetle			Revised proposed critical habitat	Yes
Woodland caribou (Southern Selkirk Mtn caribou)		ID, WA	Final critical habitat	Yes
Northern spotted owl		CA, OR, WA	Revised final critical habitat	Yes
Riverside fairy shrimp		CA	Revised final critical habitat	Yes
Tidewater goby		CA	Revised final critical habitat	Yes
Lost River and shortnose sucker		CA	Revised final critical habitat	Yes
Comal spring invertebrates		TX	Revised proposed critical habitat	Yes
Polar bear		AK	Revised final	Yes

			special rule and NEPA	
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11. **What is the status of the Sand Dune Lizard listing, which I understand the FWS extended until later this year for a final listing decision? Was the extension agreed upon under the terms of the Settlement Agreement with Center for Biological Diversity and WildEarth Guardians?**

Response: On June 13, 2012, the Service announced that the dunes sagebrush lizard does not need the protection of the Endangered Species Act because unprecedented voluntary conservation agreements now in place in New Mexico and Texas will ensure the long-term protection and recovery of the species. The Service has withdrawn its proposal to add the lizard to the list of species protected under the Endangered Species Act.

Based on public comments the FWS received on the proposed listing determination for dunes sagebrush lizard (sand dune lizard), we determined there was substantial disagreement regarding the species status and trends and pursuant to section 4(b)(6)(B)(i) of the ESA, we invoked the extension of the deadline to finalize the listing determination for not more than 6 months. On December 5, 2011, we published a Federal Register notice to reopen the comment period on the proposed rule to list the dunes sagebrush lizard (sand dune lizard) and solicit additional information to clarify this issue. Invoking the statutory extension pursuant to section 4(b)(6)(B)(i) of the ESA did not require an extension of the settlement agreements.

12. **Please provide the statutory and regulatory authority that FWS is relying on to accept and make determinations on petitions to list multiple species by single petition.**

Response: There is no statutory or regulatory authority that limits petitions for multiple species, nor is there any statutory or regulatory authority that limits the Service from responding to multiple species in a single petition finding. The Service, where appropriate, has attempted to combine findings for multiple species resulting from a single petition.

13. **In the months since the two multi-species settlements were signed by the Department of Interior, how many listing and critical habitat determinations has the FWS completed that are related to the settlement or petitions filed by the plaintiffs that signed the settlement? Does FWS contemplate doing any species listings that are not related to the multi-species settlement? If so, please identify those species.**

Response: The Service has completed eighteen listing and critical habitat determinations associated with the Multi-District Litigation ("MDL") Settlement Agreements. As budget and resources allow, the Service does plan to make listing and critical habitat determinations on species that are not part of the MDL settlement agreement. 36 species have been added to list of candidate species since the MDL settlement agreement was signed. Proposed listing and critical habitat determinations for these species will be made concurrently with MDL packages as budget and resources allow, or they will be completed following the commitments under the MDL.

14. **I have requested repeatedly for FWS and the Interior Department to provide the Committee with current information relating to ESA-related litigation and settlements. I understand similar requests have been made by other Senators and Members. What is the status of that information? Has FWS or Interior agreed to an amount for attorney's fees to each of the two plaintiffs in the multi-species settlements (Center for Biological Diversity and WildEarth Guardians)? If so, please provide the amount of attorney's fees agreed upon. Did the Justice Department consult with FWS with regard to payment of attorney's fees resulting from these settlements? Please quantify how much the FWS (through the Judgment Fund or the Equal Access to Justice Act) has paid to litigants that have successfully sued the Department for endangered species program activities?**

Response: Dan Ashe, Director, testified before the House Natural Resources Committee on December 6, 2011, to discuss and answer questions from Members related to ESA litigation. Additionally, in a letter dated November 30, 2011, the Service responded to a series of questions from Senator Inhofe regarding attorneys' fees and other costs associated with the Multi-District Litigation ("MDL") Settlement Agreements and provided detailed information on the Service's work plan. In a letter dated March 23, 2012, the Service responded to a request from Senators Inhofe and Sessions for copies of communications between the Service and the Center for Biological Diversity ("CBD") and WildEarth Guardians ("WEG") related to the MDL Settlement Agreements. Under local rule 84.9(a) of the District Court's local rules governing the court's mediation program, we are prohibited from disclosing "any written or oral communication made in connection with or during any mediation session." Nevertheless, we identified and included in our response communications that were not made in connection with any mediation session.

The Department of Justice ("DOJ") has primary authority for negotiating fees claims. DOJ has reached agreement regarding attorneys' fees to be paid to CBD and WEG in association with the MDL Settlement Agreements. Pursuant to a Stipulation between the two parties entered in the District Court for the District of Columbia ("DDC") on February 2, 2012, DOJ agreed to settle CBD's claims for attorneys' fees and costs related to the MDL Agreement for a total of \$128,158. Pursuant to a separate Stipulation entered in DDC on February 2, 2012, DOJ and WEG agreed to settle their claims for attorneys' fees and costs related to the MDL Agreement for a total of \$167,602. Attorneys' fees were paid from the Judgment Fund, which does not involve Service funds. We defer all questions related to payments from the Judgment Fund to DOJ. However, the Endangered Species program maintains an Excel file that captures the fees paid by our program through the Equal Access to Justice Act ("EAJA") from fiscal years 2002 through the present. According to our file, since 2002 the amount paid by the Service under EAJA to litigants for claims related to endangered species activities is approximately \$2,034,000.

15. **WildEarth Guardians' 2010 annual report lists the U.S. Fish and Wildlife Service as a source of grants it has used for its programs. Can you please provide a complete accounting of all grants and assistance provided to WildEarth Guardians, the Center for Biological Diversity, the National Wildlife Federation and Defenders of Wildlife?**

Response: The table below shows the grants provided to the WildEarth Guardians, the National Wildlife Federation, and the Defenders of Wildlife. The Service has not provided any grants to the Center for Biological Diversity.

Acceptance Date	Fiscal year	Vendor Name	FWS Region	State	Amount
04/08/09	2009	Defenders of Wildlife	6	MT	\$ 9,000.00
04/21/09	2009	Defenders of Wildlife	8	CA	\$ 15,000.00
09/17/09	2009	Defenders of Wildlife	9	DC	\$ 10,000.00
02/24/10	2010	National Wildlife Federation	7	AK	\$ 2,000.00
02/24/10	2010	National Wildlife Federation	7	AK	\$ 2,000.00
04/09/10	2010	National Wildlife Federation	7	AK	\$ 9,998.00
08/03/10	2010	National Wildlife Federation	9	WV	\$ 102,000.00
08/31/10	2010	National Wildlife Federation	1	HI	\$ 73,000.00
02/17/11	2011	Wildearth Guardians	2	NM	\$ 25,000.00
03/02/11	2010	National Wildlife Federation	9	DC	\$ 50,000.00
06/15/11	2010	National Wildlife Federation	9	WV	\$ 24,000.00
07/15/11	2010	National Wildlife Federation	9	DC	\$ 25,000.00
07/20/11	2011	Wildearth Guardians	9	VA	\$ 75,000.00
08/12/11	2011	National Wildlife Federation	4	GA	\$ 16,000.00
08/12/11	2011	National Wildlife Federation	4	GA	\$ 4,000.00
09/19/11	2011	National Wildlife Federation	1	WA	\$ 68,108.00

16. **Paragraph 17 of the multi-species listing settlement signed by FWS attorneys and the plaintiffs calls for FWS and the plaintiffs to annually “confer” on progress in the review of candidate species and pending listing petitions. What is intended with these annual meetings with two plaintiffs? Will members of the public be permitted to participate? Will FWS be providing work plans or other documents to these plaintiffs at any such meeting?**

Response: The Service's Agreement with CBD does not provide for annual meetings. Paragraph 17 of the MDL Agreement with WEG filed on May 10, 2011, requires the parties to meet at least once each fiscal year to confer regarding the Agreement and the status of the parties' compliance. The intent of the meeting is to minimize the potential for disputes regarding compliance with this agreement and establish a non-litigation structure for resolving any disputes that do arise. Therefore, since the purpose of these meetings is to discuss the status of compliance with their Agreement, these meetings will not be open to the public. We did not provide any additional documentation during the first annual meeting with WEG and we do not anticipate providing any particular documents in future meetings. Depending on the circumstances at the time, however, it is possible that we may find it helpful to provide WEG with information, including certain documents. If so, any information we share in these status conferences will be publicly available.

17. **Regarding candidate reviews included in the multi-species settlement agreements with Center for Biological Diversity and WildEarth Guardians, is FWS intending to provide public guidance or other information on how it expects to conduct these with respect to timing, information sought or other elements of its review?**

Response: The annually updated candidate assessments of individual species are the basis for the Candidate Notice of Review (CNOR) which is published in the Federal Register to provide the public and our partners with an updated list of candidate species. In the CNOR, we provide guidance to the public on how they can provide information on current candidate species and solicit information on other species should be considered as candidates. Additionally, our work plan and stipulated timing by fiscal year for each of the species associated with the MDL is posted online at:

http://www.fws.gov/endangered/improving_ESA/listing_workplan.html

18. **What is the status of FWS providing reasonable access to Rattlesnake Mountain in the Hanford Reach Monument in Washington State?**

Response: The Service has been working to resolve a variety of cultural resource and Tribal consultation issues in an effort to open the Rattlesnake Mountain area of the Hanford Reach National Monument to a variety of public uses, including elk hunting. Rattlesnake Mountain (a.k.a. Laliik) is of spiritual importance to American Indian groups of the Mid-Columbia plateau region and a site listed on the National Register of Historic Places as the "Laliik Traditional Cultural Property." Public access and use at Rattlesnake Mountain constitutes an undertaking under Section 106 of the National Historic Preservation Act and the Service is currently working with affected Tribes to identify ways to mitigate adverse effects on the Laliik Traditional Cultural Property prior to allowing public use at Rattlesnake Mountain.

19. **Please summarize all federal expenditures and grants made by the Department of Interior in connection with the removal of Condit Dam on the White Salmon River in south central Washington.**

Response: From FY 2006 through 2009, the U.S. Geological Survey (USGS) conducted two projects in support of salmon restoration efforts in the White Salmon River associated with the

removal of Condit Dam, and produced a final report entitled: *Composition and Relative Abundance of Fish Species in the Lower White Salmon River Prior to the Removal of Condit Dam* (USGS Open Report 2011-1087). The two projects were:

- Project 1584- Assessment of current use and productivity of fish in the lower White Salmon River prior to the removal of Condit Dam. Cost of project in FY2006=\$16,246, in FY2007=\$43,371.
- Project 1943- Develop a profile of species composition, out-migration timing, and population abundance for the Lower White Salmon River. Cost of Project in FY2009=\$47,555.

From FY 2007 through 2011, the Service conducted adult and juvenile fish (Chinook, Coho, steelhead, rainbow trout) population assessments in the White Salmon River. (Assessment information contributed to Smith, C.T. and R. Engle. 2011. Persistent Reproductive Isolation between sympatric lineages of fall Chinook salmon in White Salmon River, Washington. Transactions of the American Fisheries Society 140:699-715.) The cost of the assessment work from FY 2007 through 2011 was \$65,590.

In FY 2011, the Service and other partners in the White Salmon Working Group, such as Washington Department of Fish and Wildlife, Yakama Nation, NOAA Fisheries, U.S. Geological Survey, U.S. Forest Service, Underwood Conservation District, and PacifiCorp participated in a joint effort to capture and transport Lower Columbia River fall Chinook salmon upstream of Condit Dam. A total of 679 adult fall Chinook salmon were relocated above the structure and monitored for spawning activity. This project was largely funded through cost sharing among the various agencies. The funded portion was \$25,000.

In FY 2009 and 2010, a fish passage removal project (above Condit Dam) was funded through cooperative efforts of federal, Tribal, county, and non-governmental organizations. A two-culvert barrier on Indian Creek was removed and replaced with a bridge. Federal funding for this project was provided through the National Fish Passage Program funds in the amount of \$76,000 to the Underwood Conservation District (UCD).

In FY 2007 and FY 2008, the Service conducted a project to determine the genetic structure of Chinook salmon, steelhead and Coho salmon in the Big White Salmon River. The data collected in the genetic analysis would be used to support salmon and steelhead recolonization, and future fisheries management of ESA listed and non-listed salmon stocks into the Big White Salmon River following removal of Condit Dam. The cost of project in FY 2007 was \$47,196, and the cost in FY 2008 was \$46,227. Information contributed to a final published paper: Smith, C.T. and R. Engle. 2011. Persistent Reproductive Isolation between sympatric lineages of fall Chinook salmon in White Salmon River, Washington. Transactions of the American Fisheries Society 140:699-715.

20. **A recent study showed that an estimated 25 million of the 120 million juvenile salmon smolts that travel up the Columbia River each year are consumed by cormorants, which are protected under the Migratory Bird Treaty Act. I understand that the Army Corps of Engineers is developing a report recommending actions relating to the control of these predatory birds. What is the USFWS doing**

under its own authorities to control these growing numbers of birds that migrate inland into the Northwest? Can you please outline the activities and FY 2013 of FWS' migratory bird control program for Region 1 that includes Washington, Oregon and Idaho?

Response: The Service is participating in a multi-agency working group (composed of Federal and State agencies and the Bonneville Power Administration) charged with developing a management strategy to address the predation of salmonids by cormorants in the Columbia River. Additionally, the Service is providing the Army Corps of Engineers with technical assistance associated with compliance with the Migratory Bird Treaty Act (MBTA) and associated Service regulations to develop and implement a management plan for cormorants in the Columbia River. If any take of Double-crested cormorants are recommended in the management plan, the Army Corps of Engineers would need to obtain a MBTA permit from the Service to conduct the control efforts. The Service will review the permit application to ensure that the level of take will not impact the overall conservation of the cormorants.

The Service is also working with numerous Flyway Councils and States in developing Flyway Management Plans for the Double-crested Cormorant and in preparation of a Supplemental Environmental Impact Statement or Environmental Assessment related to the development of revised regulations governing the management of Double-crested Cormorants on a national scale.

21. **Should the decision in the Center for Biological Diversity and Pesticide Action Network North America v. Environmental Protection Agency lawsuit filed on January 19, 2011 require the U.S. Fish and Wildlife Service to determine the potential impacts of pesticide products on endangered species, would USFWS use the same modeling as has been used by the NOAA for four biological opinions for pesticide products that has been strongly criticized by the Environmental Protection Agency, and are pending review by the National Research Council on the feasibility and validity of these methods? Please describe FWS' plans to meet any requirements to consult on the 380 chemicals impact on 214 species listed in this lawsuit.**

Response: In accordance with the statutory language of the ESA, the Service will utilize the best scientific and commercial data available to determine the potential impacts of pesticide products on endangered species when consulting with the Environmental Protection Agency on the registration of these pesticides. We anticipate that this analysis will be informed by the ongoing review currently being conducted by the National Research Council.

22. **Pacific Lamprey is important to tribes in the Columbia Basin tribes, who do not want lamprey listed under ESA. I understand that FWS has proposed a conservation initiative for lamprey and has suggested states, tribes, and other federal agencies sign on to the commitments in the initiative, but it is unclear how this would be funded. Please describe FWS' plans to implement the lamprey conservation initiative in this year's FWS budget.**

Response: The Lamprey Conservation Initiative is a voluntary agreement that does not commit the Service to any additional funding beyond that allocated in FY 2011 or 2012. It is a mechanism to coordinate lamprey restoration activities from the numerous federal, state agencies, and tribes in the west.

23. **Director Ashe, the states of Washington, Oregon, Idaho and various Columbia River Tribes are concerned about quagga and zebra mussels that originate from Lake Mead, Nevada, an invasive species that could wreak havoc in the Columbia River basin. What is your agency doing, in conjunction with the National Park Service, to prevent the spread of these mussels?**

Response: This is a complex issue involving inter-jurisdictional waters where both State and Federal laws and policies apply. The Service's Southwest Region is working with the Lake Mead National Recreation Area, which the National Park Service manages. The U.S. Fish and Wildlife Service, National Park Service and other Federal and State partners from the lower Colorado River are developing a plan, which is expected to be implemented this spring. Potential actions to be incorporated into this plan include improving the currently mandatory cleaning procedures for moored vessels and increasing outreach and education to all boaters in the lower Colorado River through updates to websites and signage at launches and marinas. We will improve communication between Federal and State partners, including the rate of timeliness of reporting to State partners when moored boats have left Lake Mead. With these actions, the Department of the Interior hopes to significantly decrease the risk of invasive species coming from the lower Colorado River, especially Lake Mead.

24. **I understand that FWS has drafted a "Desert Tortoise Conservation Plan" for a landscape-level "reserve" on some 4.5 million acres in California and Nevada. What is the status of that plan and has the FWS budgeted for its implementation in the FY 2013 budget?**

Response: In June 2011, the Service developed a draft desert tortoise conservation network concept based largely on a U.S. Geological Survey (USGS) habitat model that identifies land important for connectivity between existing tortoise conservation areas. This draft concept was intended to be an initial step at considering the needs of the tortoise given multiple resource development projects on BLM lands. The Service and BLM in California and Nevada continue working towards desert tortoise conservation using this draft network concept of existing federal lands as a resource for discussions. BLM and the Service agreed that in California, desert tortoise habitat needs outside of existing conservation areas should be considered within the context of the Reserve Design of the Desert Renewable Energy Conservation Plan (DRECP). In Nevada, the Service is working with BLM to address tortoise conservation as part of the revision of the Southern Nevada District's Resource Management Plan. The outcomes of these discussions will be incorporated into the development of a renewable energy chapter that will be added to the Final Desert Tortoise Recovery Plan Revision. We anticipate that Service staff time needed to continue these collaborative discussions can be accomplished using funding requested in the President's Budget.

Chairman John Fleming, M.D. (LA)

25. **In 2009, the Congress appropriated \$91.6 million to construct 14 Visitor Centers at national wildlife refuges throughout this country. How many of the 14 Visitor Centers are open to the public? What is the status of the each of the proposed centers?**

Response: Of the 14 Refuge Visitor Centers, nine are in-service and the statuses of the other Visitor Centers are detailed in the table below. The completion percentage listed in the table is based on the percent of the project that has been outlaid (paid) as of March 31, 2012. Contractor invoices are typically issued once a month and payments are only made for work actually completed and accepted by the government inspector. Given the time required to issue the invoice, inspect the work, and process the payment, on-the-ground progress typically exceeds payment progress by 30-60 days.

Facility	State	Project Funding	Status
San Luis NWR	CA	\$ 10,125,410	In Service
Long Island NWR	NY	\$ 9,765,080	In Service
Texas Chenier Plain Refuge Complex	TX	\$ 6,439,018	In Service
Audubon NWR	ND	\$ 6,314,924	In Service
San Diego Bay NWR	CA	\$ 6,000,000	In Service
Arrowwood NWR	ND	\$ 5,600,758	In Service
Rocky Mountain Arsenal NWR	CO	\$ 3,241,820	In Service
Kealia Pond NWR	HI	\$ 7,378,089	In Service
Hagerman NWR	TX	\$ 3,931,234	In Service
Upper Mississippi River NWFR LaCrosse District	WI	\$ 6,023,720	88% Complete
Mammoth Spring NFH	AR	\$ 2,711,092	78% Complete
Pea Island NWR and Alligator River NWR	NC	\$ 6,945,843	46% Complete
Mingo NWR	MO	\$ 4,311,828	40% Complete
Tennessee NWR	TN	\$ 6,854,014	32% Complete
Total		\$ 85,642,831	

26. **What is the final price tag to complete these new visitor centers?**

Response: We expect the final cost to be approximately \$91.6 million (appropriated dollars).

27. **How many private sector jobs were created with the planning and construction of these facilities?**

Response: For the headquarters/visitor building projects, recipients (contractors) reported numerous types of jobs created/retained including: project managers, superintendents, engineers (e.g., civil, structural, mechanical, electrical design), construction administration personnel, construction cost estimators, exhibit fabricators, architects, construction general inspectors, iron

workers, carpenters, sheet metal workers, project controls analysis, project accountants, construction workers, field technicians, and contract specialists. Because these facilities are still under construction, recipient reporting through December 31, 2011 (the most recent reporting period) provides only a partial estimate of the jobs created or retained. The Council of Economic Advisors did provide a metric of 1 job per \$92,136 of Recovery Act funds spent. Using this metric with a combined total cost of over \$85 million for the projects, it is estimated that the construction of these facilities will create or retain 930 jobs.

28. What is the current deferred operations and maintenance backlog for the National Wildlife Refuge System in terms of facilities and the value of the projects?

Response: We do not maintain information on a deferred operations backlog for facilities but we do track deferred maintenance cost estimates on an ongoing basis. The latest deferred maintenance backlog for the Refuge System as of the end of FY 2011 was \$2,544,518,000. This is \$161,482,000 below the backlog at the end of FY 2010. A summary of facility types and their associated deferred maintenance backlog is in the table below.

Refuge System Deferred Maintenance (DM) Summary (cost in millions of dollars)

<u>Asset type</u>	<u>% with DM</u>	<u># DM Projects</u>	<u>Cost</u>	<u>% of Total Cost</u>
Buildings	36%	1,874	408	16%
Water Management Structures	25%	1,836	409	16%
Roads/Bridges/Trails	45%	5,467	1,430	56%
Other Structures	21%	1,426	297	12%
TOTAL	34%	10,603	2,545	100%

29. What is the backlog in terms of invasive species? How many refuge acres are now overrun and what would be the cost to eliminate these foreign invaders?

Response: In FY 2011, the Refuge System had 1,147 unfunded invasive species projects totaling \$147,159,764. The FY 2011 numbers are an improvement from FY 2009 when the Refuge System had 1,408 unfunded invasives projects totaling \$180,209,152. The reduction is a result of a thorough update of the Refuge Operating Needs System (RONS) in 2010 which eliminated operations projects that were funded and completed. Approximately 2.5 million acres of Refuge System lands are infested with non-native, invasive plants, and 3,889 invasive animal populations are found within refuges. Complete elimination of these species from refuges is unlikely because of the risk of re-infestation from neighboring lands. However, we estimate that the Refuge System would require approximately \$25 million annually to treat about a third of its infested plant acreage, prevent new infestations, and begin low level control of harmful invasive animal populations.

30. How much money has the Service requested to eradicate invasive species within the refuge system? What are the targeted species and refuge units?

Response: For FY 2013, the Refuge System requested \$9.742 million in Wildlife and Habitat base funds to address invasive species. This funding will pay for Service personnel and supplies to fight invasive species on refuge lands including the efforts of the Service’s Invasive Species Strike Teams and the Invasives with Friends program which trains volunteers to help combat

invasive species. In addition to this funding, each year Refuge Maintenance staff typically expends approximately \$2 million in maintenance funds for activities to control invasive species. Currently we are targeting the invasive plant, *Verbesina encelioides*, on both Sand and Eastern Islands at Midway Atoll in the Pacific. On Desecheo NWR in the Caribbean and Palmyra Atoll in the Pacific, we are focusing on the eradication of rats.

31. How much money has been requested to control and eradicate nutria?

Response: The Refuge System has not had a budget line dedicated to nutria eradication since FY 2007. Therefore, Regions use Invasive Species base funding for nutria eradication as needed. Our best estimate is that we are investing roughly the same amount per year on nutria eradication as we did when we had a dedicated funding line of \$770,000 per year.

32. What is the backlog in terms of refuge roads? What is the scope of the problem and how much money is allocated in your budget request to address this problem?

Response: The deferred maintenance backlog for roads, bridges and trails is \$1.43 Billion, including public and non-public use roads, as of the end of FY 2011. The condition of high priority public use Service roads, omitting bridges and trails, has improved from 25% in good condition at the end of 2002 to 60% in good condition at the end of FY 2011, per FHWA inspection reports. In FY 2011, the Service expended \$38.2 million (\$9.2 million in operations and maintenance and \$29 million in FHWA appropriations) on maintaining and improving the condition of our roads, bridges and trails.

33. How many refuges are now closed to the public? How many are unstaffed?

Response: A total of 127 of the 556 national wildlife refuges and 38 wetland management districts are closed to the public, in most cases because of resource management concerns such as fragile habitat.

While we do not have a formal definition of 'staffed' or 'unstaffed' refuges, there are approximately 216 refuge units (including both national wildlife refuges and wetland management districts) that are unstaffed. 'Unstaffed' in this case does not mean that Service staff never work on the unit, but it does indicate that no Service employee is permanently assigned there.

34. How many refuge complexes and satellite units have been created throughout the National Wildlife Refuge System?

Response: The National Wildlife Refuge System includes 52 stand-alone stations and 127 refuge complexes. The 127 complexes include 504 refuges, not including wetland management districts.

35. Does the Service intend to administratively create any new National Wildlife Refuge units in FY'13? Please describe.

Response: In FY 2013, the Service may establish up to nine National Wildlife Refuge System units. They are: Bear River Watershed Conservation Area, California Foothills Legacy Area, Hackmatack NWR, Mora River NWR, Middle Rio Grande NWR, Mountain Bogs NWR, Paint Rock NWR, San Luis Valley Conservation Area, and Swan Valley Conservation Area.

Each of these potential new refuges is currently undergoing the extensive and transparent scientific selection and public planning process that underpins the administrative establishment of a new unit of the National Wildlife Refuge System. These potential new units reflect circumstances where priority conservation needs and values, public support, and the presence of willing sellers have aligned to allow for the establishment of a new refuge that fulfills the directive of Section 4(4)(C) of the National Wildlife Refuge System Administration Act of 1966 to, “plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystem of the United States, to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats, and to increase support for the System and participation from conservation partners and the public.” Pursuant to Service policy, new units of the National Wildlife Refuge System are not officially established until the first authorized acre(s) is acquired by the Service. With the exception of donations, which the Secretary may accept, most land acquisitions for the National Wildlife Refuge System, including for new units, are accomplished through line-item Land and Water Conservation funds appropriated by Congress or funded by the Migratory Bird Conservation Fund.

36. How many refuge “Friends Groups” now exist within the National Wildlife Refuge System? Please provide a list of these groups.

Response: Please see Attachment 1 which includes a list of Friends organizations which serve over 230 national wildlife refuges and wetland management districts.

37. What is the current number of full-time employees within the refuge system?

Response: The Refuge System currently has 3,203 Full Time Equivalent (FTE) employees. In addition to the FTEs, the Service also has seasonal or part time employees such as summer youth hires in the Youth Conservation Corps (YCC) program or fire fighters as needed.

38. In 1999, the boundaries of the Brandon Marsh National Wildlife Refuge in Oregon were expanded by 577 acres. A year later, the Service acquired the 408-acre Dave Philpott Ranch and incorporated this property as the Ni-Les’tun Unit within the refuge. Prior to the acquisition, apparently assurances were made by the Service that this land would be open to hunting. Were such assurances made to the public and why is the vast majority of this unit now closed?

Response: The Conceptual Management Plan (CMP) for the Ni-les’tun Unit of Bandon Marsh National Wildlife Refuge, published in 1999 in conjunction with a Land Protection Plan/Environmental Assessment, stated that the primary goal for this unit is “to maximize restoration of historic intertidal marsh, riparian habitat, and freshwater wetland.” The CMP also contained an interim (i.e., pre-acquisition) Compatibility Determination (CD) for hunting

covering the period of time between Service acquisition of lands and formal adoption of the Refuge's Comprehensive Conservation Plan (CCP). The interim CD found that hunting within the unit would be compatible with, and thus would not materially interfere with or detract from, the Refuge's establishing purposes and the mission of the National Wildlife Refuge System. While compatible, a hunting program has not yet been authorized on the Ni-les'tun Unit since it would conflict with restoration and other habitat management activities. The tidal marsh restoration project was completed in September 2011. Consequently, the Service will be proposing to allow hunting on approximately 300 acres of the Ni-les'tun Unit in the Draft CCP scheduled to be released in June 2012. If approved with the Final CCP, a step-down hunt plan and NEPA document would be developed and hunting could be open by fall 2014 on the unit. Since 1999, a considerable amount of effort in acquisition, planning, and restoration has been implemented to ensure that the Refuge was being soundly developed to conserve wildlife and to meet the community's and the nation's long-term expectation for quality wildlife management and public use programs.

39. Does the Service intend to further expand the boundaries of the Brandon Marsh National Wildlife Refuge? Why should the public believe they will be given access to this land for wildlife-dependent recreational opportunities?

Response: In September 2011, the Service's Director granted approval to conduct a detailed Land Protection Planning (LPP) study to investigate the possibility of expanding the approved refuge boundary of Brandon Marsh National Wildlife Refuge. The Service has not made any final decisions regarding the outcome of this study or refuge boundary expansion. We plan to request public comments on our Draft LPP and environmental assessment in fall 2012, and make a decision in winter 2012-2013.

If the refuge boundary is expanded and enough land or interests therein, are acquired from willing sellers to form a manageable land base, the Service would initiate a planning and public involvement process to consider opening the Refuge lands for recreational uses. Refuge uses must be compatible with the purpose of the individual refuge and the mission of the National Wildlife Refuge System. The Refuge System's priority wildlife-dependent public uses are hunting, fishing, wildlife observation and photography, and interpretation and environmental education. All of these activities are currently provided on the Refuge's Brandon Marsh Unit, and are currently being proposed for the Ni-les'tun Unit through the Refuge's Comprehensive Conservation Planning effort.

Land Acquisition

40. Please provide the details of the proposed 576 acre land exchange at the Red River National Wildlife Refuge in Louisiana?

Response: Currently, there are no plans for any land exchanges at Red River National Wildlife Refuge. Over the last seven years, the Service has completed three land exchanges at Red River NWR acquiring 2,074 acres in 2004; 32 acres in 2007; and, 68 acres in 2011.

41. **Who are the current owners of the 750 acres that the Service proposes to acquire for inclusion within the Everglades Headwaters National Wildlife Refuge?**

Response: Interested and willing landowners include Adams Ranch, Inc., Latt Maxcy Corporation, Lost Oaks Ranch, Montsdeoca Ranch, and Triple Diamond Ranch.

42. **Why is property being purchased for the St. Vincent National Wildlife Refuge that will cost the Service \$250,000 per acre, when property in Central Florida is selling for \$4,000 an acre? What did the Trust for Public Land pay to acquire this property and who were the previous owners?**

Response: Coastal property generally sells for a higher price per acre than inland property. Additionally, the four-acre tract being acquired at St. Vincent NWR has a dock, pier, 10 boat slips, deep water boat basin, access easement and one acre of undeveloped land which will be used for parking boats, trailers and equipment. Acquiring this site is important because it provides permanent deep water boat and barge access from the mainland to St. Vincent Island, the main unit of the refuge allowing staff to manage refuge activities including the federally-endangered red wolf captive breeding program. Currently, the refuge is paying \$1,000 per month through a lease for boat and barge access at a campground 10 miles west of the marina. The lease must be renewed and negotiated annually. If the current lease is not extended or if this property is not acquired, refuge staff will have to travel 20 miles to Apalachicola to access the nearest public deep water marina.

The Trust for Public Land purchased this property in December 2010, for \$1.2 million from the Schoelles family to assist the Service in securing permanent deep water access.

43. **Since this property is currently owned by The Trust for Public Land, what are the development pressures on this property?**

Response: There are no known development pressures at this time. The four-acre tract has existing boat slips, dock, pier and deep water boat basin. One acre of the property remains undeveloped.

44. **Did the Service ask The Trust for Public Land to donate this property to the National Wildlife Refuge System? What was their response?**

Response: Yes, the Service inquired about the potential donation of this property. The Trust for Public Land (TPL) currently is not in a position to do this and originally purchased the property with the intent of reselling it to the Service as soon as funding was available. TPL is a valuable partner and has worked in good faith with the Service on this project. TPL is selling the property for the same amount as the purchase price and is not seeking reimbursement for any associated costs involved in its purchase of the property including surveys and closing fees.

Everglades Headwaters National Wildlife Refuge

45. **On November 3, 2011, this Subcommittee conducted an Oversight Hearing on the proposed Everglades Headwaters National Wildlife Refuge. At that time, the Service indicated that it would cost our taxpayers about \$700 million to acquire 150,000 acres of private land through fee title and conservation easements. It is now four months later and remarkably the price tag for these same 150,000 acres has dramatically declined to \$398 million. What is the basis for this significant drop in cost?**

Response: During the initial planning phase, the estimate for fee and conservation easement values were based upon the sales agreement between the State of Florida and U.S. Sugar for lands surrounding Lake Okeechobee and the Natural Resources Conservation Service's Wetland Reserve Program easements in the Fisheating Creek drainage. Average costs were estimated to be approximately \$7,000 per acre for fee acquisition and \$3,500 per acre for conservation easements. The real estate market has been in steady decline. That trend continued over the last year as the planning process progressed. The Service reviewed county sales records and consulted with several realtors, and this research indicated the cost for large ranches averaged roughly \$4,000 per acre with conservation easement values at \$2,000 per acre by the end of 2011. Properties donated or transferred will lower the cost bringing the total estimated cost to \$398 million. At this time, the Service is aware of potential donations and transfers totaling approximately 500 acres. As funds are made available for land acquisition or easements, appraisals will be done and real estate values can be expected to change over time given the status of the real estate market.

46. **On January 18, 2012, the Everglades Headwaters National Wildlife Refuge was administratively established with the donation of ten acres of property from The Nature Conservancy. Who were the previous owners of this property and why didn't TNC simply donate the land to the Fish and Wildlife Service?**

Response: In November 2008, The Nature Conservancy (TNC) acquired a 10-acre property from Hatchineha Ranch, LLC. In January 2012, TNC donated the 10-acre property to the Service after the Everglades Headwaters National Wildlife Refuge and Conservation Area was authorized. The Service cannot accept land donations until a national wildlife refuge is authorized.

47. **How much money is the Service requesting in FY'13 for conservation easements and fee title acquisitions for the Everglades Headwaters National Wildlife Refuge?**

Response: The Service is requesting \$3 million in FY 2013 to acquire approximately 750 acres of ranchland in fee title for the Everglades Headwaters NWR. If funding is available, the Service will consider priority conservation easements as well.

48. **What federal tax benefits did The Nature Conservancy receive by donating the original 10 acres that established the Everglades Headwaters National Wildlife Refuge?**

Response: The Service does not know what, if any, tax benefits TNC will receive from the donation of the 10 acres that established the Everglades Headwaters NWR.

49. **Please provide to the Subcommittee a complete list of all property donated to the Fish and Wildlife Service in 2011 including the name of the individual or organization donating the land and the financial value of this property?**

Response: Attachment 2 contains is the Service list of donated tracts and the landowner names for FY 2011. The donation value column is incomplete, as the Regions are not required to record that information in the Lands Record System (LRS).

50. **What is the Service’s estimate of how many individuals are going to visit and spend money to visit the Everglades Headwaters National Wildlife Refuge? Clearly, you must have done that calculation when you decided that it would cost \$2.2 million to build a new office and visitor center at the refuge to accommodate them?**

Response: The Service estimated the cost of constructing a new office and visitor center based on a standardized national average construction cost of \$443 per square foot for a 5,000 square foot building, thus providing a total cost estimate of \$2.2 million. During the planning process, the Service examined the socioeconomic conditions of the project area as part of the Final Environmental Assessment for the Establishment of the Everglades Headwaters National Wildlife Refuge and Conservation Area. In 2008, tourism in Florida accounted for more than \$65 billion in revenue. Collectively more than two million people visit the Arthur R. Marshall Loxahatchee (350,000), Merritt Island (700,000) and J. N. Ding Darling (1million) National Wildlife Refuges each year. These refuges offer recreational and educational programs similar to those envisioned for the Everglades Headwaters NWR. The Service anticipates annual visitation to the Everglades Headwaters NWR will grow to comparable numbers as recreational opportunities are put in place to complement those at surrounding refuges and state wildlife management areas.

51. **The Service continues to argue that the “vast majority of the comments express support for the proposal” to create the refuge. Please provide the Subcommittee with a complete copy of each of those comments.**

Response: The Service received more than 40,000 comments during the process to establish the Everglades Headwaters NWR. The transcripts from both public meetings held on the draft plan as well as a summary of comments from Appendix G in the final environmental assessment are included electronically as Attachments 3, 4, and 5. Comments submitted during the public review and comment period are summarized in five main categories (i.e., Wildlife and Habitat, Resource Protection, Recreation, Administration, and General).

52. **Has the Service finalized the conservation easement document for Central Florida? Please provide the Subcommittee with a copy.**

Response: Attached is a template for conservation easement negotiations with landowners within this project area that has been reviewed by the Department of the Interior’s Office of the

Regional Solicitor. This template will be customized to address the specific needs of individual landowners. It provides the Service with the flexibility to ensure that specific landowner interests are considered appropriately.

Fisheries/National Fish Hatcheries

53. **In your FY'13 budget request, you propose to further cut the operations and maintenance budget for the National Fish Hatchery System by almost \$3 million. What is the current operations and maintenance backlog?**

Response: The deferred maintenance backlog for the National Fish Hatchery System, which is based on continuously updated deferred maintenance projects in the Service's Asset and Maintenance Management System, is \$162 million. The operational needs backlog, which includes projects identified in the Fisheries Operational Needs System, totals \$198 million.

54. **How would you describe the condition of the Federal Hatchery System?**

Response: The average National Fish Hatchery System (NFHS) field station is 67 years old. The NFHS deferred maintenance backlog consists of projects totaling \$162 million. The Current Replace Value (CRV) for NFHS field stations is \$1.75 billion. The Facility Condition Index (FCI) for the NFHS is 0.096, which equates to a "fair" condition.

55. **Does the Service intend to recommend that any national fish hatchery should be transferred to a State in FY'13?**

Response: The only national fish hatchery the Service supports transferring to a state is the McKinney Lake Fish Hatchery in North Carolina. The McKinney Lake National Fish Hatchery was established in 1937 to produce largemouth bass, channel catfish, and sunfish, to support the Service's farm pond distribution program, which was aimed at providing native fingerling fish species to people who requested assistance with private ponds. The Service transferred that program to state agencies and, as a result, the McKinney Lake hatchery began to raise other species, including striped bass, to restore populations along the Atlantic Coast. Within a relatively short period of time, these efforts were quite successful.

In 1996, the Service offered the McKinney Lake facility to the State of North Carolina. Since that time, the North Carolina Wildlife Resources Commission has operated the hatchery under a Memorandum of Understanding with the Service, primarily for the purpose of raising catchable size channel catfish for the Commission's Community Fishing Program. Under this agreement, the Commission assumes full responsibility for all costs and expenses related to operation of hatchery facilities.

The Service supports the conveyance of the McKinney Lake National Fish Hatchery and its operations to the North Carolina Wildlife Resources Commission for the purposes of fish and wildlife management. This would allow for the continued operation of the hatchery and the

important role it plays in the State's urban fishing program and in addressing the specific restoration or recovery needs of aquatic resources held in public trust.

56. How many "Friends Groups" have now been established within the National Fish Hatchery System? Please provide the Subcommittee with a complete list of these groups.

Response: There are 27 Fisheries Friends Groups associated with 37 Fisheries facilities. One of these groups, Friends of the Western New York Great Lakes, is associated with a Fish and Wildlife Conservation Office and one other, the Tishomingo Refuge Ecology and Education Society, is a National Wildlife Refuge group that works jointly with Tishomingo National Fish Hatchery. All others are associated with specific National Fish Hatcheries. The list by Region is below:

Region 1

- Friends of Northwest Hatcheries: Leavenworth, WA 98826, It includes 9 facilities: Leavenworth NFH; Winthrop NFH; Entiat NFH; Mid-Columbia FRO; Spring Creek NFH; and Carson NFH: all in Washington; and Dworshak NFH; Kooskia NFH; and Hagerman NFH: all in Idaho.

Region 2

- Inks Dam NFH Friends Group: Marble Falls, TX.
- Friends of Alligator Snapping Turtles (FAST): Tishomingo, OK
- Tishomingo Refuge Ecology and Education Society (TREES): Tishomingo National Fish Hatchery friends (shared with Tishomingo National Wildlife Refuge): Tishomingo, OK
- Uvalde NFH Friends Group: Uvalde, TX

Region 3

- Friends of Jordan River NFH: Elmira, MI
- Friends of Pendills Creek NFH: Brimley, MI
- Friends of the Iron River NFH: Iron River, WI
- Friends of the Neosho NFH: Neosho, MO
- Friends of Upper Mississippi Fisheries Service: La Crosse WI 54601. It includes 3 facilities: Genoa NFH, LaCrosse FHC, and LaCrosse FRO

Region 4

- Friends of the Norfolk National Fish Hatchery: Norfolk, AR
- Friends of Dale Hollow National Fish Hatchery: Celina, TN
- Friends of Mammoth Springs National Fish Hatchery: Mammoth Spring, AR
- Friends of Chattahoochee Forest National Fish Hatchery: Suches, GA
- F.I.S.H. – Friends in Support of the Hatchery (Natchitoches NFH): Natchitoches, LA
- Friends of Warm Springs Hatchery, Inc: Warm Springs, GA
- Friends of Wolf Creek National Fish Hatchery, Inc.: Jamestown, KY

Region 5

- Friends of Craig Brook NFH: East Orland, ME
- Friends of White Sulphur Springs NFH: White Sulphur Springs, WV
- Friends of the Western New York Great Lakes, Buffalo, NY
- Friends of Green Lake NFH: Ellsworth, ME
- Berkshire Hatchery Foundation: New Marlborough, MA

Region 6

- The Booth Society (DC Booth Historic National Fish Hatchery): Spearfish, SD
- Friends of Leadville NFH: Leadville, CO
- Friends of Gavins Point NFH: Yankton, SD
- Creston Hatchery Partners: Creston, MO

Region 8

- Friends of Coleman NFH Complex: Anderson, CA

57. **Please describe the jobs being performed by volunteers at these facilities and quantify the value of their labors in terms of volunteer hours and financial value of their work?**

Response: In FY 2011, the National Fish Hatchery System logged 110,913 volunteer hours valued at \$2,480,015. Fish and Wildlife Conservation Offices logged 18,571 volunteer hours valued at \$415,247. In total, 4,416 people (3,230 adults and 1,186 children) volunteered at Fisheries facilities and offices.

Volunteers at Fisheries Program field stations, including National Fish Hatcheries, Fish Technology Centers, Fish Health Centers, and Fish and Wildlife Conservation Offices contribute approximately 130,000 hours annually. The activities associated with their volunteer work include maintenance (e.g., mowing, weeding flower beds, painting, and cleaning raceways), assisting with special events such as fishing derbies and Project Healing Waters, assisting with spawning operations, field sampling (population and habitat assessments), running facility tours, trail maintenance, noxious weed control, and constructing predator barriers to name a few.

58. **How much money does the Service intend to allocate for the conservation of Atlantic striped bass in FY'13?**

Response: The Fisheries Program intends to allocate approximately \$85,000 in the Northeast and Southeast Regions towards Atlantic striped bass conservation in Fiscal Year 2013.

59. **Two economic reports were recently issued about USFWS activities that described economic benefits and job creation for the US economy. The Southwick Report indicated that the Refuge System contributes about \$4.2 Billion in economic activity and over 32,000 jobs through management of 553 national wildlife refuges. For every \$1 of taxpayer money spent, the Refuge Program generates \$14. The USFWS Economic Report, released by Secretary Salazar, indicated that the Fisheries Program contributes about \$3.6 Billion in economic activity and over 68,000 jobs through contributions of only 150 fish hatcheries and conservation offices. For every**

\$1 of taxpayer money spent, the Fisheries Program generates \$28. In a time period where the President and Secretary of the Interior are proposing efforts to generate outdoor tourism and outdoor economy, the FY2013 President's Budget proposes significant increases for the Refuge Program but proposes significant decreases for the Fisheries Program. Please explain to the Committee the rationale for requesting reductions in a program that does more for the US economy than the rest of the agency.

Response: The multi-faceted nature of the Service's Fisheries program lends itself to contributing to the American economy. Direct (i.e., return on investment, economic output, and job maintenance and creation) and indirect (i.e., species preservation, recreational opportunities, and clean water and healthy habitats for both wildlife and the American people) benefits are attributable to the Fisheries program's activities.

The total economic contribution (direct, indirect and induced) attributable to dollars invested into the Service's Fisheries program amount to \$3.6 billion per year with an additional \$456 million dollars in consumer surplus for species held in refugia and \$301 million dollars in equivalent value for subsistence activities. The total number of jobs associated with this economic output is over 68,000 jobs.

The Service's aquatic habitat conservation and management activities have an estimated economic contribution of \$1.96 billion, and are associated with 44,500 jobs when projects achieve their full potential. The Service recognizes this and in an effort to offset the proposed \$1.1 million reduction from Fish and Wildlife Conservation Offices (aquatic habitat general activities), the Service is requesting an additional \$1.5 million increase for fish passage, \$1.61 million for Klamath Basin Restoration Agreement, and \$800,000 for the Fisheries Program to participate in a cooperative recovery initiative focusing on the recovery of endangered species located on and near National Wildlife Refuge lands.

The primary function of the National Fish Hatchery System is to propagate aquatic species to fulfill objectives of fishery management plans including restoration, recovery, mitigation, and recreational fishing. A key role is stocking of Tribal lands, fishery mitigation of Federal water development projects, and providing recreational opportunities on Service lands, military lands, and other lands where the service has a role. Just over five years ago, the estimate of the stocking of 123.1 million fish generated over 13 million angling days, \$554,000 in retail sales, \$903,000 of industrial output, \$256,000 of job income and 8,000 jobs. The Service recognizes the benefits that mitigation hatcheries provide for recreational opportunities across the country. However, for decades the Service has absorbed the cost that the responsible federal agencies should be paying for. Mitigating for federal dam projects is not a high conservation priority for the Service when budgets are tight and our priority is to focus resources on native species and habitat protection. The Service has had experience obtaining reimbursement for mitigation hatcheries for years and believes that if we continue to provide good mitigation work to the responsible parties, they will continue to seek funding to reimburse us for that work.

60. The USFWS has requested significant funding increases in science and LCCs for several years in a row and again in the FY2013 President's Budget. From what we

can tell, these programs have not resulted in any economic benefit nor any job creation other than hiring high salaried bureaucrats. Please explain to the Committee what benefits the US economy has received from the USFWS science and LCC programs?

Response: As a natural resource management bureau, the Service is a science-based organization and requires trained scientists and basic science capability in order to apply scientific findings to resource management decisions. In FY 2010, the Service and its Federal and non-Federal partners began establishing the Landscape Conservation Cooperatives, a seamless national network of landscape-scale conservation partnerships that produce and disseminate applied science products for resource management decisions, and that lay the foundation for a collaborative interdisciplinary approach to landscape management. The FY 2012 Joint Statement of the Managers accompanying P.L. 112-74 recognizes the Service continues to face complex ecological and fiscal challenges that require resource threats to be addressed in a more efficient and effective way and supports the LCCs and their collaboration with partners to better leverage conservation resources and better prioritize and coordinate research and program delivery. To further the Service's collaborative approach to addressing threats to resources, the FY 2013 President's Budget request includes \$770,000 for Cooperative Recovery. This new Service initiative focuses on endangered species recovery on and around wildlife refuges and is the only science program change from the FY 2012 enacted level.

Economic benefits of science conducted by LCCs will primarily be realized in the long term. LCC science will help improve water and air quality, maintain the viability of recreational areas, and recover listed and at-risk species. In the mid-term, science developed by LCCs will make it easier to site new energy development.

61. **The proposed increase to the science and LCC programs, appear to be based on reductions from other programs, such as fisheries funding, in the USFWS. Can you explain why the science and LCC programs are more important than on the ground conservation?**

Response: To further the Service's collaborative approach to addressing threats to resources, the FY 2013 President's Budget request includes an additional \$770,000 in Science for Cooperative Recovery. This new Service initiative focuses on endangered species recovery on and around wildlife refuges and is the only program change from the FY 2012 enacted level. In tough budget times, the Service must make strategic choices to provide budget increases where they can serve the organizations goals. These choices reflect the best balancing we are able to do with the resources available.

62. **The USFWS receives significant amounts of funding through the U.S. Environmental Protection Agency for the Great Lakes Restoration Initiative. This funding is set to end in FY2013. Does the Service plan on continuing this important work and significant resource outcomes supported by the Initiative beyond FY2013. Will the USFWS submit a budget request for their activities after FY2013?**

Response: The Service continues diligent coordination of Great Lakes activities with fifteen other federal agencies, including the U.S. EPA Great Lakes National Program Office, and myriad State and non-governmental partners in order to implement the Great Lakes Restoration Initiative Action Plan (Plan). The Plan lays out a strategy through FY2014 to operationalize protection and restoration in the Great Lakes Basin.

The Service appreciates the Congressional support of Great Lakes restoration efforts. Funding allocated to the Great Lakes Restoration Initiative since FY 2010 has enhanced conservation momentum in the region and allowed the Service and partnering agencies to implement a number of coordinated, on-the-ground projects that address high priority Great Lakes environmental issues, including species and habitat, invasive species, and toxics. Funds provided through GLRI to the Service have allowed us to supplement our base-funded fish and wildlife conservation efforts, accelerating progress on high priority issues. The Service plans to continue working with our partners to analyze future Great Lakes conservation needs and associated budget. Should GLRI funding be discontinued after FY2013, the Service will continue to pursue conservation in the Great Lakes but at levels supported by base funding.

63. **The Department of the Interior and the USFWS have always supported recreational fishing as a core priority. This is represented in the organic legislation for the Refuge Program. Given your proposed reductions in the FY2013 Budget for Fisheries Program, does the USFWS plans to close or transfer facilities to State agencies as well as reduce the number of Fisheries employees?**

Response: In the past decade, our many partners, Congress, the Office of Management and Budget, and the Department of the Interior have asked us to intensify our efforts to obtain reimbursement for fish mitigation production from federal water development agencies.

Over the past three years, we have successfully negotiated with the Army Corps of Engineers to secure partial reimbursement, and negotiations to secure full reimbursement are on-going. We anticipate receiving partial reimbursement from the Bureau of Reclamation in FY 2013. We have met with the Tennessee Valley Authority, but have not reached a reimbursement agreement. In the absence of full mitigation reimbursement, we will look within the Service to keep staff employed. If we are unable to obtain full reimbursement, the Service will have to explore options that reflect our needs and priorities as a conservation agency. At this point, we do not anticipate the need to close or transfer facilities to State agencies or reduce the number of Fisheries employees.

64. **President Obama has recently proposed transferring NOAA out of the Department of Commerce and into the Department of the Interior. This seems to offer the country an opportunity to have the vast majority of fisheries research, management, and science under the Department and have the U.S. speak with one voice, both nationally and internationally. What are the USFWS thoughts on this proposal, and given the FY2013 budget reductions for Fisheries, how do the Director and the Secretary propose to implement this bold action?**

Response: The 2013 budget request does not propose any funding or FTEs relating to a consolidation of NOAA and the Department of the Interior. The President has requested that Congress reinstate the reorganization authority afforded to Presidents for almost 50 years. In general, the authority would allow the President to present, for expedited review by Congress, proposals to reorganize and consolidate Executive Branch agencies to streamline the government and improve operations. Efforts to begin planning will begin once Congress provides authority to the President to reorganize.

North American Wetlands Conservation Act

65. **What happened to Secretary Salazar’s promise to fully fund the North American Wetlands Conservation Program at \$75 million per year? Is it fair to say that this program is a much lower priority than land acquisition?**

Response: The President’s 2010 budget requested over \$52 million for the North American Wetlands Conservation Act (NAWCA), a \$10 million increase from the previous year’s request, and proposed fully funding the program at the authorized level of \$75 million by 2012. The Administration requested \$10 million less for NAWCA in 2011, but again increased the request to \$50 million in 2012. None of these requests were fully funded by Congress. The FY 2013 request of over \$39 million request reflects budgetary restrictions that necessitate careful allocation of agency funds to meet program priorities.

66. **How much of last year’s \$37.5 million was spent to acquire wetland habitat across Canada, Mexico and the United States?**

Response: Based on grant and match costs for activities proposed for 2011 NAWCA projects, an estimated \$23.7 million of the \$37.425 million appropriation would be used for habitat protection.

67. **How much of the proposed \$39 million will be spent on acquiring wetland habitat in FY’13? What is the normal percentage spent on land acquisition?**

Response: Based on average activity costs proposed in NAWCA projects for the last five years, habitat protection accounts for approximately 66% of all grant and match costs. An estimated \$24.7 million of a \$39 million appropriation would be spent protecting wetland habitat through acquisition.

Endangered Species Act

68. **How many domestic species are now listed as either threatened or endangered?**

Response: As of April 11, 2012, the Service has listed 1,392 plants and animals as threatened or endangered. For more current information, please see our “Summary of Listed Species” available at: http://ecos.fws.gov/tess_public/pub/Boxscore.do

69. **In the history of the ESA Program, how many domestic species have recovered to the point where they were removed from protection under the Act? Please provide the Subcommittee with an updated recovery list?**

Response: The ESA was enacted in 1973 to prevent the loss or harm of endangered and threatened species and to preserve the ecosystems upon which these species depend. As one of our Nation's most important conservation statutes, the ESA has prevented hundreds of species from becoming extinct, stabilized the populations of many others, and set many species on the track to recovery. Each of these outcomes is a measure of success in achieving the purposes of the ESA.

The following species have been removed from the list of threatened and endangered species due to recovery:

American alligator	Tinian monarch
Robbins' cinquefoil	Palau owl
Tennessee purple coneflower	Brown pelican, Gulf coast DPS
Maguire daisy	Brown pelican, range-wide
Columbia white-tailed deer, Douglas County DPS	Concho watersnake
Palau ground dove	Lake Erie watersnake
Bald eagle	Eggert's sunflower
American peregrine falcon	Gray whale
Arctic peregrine falcon	Gray wolf, Northern Rocky Mountain DPS
Palau fantail flycatcher	Gray wolf, Western Great Lakes DPS
Aleutian Canada goose	Hoover's woolly-star

70. **For over 30 years, there was no regulation or binding policy defining the term “significant portion of its range”. What was the net effect of the absence of this definition in the Endangered Species Act Program?**

Response: The net effect of no definition has been unclear and inconsistent application of the phrase as the Service has made determinations about whether particular species are endangered or threatened. This has manifested in litigation (as summarized on pp. 76989-90 of the Federal Register notice), a Memorandum Opinion by the Solicitor of the Department of the Interior, and now, the proposed policy.

71. **Is it not true that the terms “critical habitat”, “endangered species”, “threatened species” and “species” have all been defined by the Congress? What is your statutory authority for now administratively defining “significant portion of its range”?**

Response: The Endangered Species Act does include definitions of the terms “critical habitat,” “endangered species,” “threatened species,” and “species”. It does not include a definition of the phrase “significant portion of its range,” which is found within the statutory definitions of “endangered species” and “threatened species”.

Congress expressly gave the Secretary rule-making authority in sections 4(h) and 11(f) of the Act. In addition, “[i]t is well established that an agency charged with a duty to enforce or administer a statute has inherent authority to issue interpretive rules informing the public of the procedures and standards it intends to apply in exercising its discretion.” *Production Tool Corp. v. Employment & Training Admin., United States Dep’t of Labor*, 688 F.2d 1161, 1166 (7th Cir. Ill. 1982). The ESA requires that the Secretary, “... must determine whether any species is an endangered species or a threatened species” (section 4(a)(1)) and we must interpret those terms, both of which include the phrase in question, in a clear and consistent fashion.

72. On Page 3 of your Federal Register Notice, the Service states that “the legislative history is somewhat contradictory and is not particularly conclusive as to the role Congress intended the SPR phrase to play.” If that is the case, why has the Obama Administration not asked the Congress to clarify this term?

Response: The Service considers promulgation of an interpretive rule as the most efficient and effective approach for clarifying this important phrase. Doing so is fully within the rule-making authority given to the Secretary by the Act.

73. Is the basis of your regulatory effort the decision made by the 9th Circuit in the *Defenders of Wildlife v Norton* case in 2001? Why has this decision become the last word on this issue and does the philosophy of this court reflect the views of the Obama Administration?

Response: As described in the preamble of the Federal Register notice, that particular decision is one element of our basis for the proposed policy but it does not constitute “the last word” on this issue. As explained in detail in the preamble of the Federal Register notice, the Service has considered a wide array of alternative interpretations of the phrase and our proposed policy represents our best judgment of how the phrase can be best aligned with the purposes of the Act and the various legal decisions that have addressed this matter.

74. In your Federal Register notice, the Service stated that “Application of the Draft Policy would result in the Services listing and protecting throughout their ranges species that previously we either would not have listed, or would have listed in only portions of their ranges”. How many additional species are you referring and please provide examples of specific species that would have been listed?

Response: Any estimate of the particular number of species that would be listed based on the proposed policy would be speculative, but we do not expect the number to be large. To date, we have no examples to offer where a species was listed because it was endangered or threatened in only a significant portion of its range.

75. What is the total number of acres that the Fish and Wildlife Service has designated as “critical habitat” to protect listed species throughout the United States?

Response: The Service has designated approximately 314,510,142 acres as critical habitat to protect listed species throughout the United States. A few critical habitat designations were

established without clear boundaries so those are not included in this total. This total only counts an acre once, even though many critical habitat designations overlap.

76. How many formal and informal Section 7 consultations did the Service undertake in 2011?

Response: In 2011, the Service completed 626 formal consultations and 9,869 informal consultations.

77. What are the values of Candidate Conservation Agreements? How many were approved by the Service last year?

Response: Early conservation efforts for declining species can be greatly expanded through collaborative approaches that foster cooperation and exchange of ideas among multiple parties. One of the principal ways of identifying appropriate conservation efforts is through the development of candidate conservation agreements. There are two types of candidate agreements – Candidate Conservation Agreements (CCA) and Candidate Conservation Agreements with Assurances (CCAA). These voluntary agreements are designed to reduce or remove identified threats to a species. Several candidate agreements have resulted in alleviating the need to list species, for example the Camp Shelby burrowing crayfish and the Greater and Lesser Adams Cave beetles.

Since 1994, over 110 CCAs for over 160 candidate and at-risk species on Federal and State land have been signed with multiple Federal and State agencies. Currently, 25 CCAAs are in place for 40 species in 17 states with more than 1.1 million acres of non-Federal land enrolled by 70 landowners. Twelve of these CCAAs are programmatic agreements held by cooperating groups, such as State agencies or conservation groups, under which new landowners continue to enroll. Two CCAAs were approved in 2011; one new CCAA has been approved so far in 2012.

78. How much money does the Service spend each year to recover the 590 foreign listed species?

Response: For Fiscal Year 2011, Service programs reported spending \$10,828,976 on the conservation of foreign-listed species. The great majority (\$10,446,915) of these expenses were incurred by our International Affairs program, particularly the Multinational Species Conservation Funds. These included:

- Multinational Species Conservation Funds: \$9,980,000
- Wildlife Without Borders Amphibians in Decline and Critically Endangered Animals funds: \$325,237
- International Wildlife Trade—support for a Giant Panda Reintroduction Workshop: \$141,678

The Multinational Species Conservation Funds (MSCF) support projects that provide for the conservation of rhinoceroses, tigers, great apes (including gibbons), marine turtles, and African and Asian elephants, all of which are foreign species listed under the ESA. While most of our Wildlife Without Borders grants support education and capacity building for biodiversity conservation in and around protected areas in developing countries, the Amphibians in Decline

and Critically Endangered Animals funds help support the conservation of individual species, including in FY 2011 the foreign listed African wild dog, great Indian bustard, snow leopard, markhor, Tonkin snub-nosed monkey, Bali starling, Andean tapir, ploughshare tortoise, Grevy's zebra, Panamanian golden frog, and Chinese giant salamander.

The remainder of these expenditures was largely incurred by the Endangered Species Program working on listings of foreign species. Our total does not include permit costs for foreign listed species, as we do not track expenditures for the 16,000 to 20,000 permits we issue each year on a per-permit or per-species basis. However, much of our permitting workload addresses domestic species in international trade, and most of the approximately 35,000 species listed on the CITES appendices are not also listed under the ESA.

79. What is the value of listing foreign species which are already protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora?

Response: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) only deals with species that occur in international trade. Listing foreign species under the Endangered Species Act (Act) is not limited to species found in international trade. The Act makes it unlawful for persons subject to U.S. law to import, export, and conduct interstate or foreign commerce in protected animal species unless authorized by a permit. The value of listing foreign species is that it encourages species conservation in foreign countries through incentives such as permitting for certain approved activities, provides education and outreach, and can provide an enhancement benefit to wild populations by providing funding for in-situ conservation in foreign countries.

80. What is the annual cost to list and maintain the current 590 foreign listed species?

Response: The Service spent \$645,439 in FY 2011 to support the workload associated with rulemakings and petition findings for listing foreign species under the ESA. The Service also supports approximately one FTE for addressing the reclassification and delisting of foreign species under the ESA through ESA Recovery funding.

81. Is the Service required to complete a 5-year review of each foreign species? What is the cost in terms of money and staff time to complete these reviews?

Response: Section 4 (c)(2)(A) of the ESA, as amended, requires the Service to evaluate the status of listed species, domestic or foreign, at least once every 5 years. Within the Service, priority is given to prepare and implement recovery plans for domestic listed species, so the Service has only allocated one FTE of funding for downlisting, delisting, and 5-year reviews for foreign species.

82. Of the 590 foreign listed species, how many have distinct population segments have been established by the Service?

Response: Thirteen species have distinct population segments that includes portions outside the United States: American crocodile, saltwater crocodile, dugong, southern rockhopper penguin, margay, musk deer, argali, leopard, thick-billed parrot, Cat-island turtle, Mexican grizzly, brown bear, and northern swift fox.

National Wildlife Refuge Fund

83. **Last year, the Service was asked to describe the basis of your statement that “National Wildlife Refuges have been found to generate far in excess of tax losses from federal acquisition of the land.” In your response, you note the 2006 economic analysis conducted by the Service. What I am looking for are peer reviewed studies by organizations, outside of the Department of the Interior, who can substantiate those claims? Please provide to the Subcommittee, a comprehensive list of those studies and their Executive Summaries.**

Response: The articles referenced below are just a few of the studies available to the public concerning economic analysis conducted on the value of public lands.

- The Trust for Public Land. 2010. Return on the Investment from the Land and Water Conservation Fund. The Trust for Public Land conducted an analysis of the return on the investment of LWCF dollars for federal land acquisition by the Bureau of Land Management, Fish and Wildlife Service, Forest Service and National Park Service for a sample of 16 federal units that received LWCF funding between 1998 and 2009. TPL analyzed the past (1998 to 2009) and likely future (over the next 10 years) economic returns generated from LWCF spending on the sample federal units and found that every \$1 invested returns \$4 in economic value over this time period from natural resource goods and services alone. In addition to providing natural goods and services, these federal lands are key to local recreation and tourism industries
- Land for Tomorrow. 2009. Economic Benefits of Land Conservation: North Carolina 2009. North Carolina’s wide range of natural resources and scenic beauty enhance a North Carolinian’s quality of life and provide multiple economic benefits. This brief report summarizes the economic benefits of land conservation into the categories of tourism, hunting and fishing, outdoor recreation, military readiness, agriculture and forestry, retirees, storm damage protection and health.
- The Trust for Public Land. 2011. North Carolina’s Return on the Investment in Land Conservation. The Trust for Public Land conducted an analysis of the return on North Carolina's investment in land conservation through the Agricultural Development and Farmland Preservation Trust Fund, Clean Water Management Trust Fund, Natural Heritage Trust Fund and Parks and Recreation Trust Fund (the “Conservation Trust Funds”). The Trust for Public Land analyzed the past and likely future economic returns generated from Conservation Trust Funds land acquisition spending and found that every \$1 invested returns \$4 in economic value over this time period from natural resource goods and services alone.
- Headwaters Economics. 2009. The Economic Benefits of the Land and Water Conservation Fund. This short paper summarizes the important economic role that LWCF funding plays for local communities. The three-page paper includes a short bibliography.
- Active Living Research. 2010. The Economic Benefits of Open Space, Recreation Facilities and Walkable Community Design. This research synthesis reviews the sizable body of peer-

reviewed and independent reports on the economic value of outdoor recreation facilities, open spaces and walkable community design. It focuses on private benefits that accrue to nearby homeowners and to other users of open space. It concludes that in addition to providing opportunities for physical activity, recreation areas and parks located in metropolitan areas provide economic benefits to residents, municipal governments and private real estate developers.

- American Farmland Trust. 2010. Cost of Community Services Studies Fact Sheet. This short report surveyed Cost of Community Services studies conducted in at least 125 communities in the United States. These studies, conducted over the last 20 years, show that working lands generate more public revenues than they demand in public services. Their impact on community coffers is similar to that of other commercial and industrial land uses.
- McConnell, Virginia and Margaret Walls. 2005. The Value of Open Space: Evidence from Studies of Nonmarket Benefits. Resources for the Future. Open space provides a range of benefits to citizens of a community beyond the benefits that accrue to private landowners. Parks and natural areas can be used for recreation; wetlands and forests supply stormwater drainage and wildlife habitat; farms and forests provide aesthetic benefits to surrounding residents. This study reviews more than 60 published articles that have attempted to estimate the value of different types of open space.

84. **Are representatives of the Service still advising local counties that they will be compensated under the Refuge Revenue Sharing Program for lost tax revenues when private property in their communities are purchased by the federal government and incorporated within the National Wildlife Refuge System?**

Response: As an agency of the United States Government, the Service is exempt from taxation. There is a possibility that the local governments may receive a full revenue sharing payment based on 25 percent of the net receipts, $\frac{3}{4}$ of 1 percent of the appraised value of the refuge land, or 75 cents per acre. In addition, Congress has the authority to appropriate funds to make up any shortfall in the revenue sharing fund.

85. **Prior to last year budget request of no appropriated funds for the National Wildlife Refuge Fund, had any Administration, Republican or Democrat, in the past 75 years suggested zero appropriated dollars? Please identify those requests by year and Administration.**

Response: FY 1980 is the first year appropriations were authorized to offset the difference between the receipts available for payment and the amount due local governments (16 U.S.C. 715s). Appropriated funds have been requested for the National Wildlife Refuge Fund from 1980 through 2011.

86. **Please provide a breakdown of the projected FY'12 refuge revenue payments for each Member of this Subcommittee which has a National Wildlife Refuge?**

Response: Payments are typically made to local governments by the end of June of the following year. The Refuge appraisal, acreage, and revenue receipt information is currently being updated to calculate the total funds available to make payments.

Lacey Act Listing of Constrictor Snakes

87. **Secretary of the Interior Ken Salazar was quoted as saying that the decision to list the Burmese python, the yellow Anaconda, the Northern African python and the Southern African python on the Lacey Act was an effort to “strike a balance” between economic and environmental concerns. Please elaborate on statement?**

Response: Under Title 18 of the Lacey Act, the Secretary has discretion to list a species if it is injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States. The Service evaluates a number of criteria in making injurious wildlife determinations, such as the likelihood for harm, as just defined, if a species is introduced into the environment, and various measures for mitigation that may exist. In addition, the Service completed the required determinations under EO 12866, which included an economic analysis. The Secretary considered various aspects of these evaluations in making the determination to list these four species on the Lacey Act. The Service is continuing to consider the status of the other five species and will publish final determinations for those species when that process is completed. Please see response to Question 94 for additional details.

88. **How will listing these four nonnative constrictor snake species impact the wild population of Burmese pythons in the Florida Everglades?**

Response: The rule alone will not reduce the population of Burmese pythons in Florida. Similarly, the rule will not reduce or eliminate the populations of northern African pythons in Florida. However, the importation and interstate transport prohibitions should reduce the populations of those species in conjunction with control programs, including an early detection and rapid response interagency team, public awareness about the snake’s potential threats, and the reporting of sightings in the wild. Furthermore, we believe the rule will be effective in other ways. The prohibitions should prevent future introductions of pathogens or parasites associated with these snakes. We believe that prohibiting the interstate trade of these constrictor species, along with prohibitions of further importations, will reduce the risk of them spreading to new areas of the United States, including the territories and insular possessions. The most likely way for the injurious listing provisions to be successful is if they are applied before a species is present in the United States or in vulnerable parts of the United States. The two other constrictor snake species (yellow anaconda and southern African python) that were listed as injurious are not yet established in this country and may be prevented from becoming established in Florida, as well as other vulnerable areas of the country. Furthermore, the purpose of listing the four species in all areas of the country is to prevent establishment in any areas of the country that do not currently have the four species. If the rule can prevent introductions to any vulnerable parts of the country, it will be effective.

89. **Is there any language in your Final Rule or your FY’13 budget request that provides money to eradicate Burmese pythons in the Florida Everglades?**

Response: The Service has not requested funding to specifically control Burmese pythons in Florida for FY 2013. The final rule listing the four nonnative large constrictor snakes only

includes language to amend the implementing regulations of the Lacey Act to list the snakes as injurious wildlife, along with the justification and required determinations.

In the 2013 budget, the Department of the Interior has requested an additional \$1 million to support the U.S. Geological Survey in its efforts to conduct scientific investigations to assist in the sustainable use, protection, and restoration of the South Florida ecosystem. Funding will support high priority invasive species research needs identified by interagency groups, such as the South Florida Ecosystem Restoration Task Force's Working Group and Science Coordination Group including: quantifying ecosystem effects of invasive species; filling key biological and ecological information gaps of invasive species to better inform early detection efforts of partnering agencies; and to improve methods that can be used to better detect and control such species as Burmese pythons for which ecosystem effects have been documented.

90. **In the last Congress, Representative Tom Rooney introduced H. R. 3215 to authorize the Secretary of the Interior to allow individuals to hunt and kill Burmese pythons within the boundaries of that Park. Does the Service support the goals of this legislation?**

Response: The Service does not have a policy on hunting within national park lands and would support the decision of the National Park Service. The National Park Service has previously prepared extensive responses to and addressed this proposed legislation (H.R. 3215) to authorize the hunting and killing of Burmese pythons within the boundaries of the Park.

91. **By listing these species on the Lacey Act, the interstate transport and importation of live individuals, gametes, viable eggs, or hybrids of these snakes is prohibited. Is that correct? If that is the case, how is it that the Department of the Interior's Press Release on their listing states that "Many people who own any of these four species will not be affected." What is the economic value of these snakes after their listing? What happens to the breeder who has legally obtained their Burmese pythons and now has a stock of hybrids worth thousands of dollars?**

Response: Yes, by listing these species under the Lacey Act, the interstate transport and importation of live individuals, gametes, viable eggs, or hybrids of these snakes is prohibited.

The majority of people who own these species of snakes are pet owners, rather than dealers. They will still be able to keep their snakes and buy supplies as they could before the listing. No permits are needed or fees imposed on any snake that stays within its home State as a result of this listing. While some owners will want to take their pets to another State, not all of them will, and therefore, those people will not be affected.

The value of these snakes varies among individuals because of size, colors, skin patterns, source, and other factors. We do not know whether their value will decrease because it will be harder to sell to a limited market or whether their value will increase within-state and for exports due to the decreased availability of these constrictors in certain areas. Furthermore, other factors play a role in the value of these snakes, such as the national economic situation and individual States' regulations that may be in place regarding these species.

Breeders of the listed snakes can still sell their stock within-State and export them under certain conditions from designated ports (please see Questions 96 and 97 below regarding exports). In addition, the breeders had 60 days' notice to sell their stocks before the rule took effect. The breeders also had some indication that such a regulation was being considered since the Service published its Notice of Inquiry in January 2008. During that time, they could have switched to other species. Breeders also have the option to sell animal skins, which are valuable and are not regulated under this listing.

92. Does the Service intend to compensate those breeders?

Response: The Service does not have a mechanism for compensating the breeders affected by the listing of the four non-native constrictor snakes as injurious under the Lacey Act. Those breeders may still sell their stock within their State, and breeders in States with designated ports may still export those snakes under certain conditions (please see Questions 96 and 97 below regarding exports).

93. Included within your Final Rule was the statement that “We realize that hybrids often are worth significantly more money than the parent species separately. Allowing hybrids would preserve more of the income of some breeders”. Since you have listed all “hybrids” on the Lacey Act, has does this statement square with the comment that “Many people who own any of these four species will not be affected”?

Response: The Service made the statement about hybrids in the final rule in our explanation of one of the alternatives we considered (exempting hybrids). In our explanation of why we did not exempt hybrids, we explained that they pose at least the same risk as their parent species as determined by our injurious wildlife evaluation. The statement that many people who own these species will not be affected refers to the pet owners as well as hobbyist breeders who sell locally. Please see responses to Question 91 below for additional details.

94. What is your analysis of the economic impact of listing these four nonnative snake species? (8). Director Dan Ashe was quoted in the January 17th Department of the Interior Press Release as saying “The Service will continue to consider listing as injurious the five other species of nonnative snakes that the agency also proposed in 2010”. When will you publish a determination of whether these species should be listed as injurious?

Response: Our final economic analysis shows that listing the four species would cause total annual decreases in retail value of \$3.7 – \$7.6 million and an economic output of \$10.7 – 21.8 million, estimates that are based on the conservative assumption that consumers who would have bought one of the prohibited species will not buy another species of snake or other pet instead. However, the Federal government, State governments, and other entities have spent, and will continue to spend, millions of dollars controlling and preventing the spread of constrictor snakes already in the United States. The Service and its partners have spent more than \$6 million since 2005 finding and applying solutions to the growing problem of Burmese pythons and other large invasive constrictor snakes in Florida. Therefore, the listing of these four species should help

keep these costs from increasing. The Service's full economic report can be found at: http://www.fws.gov/fisheries/ANS/pdf_files/Final_Economic_Analysis_for_4%20species.pdf

The four species designated as injurious at this time (the Burmese python, northern and southern African pythons and yellow anaconda) were all judged to have a "high" overall risk in a scientific evaluation undertaken by the United States Geological Survey. Based on that evaluation and the other information set forth in the final rule, the Service determined that it was appropriate to proceed to designate these four species as injurious now, rather than deferring action on these species until the status of the other five species (reticulated python, DeSchaunsee's anaconda, green anaconda, Beni anaconda and the boa constrictor) is resolved. The Service is continuing to consider the status of the other five species and will publish final determinations for those species when that process is completed.

95. Is there a viable reproducing population of Boa constrictors in the Florida Everglades?

Response: Although the boa constrictor has been introduced in many areas in Florida, the species is known to be established as a self-sustaining, reproducing population only in and around the 444-acre environmental preserve located on the edge of Biscayne Bay known as the Charles Deering Estate in Miami-Dade County. The Deering Estate is a sub-region within the Biscayne Bay Coastal Wetlands Project, a component of the Comprehensive Everglades Restoration Plan. There have been multiple single-snake sightings throughout the Everglades geographic area and in nearby areas north and west of the Everglades. Our biological and management profile of the large constrictor snakes also revealed that the boa constrictor has been introduced and has established breeding populations in the Commonwealth of Puerto Rico.

96. Why is it legal to export any of the four listed species of snakes from various "Designated Ports" throughout the United States?

Response: The injurious wildlife provisions of the Lacey Act prohibit import and interstate transport of listed species. They do not restrict direct export to another country from a U.S. state.

97. Why is the export of these species limited to "Designated Ports" in 16 U. S. states? If the goal is to remove these snakes from the United States, why wouldn't we want to encourage their export?

Response: Each of these snakes is also protected under the CITES treaty. Exporters by regulation must use a designated port or obtain a designated port exception permit from the Service authorizing export from another location for CITES-listed wildlife. The Service has no position with respect to encouraging or discouraging export of these snakes.

98. How does an individual obtain a designated port exception permit? How many have been issued during the past five years?

Response: The individual must complete and submit an application (Form 3-200-2) to the Service and pay a \$100 permit application fee. Information that must be provided includes a

written statement showing how the shipment meets Service criteria for permit issuance. Designated port exception permits are issued only to accommodate imports/exports for scientific purposes; minimize or prevent deterioration or loss of the wildlife; or alleviate undue economic hardship for the importer/exporter. Over the period 2007 through 2012, the Service issued 2,282 designated port exception permits.

Lacey Act of Timber Products

99. **How many shipments have been seized under the Legal Timber Protection Act? What kind of wood or timber products were seized and what was the origin of these imports?**

Response: The Service's responsibilities under the Legal Timber Protection Act involve the criminal investigation of plant trafficking. We do not inspect shipments for admissibility at the Nation's ports of entry. The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) and Customs and Border Protection (CBP) in the Department of Homeland Security share responsibility for the inspection and seizure of plant and plant product shipments entering the United States in violation of this Act.

100. **Would the Service support legislation to grandfather all plants harvested or products manufactured before May 22, 2008?**

Response: We understand the desire of the concerned public for a grandfather clause for plants harvested or products manufactured before the enactment of the plant amendments to the Lacey Act. However, we would ask that Congress exercise great care in considering such a grandfather clause. We note that an overly broad grandfather clause can provide a tool for criminals. They could utilize an overly broad clause to launder illegally obtained or harvested plants or plant products that were taken, imported, purchased, or sold in violation of U.S. or foreign law.

We do not believe that the track record of seizures since the 2008 Plant Amendments demonstrates a need for a grandfather clause. The Service has not seized any instruments from individual owners. The Service has completed only one forfeiture action under the Plant Amendments involving three pallets of tropical hardwoods unlawfully imported from Peru worth approximately \$7,000.

We are happy to meet with the subcommittee and any Members of Congress to discuss how we implement the Plant Amendments and whether there is a need for a grandfather clause and if so, how it might be structured.

101. **As the Lacey Act is enforced, I have been informed that some importers find it difficult to determine which foreign laws will be relevant and how the federal government may interpret them. Would the Service support the development and upkeep of a federal database of all foreign forestry and timber laws so that American customers can fully understand the implications of these statutes?**

Response: The Service is not in a position to create a comprehensive database of foreign laws and keep it up to date. We would defer to the U.S. Departments of Agriculture and Homeland Security, which are responsible for reviewing declarations, and inspecting shipments, of plants and plant products imported into the United States, to comment on the feasibility and value of such a database. We note, however, that just as we expect foreigners to abide by U.S. laws when obtaining products from our country, it is incumbent upon U.S. citizens and companies doing business abroad to be familiar with the laws of the countries with which they are doing business.

102. Would the Service support a standard certification process for plant and plant products?

Response: The Service would defer to the U.S. Departments of Agriculture and Homeland Security, which are responsible for reviewing declarations, and inspecting shipments, of plants and plant products imported into the United States, to comment on the feasibility and value of a standard certification process. If these agencies were mandated to develop a standard certification process, the Service would support our Federal partners in its development.

103. Would the Service support an amendment to the Lacey Act which stipulated that it would not apply to a de minimis amount of plant material? As an example, a saxophone with cork bumpers or a synthetic blouse with wooden buttons.

Response: The 2008 amendments to the Lacey Act made it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported or sold in violation of the laws of the United States, a state, an Indian tribe, or any foreign law that protects plants. These amendments also made it unlawful to make or submit any false record, account or label for, or any false identification of, any plant covered by the Act and require declarations to be filed on import for certain plant products.

The Service shares responsibility for implementing and enforcing these Lacey Act provisions with APHIS and CBP. The Service, therefore, cannot comment on proposed changes without interagency consultation and development of a unified Executive Branch position.

104. There has been a great deal of discussion about the need for a so-called “innocent owner” provision within Section 8204 of P. L. 110-234. What does the Service define as an “innocent owner”? Does the Service believe this law should contain such a provision and how should this language be crafted?

Response: The term “innocent owner” was used by Congress in the Civil Asset Forfeiture Reform Act to refer to those who own property (such as a motel) that is used without their knowledge or consent in the commission of a crime (e.g., drug trafficking). Individuals and companies that import wildlife or plants are responsible for complying with the laws and regulations that govern that activity (in the same way, for example, that we are all responsible for knowing how laws regulate drug possession, motor vehicle operation, and personal and business income taxes).

The Lacey Act already contains criteria for criminal and civil charges and for forfeiture that accommodate different levels of culpability. Investigators must prove that violations were knowingly committed to support a criminal charge or that the importer “should have known” the activity was illegal in “the exercise of due care” to pursue civil penalties. Forfeiture is authorized on a strict liability basis, and courts that have considered this issue have held that wildlife or plants that have been illegally imported in violation of conservation laws and regulations are contraband and thus subject to forfeiture.

Cooperative Endangered Species Conservation Fund

105. In FY’12, Congress appropriated \$47.6 million for the Cooperative Endangered Species Conservation Fund. How much of this money will be spent on habitat acquisition?

Response: For FY 2012, the Service has \$9,984,000 to support the Recovery Land Acquisition Grant Program, and \$14,976,000 to support the Habitat Conservation Plan Land Acquisition Grant Program. Therefore, of the \$47.6 million appropriated for the Cooperative Endangered Species Conservation fund in FY 2012, \$24,960,000 has been identified to support habitat acquisition.

106. How much of the \$60 million proposed in FY’13 will be spent on habitat acquisition next year?

Response: For FY 2013, the President’s budget request is for \$15,487,000 in support of Recovery Land Acquisition Grants, and \$21,938,000 in support of Habitat Conservation Plan Land Acquisition Grants. Therefore, of the \$60 million in the President’s FY 2013 budget request for the Cooperative Endangered Species Conservation Fund, \$37,416,000 is proposed to support habitat acquisition.

107. How many habitat conservation plans were finalized in 2011?

Response: In calendar year 2011, ten habitat conservation plans were finalized and issued a permit.

Law Enforcement

108. What is the number of Fish and Wildlife Service special agents, wildlife inspectors and wildlife forensic scientists? How many of these agents do you anticipate retiring in FY’13?

Response: The Service currently has 226 special agents (including managers and supervisors) and 142 wildlife inspectors. Staff at the National Fish and Wildlife Forensics Laboratory includes 20 forensic scientists and 5 laboratory technicians. Eight Service special agents will retire between now and the end of FY 2013. This number includes four scheduled elective retirements and four mandatory retirements.

Of the current force of 226 agents, 30 additional agents could elect to retire at any time. Factors such as a change in retirement benefits, continued pay freezes, increasing workload, or the need to reassign positions to high priority locations could result in additional attrition.

109. How many agents are currently going through training and will join the Service next year?

Response: None.

110. How many big cats have been seized under the Captive Wildlife Safety Act? What happens to these cats upon the completion of forfeiture proceedings?

Response: The Service has not seized big cats under the Captive Wildlife Safety Act. Most of the species covered by this Act were already protected under the Endangered Species Act, and violations involving import or interstate commerce would typically be pursued under that statute.

Attempts are made to find suitable placements for live wildlife forfeited to the Service; examples include licensed zoos and animal sanctuaries.

111. Does the Service support amending the Lacey Act to prohibit the possession and breeding of those species already listed as “injurious wildlife”?

Response: The Service is reviewing the full range of activities needed to improve the injurious wildlife provisions of the Lacey Act. These activities include how regulations, voluntary efforts, and enforcement can be improved, and ways to ensure that the latest scientific methods are transparently incorporated into the evaluation and screening processes.

The issue of whether to prohibit the breeding and possession of species already listed as injurious is also under review. We look forward to working with Congress and interested stakeholders, constituents, and partners as this effort moves forward, as a constructive dialogue will be critical to ensuring how we can all more effectively achieve invasive species prevention goals and mitigate the significant economic and natural resource damages such species cause our nation each year.

112. How much money will the Service dedicate to enforcing the Lacey Act in FY’13 with emphasis on the four nonnative constrictor snakes that were recently listed as “injurious wildlife”?

Response: Enforcement of the injurious wildlife provisions of the Lacey Act will remain a core enforcement responsibility for the Service. The Service, however, does not allocate enforcement resources by statute.

113. Is it still possible for an individual to visit a traditional Chinese medicine pharmacy in the United States and find products whose label indicates they contain components of highly endangered tigers and rhinoceros?

Response: In all likelihood, such products can still be found for sale in the United States. Product labeling prohibitions making such sales illegal were added to the Rhino Tiger Conservation Act without resources to support site-by-site compliance monitoring.

Captively-Bred African Antelopes

114. What are the population estimates for scimitar-horned Oryx, Dama gazelle and addax antelopes in their native range states in Africa?

Response: According to the International Union for Conservation of Nature, the most current estimates for the wild populations of these species are:

- Scimitar-horned oryx – 0
- Dama gazelle – fewer than 500
- Addax – fewer than 300.

115. What are the estimates of the populations of these three species held in captivity in the United States? Hasn't the Service stated that these captive populations are important to the survival of the species?

Response: There is not a definitive estimate of the number of individuals of these three species held in captivity in the United States. According to estimates made by the Exotic Wildlife Association in 2010, their members then held 11,032 oryx, 5,112 addax, and 894 dama gazelle.

The Service has consistently recognized that captive breeding has contributed to the survival of these species. We acknowledged the contribution of captive breeding at the time these species were listed under the ESA in 2005. The scimitar-horned oryx would not exist at all if it were not for captive populations, and the other two species exist in captivity in greater numbers than in the wild; further, their wild populations continue to decline. Captive-breeding programs have also assisted in the re-establishment of some small populations of these species in the wild.

116. How will the loss of the Fish and Wildlife Service's "special rule" exempting U. S. herds from certain prohibited activities under the Endangered Species Act affect captive populations of these antelope species?

Response: The Service has been working diligently to reach out to ranches and zoos that hold these animals and assist them in obtaining the necessary permits to continue the activities that were authorized under the special rule. We have streamlined the permit process, provided written guidance to applicants to assist them in filling out the application forms, given expedited treatment to these applications to help prevent any lapse in authority for them to continue their activities when the special rule was repealed on April 4, 2012, and extended the validity of the captive-bred wildlife (CBW) registration from 3 to 5 years. Anyone lawfully conducting their management activities with these species, including hunting, under the special rule, will continue to be able to do so under the permitting system we have in place, which has already been in use for years for other similar exotic hoof stock under the same type of management.

117. **Unless these ranchers can obtain all necessary permits in an expedited manner, what incentives do these Americans have to conserve these species that have largely disappeared from their native lands?**

Response: The Service has made every effort to inform ranchers about the permitting process and to process applications in a timely manner to ensure that the ranchers can continue their activities. We have given these applications the highest priority, and as of April, 12, 2012, 33 ranches have received the necessary permits to continue their activities with these antelopes.

118. **Does the Fish and Wildlife Service care whether these species continues to exist in the United States?**

Response: Yes. The Service appreciates the efforts that have been made to preserve these species in captivity, and for the efforts of individuals and institutions to ensure that stock is available for potential release when secure habitat and conditions becomes available in their native ranges.

119. **According to your new final rule, it is a violation of federal law to take any of these antelope species after April 4, 2012. Since there may be no incentive to have these animals after that date, what happens to those individuals who decided to significantly reduce the size of their herds prior to the effective date?**

Response: A financial incentive for maintaining these herds will continue to exist since ranchers can obtain permits to conduct the same culling activity that had previously been authorized without a permit. The original listing authorized take of these antelopes without a permit only as part of a management activity "that contributes to increasing or sustaining captive numbers...." (i.e., culling part of a herd for the purpose of herd management). Take to "significantly reduce the size of ...herds" has never been lawful. Simply killing animals to get rid of them or to avoid regulation would have been a violation of the ESA. With the repeal of the management rule, this prohibition has not changed.

120. **Are there exceptions to the "take" prohibition after April 4, 2012? If there are, please describe them?**

Response: As explained above, "take" can be authorized under Service issued permits. It is through these permits that ranchers and hunters will be able to cull captive herds of the three antelope species. There are some very limited exceptions to ESA permit requirements for take (50 CFR 17.21(c)). These exceptions deal with such circumstances as taking an endangered species in defense of your own life or the lives of others (i.e., an attacking grizzly bear) and the "take" by Federal and State officers in the performance of their official duties (i.e., take of an injured animal or an animal that poses a demonstrable risk to human safety).

The Service has determined that normal husbandry procedures and veterinary care for captive ESA-listed wildlife does not constitute take. This would include terminating the life of a sick or severely injured animal. Authorization can be granted by the Service for the deliberate killing of a healthy animal through the captive-bred wildlife registration program, if the taking is necessary

for proper management of the herd. Such take or culling of animals must be done by the rancher and employees of the ranch. If the ranch wants to allow hunters (non-employees) on to their ranch to assist in the management of the herd, the ranch would need an interstate commerce/take permit authorizing the removal of excess animals for the purpose of herd management.

121. The Service has indicated that it was working to “streamline the permitting process and minimize any burden on the public.” If a rancher applies for a permit on April 1st, when can they expect to get that permit? Will ranchers be required to get a permit for each animal? What is the proposed cost of these permits?

Response: It should be noted that the permits that are now required to continue activities with these antelopes on ranches are the same permits many of these same ranches, or other ranches in Texas and elsewhere, have obtained to conduct the same activities with other ESA-listed exotic hoofstock, including red lechwe, barasingha (swamp deer), and Eld’s deer.

If a rancher applies for a permit on April 1, it would take between 45 and 60 days to obtain (assuming they qualify). After initial processing of a few days, a notice of receipt of the application must be published in the Federal Register with a 30-day public comment period. Following the comment period, we must review and evaluate any comments received, complete our evaluation of the application, and issue the permit. Most of the time it takes to process and issue a permit is taken up by the public comment period required by the ESA.

Ranchers are not required to get a separate permit for each animal. The captive-bred wildlife registration covers the entire breeding operation. The take permit (to cover take of animals by outside hunters) is issued for a year and covers any number of animals taken on the ranch during that year. It is renewed annually, but only subject to a public comment period once every 5 years. The captive-bred wildlife registration is good for 5 years and covers take by the rancher or his/her employees for the purpose of herd management, sales of animals between registered operations, and export.

There is a \$200 application fee for the captive-bred wildlife application and a \$100 application fee for the take permit. Therefore, in a 5-year period, the total cost of a captive-bred wildlife registration and authorization to take animals under the take permits would be \$700, or an average of \$140 each year.

Miscellaneous

122. Why is the Obama Administration requesting a cancellation of \$200 million to Gulf Coast states under the Coastal Impact Assistance Program?

Response: \$540 million of the \$1 billion provided in FY 2007 – 2010 still remains available under the Coastal Impact Assistance Program (CIAP). CIAP gives states broad flexibility to use the funds, so there is little accountability for achieving specific results. Given the billions of dollars soon to be available to the Gulf Coast states from responsible parties, including from fines and penalties, and from other programs better targeted at ecosystem restoration, the Administration plans on using this reduction in CIAP balances to fund higher priorities elsewhere.

123. Why have these funds not been distributed to those states impacted by oil and gas development in the Gulf of Mexico as directed by Section 384 of the Energy Policy Act of 2005?

Response: In 2005, the Secretary of Interior delegated Federal authority and responsibility for Coastal Impact Assistance Program (CIAP) to the Minerals Management Service (MMS – which was later reorganized as the Bureau of Ocean Energy Management Regulation and Enforcement (BOEMRE)). The MMS/BOEMRE approved State CIAP Plans for each of the six States for FY 2007 – 2010 funds, with the exception of Texas that has an approved Plan for 2007-08 funds, and a proposed Plan for 2009-10 funds. Additionally, there have been subsequent amendments to approved plans submitted by States, for example, Louisiana submitted a fourth revision to its plan in November 2011.

There are a number of factors that have contributed to the relatively slow obligation rates for CIAP. A primary factor is that CIAP requires a substantive public planning process that is coordinated through a designated State lead agency with a great degree of information and planning provided by local Coastal Political Subdivisions (CPS). In addition to the 6 eligible states, there are 70 CPSs, which are the County, Parish and Borough governments eligible to receive CIAP funds directly. A multi-level CIAP Plan review process at the federal level also contributed to the delayed Plan implementation and slow obligation rates. Further, the proposed projects are all located in sensitive coastal habitats that often involve a high degree of time-consuming activities, such as permitting and appraisals, prior to the full obligation of funds as part of the grant review process. The complexity of the MMS/BOEMRE administrative process was a recognized factor in the slow obligations, which led to the transfer of the program to the Fish and Wildlife Service (Service) in October 2011.

Through the end of FY 2011, approximately \$403 million of the total available CIAP grant funds had been awarded by MMS/BOEMRE. In FY 2012, the Secretary of Interior re-delegated CIAP administration authority to the Service, under its Wildlife and Sport Fish Restoration Program. The Service is in the process of awarding the balance of CIAP funds, with the goal of completing the obligations by December 2013 for projects to be completed by December 31, 2016.

124. What is your request for the Coastal Barrier Resources System?

Response: Funding to support to the Service’s administration of the Coastal Barrier Resources Act (CBRA) Program is provided through the National Wetlands Inventory (NWI) annual appropriation. The President’s FY 2013 budget request for NWI includes \$890,000 specifically for the CBRA Program, a \$500,000 increase from the FY 2012 funding amount. The increase will be targeted at increasing capacity for the implementation of the CBRA, including: (1) reviewing potential Coastal Barrier Resources System (CBRS) mapping errors and producing comprehensively revised draft maps for approximately two percent of the total area within the CBRS (about 13 CBRS units) for Congressional consideration, per the directive of Section 4 of Public Law 109-226; (2) producing “five-year review” maps for approximately 15% of the total area within the CBRS to account for erosion and accretion, per the directive of Section 4(c) of Public Law 101-591; and, (3) improving efficiencies and timeliness in responding to requests to

determine whether properties and project sites are located within the CBRS. The map modernization efforts described under (1) and (2) above will facilitate moving away from the outdated CBRS maps toward modernized digital maps that are more accurate and user friendly. The property determination efficiencies will result in a reduced wait time for property owners, developers, Federal agencies, and others who seek a determination as to whether a particular property or project site is located within the CBRS.

125. In 2006, the Congress enacted legislation mandating the establishment of digital maps for the Coastal Barrier Resources System. What is the status of that digital effort and what is the likelihood the Service's recommendations will be submitting to Congress this year?

Response: The Coastal Barrier Resources Reauthorization Act of 2006 (P.L. 109-226) directed the Secretary of the Interior to: (1) finalize a digital mapping pilot project that includes draft revised maps for approximately 10% of the entire CBRS and an accompanying report to Congress, and (2) create draft revised maps for the remainder of the CBRS. The Service anticipates the final recommended pilot project maps and accompanying report will be transmitted to Congress by the end of FY 2012. The Service is making adjustments to the pilot project maps based on public comments, updated aerial imagery, CBRA criteria, and objective mapping protocols. The Service's report to Congress will contain the final recommended pilot project maps and the Service's official response to the public comments received during the 2009 comment period.

The Service has made limited progress towards fulfilling the Congressional mandate in P.L. 109-226 to modernize the remaining 90% of the CBRS maps due to limited resources available for this effort and competing program priorities. Since 1999, the Service has created draft digital maps for about 12% of the entire CBRS (including the draft pilot project maps) and Congress has enacted into law comprehensive modernized maps for about 2% of the entire CBRS. In addition, over the past several years the Service has worked with Congress, and this Subcommittee in particular, to address technical corrections and modernize individual CBRS maps on a case-by-case basis as mapping errors have been brought to our attention. The Service has a large backlog of requests from members of Congress and their constituents who seek technical correction revisions to CBRS maps. However, the rate at which we modernize the remainder of the CBRS maps will depend on the availability of resources for this effort. At the current rate, it will be many years before the maps of the entire CBRS are comprehensively modernized. In comprehensively remapping the entire CBRS, the Service could realize efficiencies and cost savings if we remapped several contiguous units or certain geographic areas at the same time (e.g., on a state-by-state basis).

126. What is the budget request for the Junior Duck Stamp Program in FY'13?

Response: The FY 2013 budget request for Junior Duck Stamp is included in the Service's overall request of \$847,000 for the Federal Duck Stamp Program. In FY 2012 approximately \$250,000 will be used to support this component of the overall Duck Stamp Program.

127. How much money do the 141 refuges enrolled in the Recreation Fee Program collect each year? How about the 28 National Fish Hatcheries, Ecological Services or other sites?

Response: No facilities in the National Fish Hatchery System or in Ecological Services participate in the Recreation Fee Program.

In Fiscal Year 2011, the Service collected over \$5.1 million and expects to collect approximately \$5 million in both FY 2012 and FY 2013. Currently, the Service has over 141 refuges enrolled in the Recreation Fee Program. An additional 28 hatchery, ecological services, or other refuge sites only sell passes. The Federal Lands Recreation Enhancement Act (FLREA) authorized the Recreation Fee Program that allows the collection of entrance and expanded amenity fees on Federal lands and waters. The FLREA authorized the program for 10 years, through FY 2014. The Service returns at least 80 percent of the collections to the specific refuge site of collection, to offset program costs and to enhance visitor facilities and programs.

128. How much is the Service requesting to address the serious ongoing problem of white-nose syndrome? Where are those funds detailed in your budget request?

Response: In FY 2012, the Service committed to spending \$3.375 million in base Recovery program funding on white-nose syndrome (WNS), with an additional commitment of approximately \$485,000 by the National Wildlife Refuge System. In addition, we anticipate receiving proposals this year for WNS projects through various competitive grant programs. In FY 2013 we anticipate that our spending will reflect the high priority we place on the WNS response and our critical role as the lead agency for the national response effort. As in FY 2012, our FY 2013 commitment for WNS is included in various general program requests.

129. A recent Los Angeles Times article highlighted efforts by the Service to seize 20 illegally obtained rhino horns and arrest a major poacher who ran an import-export business. According to the article, some 150 federal agents were involved in this investigation. While this was an important law enforcement effort, did it really take 150 agents to seize 20 rhino horns and what was the cost of this operation?

Response: Officers assigned to this nationwide enforcement operation arrested six individuals in New York, California, Texas, and New Jersey; executed 12 search warrants at business premises and residences throughout the country; and conducted interviews of potential suspects and witnesses in 12 States. Standard law enforcement procedures that address operational security, officer and public safety, and efficiency require that activities of this type be conducted by teams of officers working simultaneously.

130. What is the current state of rhinoceros poaching in Africa, what is the price of these horns and how has this increasing poaching affected the populations of the various subspecies of rhinoceros?

Response: In the past 3 years, the poaching of rhinos for their horn surged upward, probably in response to increased consumption and/or purchasing power in Vietnam and China. Rhino

poaching has also shifted from opportunistic poaching done by locals to coordinated, targeted poaching commissioned by well-armed, well-equipped organized networks or syndicates who are believed to be moving most of the horn, and are involved in the trafficking of other illegal substances as well.

Rhinos had previously been heavily poached for their horn for use in ceremonial dagger handles in the Middle East, but this trade had largely curtailed by the late 1990s, and historic documents indicate rhino horn has been an ingredient in Traditional Chinese Medicine (TCM) for centuries, although it has not been proven to be effective for medicinal uses.

Some sources cite a new belief in popular culture in Vietnam that rhino horn is a cure-all, for ailments ranging from the minor (hangover, headache) to terminal illnesses (including cancer), however, some argue that these uses were always there, but that Vietnamese did not previously have the means to source or purchase rhino horns.

In 2008 and 2009, rhinos in Zimbabwe suffered heavy poaching as political instability led to a breakdown in wildlife protection resulting in opportunistic poaching. However, by 2010, the poaching in Zimbabwe was becoming more organized and commercialized, done by well-equipped, well-informed outsiders who specifically entered properties to kill rhinos and remove their horns and quickly move them overseas, mostly through South Africa. These organized poachers also began to hit rhinos in South Africa, poaching a large number of rhinos in South Africa's flagship national park, Kruger National Park, and on small private game farms throughout northern and northeastern South Africa. South Africa is home to almost 19,000 white rhinos (96% of the world population) and to 1,915 black rhinos (39%). In 2009, the rhino poaching level in South Africa escalated dramatically from fewer than 20 rhinos poached per year to 122 in 2009, 333 in 2010 and 448 rhinos poached in 2011 in South Africa alone. This year, 210 animals have already been poached in South Africa. At this rate, one rhino is poached every 14 hours, and the total number of rhinos poached in South Africa is projected to exceed 600 animals by the end of 2012. Other countries (Zimbabwe and Kenya) are also reporting increased poaching intensity in 2011 and 2012, but fortunately the number of rhinos killed is much lower than in South Africa.

Conservationists discourage the media from quoting estimated prices of rhino horn as quoted prices seem to drive the price higher. Therefore only unofficial figures are available, from the media rather than from rhino experts, but these quote the price as being higher per ounce than gold, and higher per ounce than cocaine. One estimate is \$50,000 per kilogram (= \$1,428 per ounce).

The southern white subspecies rhino, *Ceratotherium simum simum*, is the most numerous of the extant rhinos with 20,170 individuals surviving. 93% of these are in South Africa, with reintroduced populations in Namibia and Zimbabwe.

The other subspecies of white rhino (*C. simum cottoni*), which previously occurred in northern central Africa (DRC, CAR, Chad, Sudan, Uganda) is believed to have been poached to extinction in the wild in the last five years. Fewer than 10 captive individuals survive and they have not successfully bred in recent years, so the outlook for survival of the subspecies is grim.

Black rhinos total only 4,880 in Africa but they belong to three different subspecies that do not interbreed, therefore the effective population sizes of each subspecies is much smaller. The eastern black rhino (*D.B. michaeli*) is the most imperiled with fewer than 650 individuals (most of which are in Kenya), the southwestern or desert black, (*D.B. bicornis*) has 1900 (most of which occur in Namibia) and the southern black rhino, *D.B. minor*, declined last year (for the first time since the poaching surges of the 20th century) to 1,750 animals due to poaching in Zimbabwe and South Africa.

Of the 448 rhinos killed in South Africa last year, 429 were white rhinos and only 19 were black rhinos. If poaching continues to escalate, white rhinos could be extinct by 2025.

Marine Mammals

131. **Please provide the Subcommittee with a budget chart showing how Alaska Marine Mammal Commissions covered under Section 119 of the Marine Mammal Protection Act have been funded in 2010, 2011 and 2012 and how they will be funded in 2013?**

Response: The table below shows how much funding has been provided to the Alaska Marine Mammal Commissions from FY 2010 – 2013.

Funding provided to:	FY 2010	FY 2011	FY 2012*	FY 2013**
The Eskimo Walrus Commission	\$200,000.00	\$176,000.00	\$176,000.00	\$176,000.00
The Qayassiq Walrus Commission		\$24,000.00	\$26,000.00	\$26,000.00
The Alaska Nanuuq (polar bear) Commission	\$510,600.00	\$775,000.00	\$732,410.00	\$732,410.00
Central Council Tlingit and Indian Tribes of Alaska	\$26,323.00			
Alaska Native Sea Otter Co-management Committee	\$1,240.00	\$4,413.00		
Indigenous People's Council for Marine Mammals			\$80,000.00	\$80,000.00
Total	\$738,163.00	\$979,413.00	\$1,010,410.00	\$1,010,410.00

* The Service is currently developing Cooperative Agreements under section 119 of the MMPA with Alaska Native stakeholders and therefore funds for FY 2012 are anticipated.

** Based on the President's FY 2013 budget and expected cooperative projects, the Service anticipates funding Cooperative Agreements under Section 119 of the MMPA at substantially the same as it did in FY 2012.

132. **Concerns were raised at the October 25, 2011, Subcommittee hearing on H.R. 2714 regarding the term “significantly altered” and how FWS law enforcement were enforcing this undefined term in FWS regulations. What actions have been taken to date to resolve the concerns of Alaska Native hunters?**

Response: The Service has consistently implemented our regulations relating to the creation and sale of Alaska Native handicrafts containing marine mammal parts. Very little public concern had been expressed until recently when questions have been posed to the Service concerning the sale of “unaltered” or slightly altered parts (tanned only or two or more tanned hides sown

together). In our opinion, the vast majority of handicraft being produced and sold meets the interpretation of significantly altered. We recognize that clarity regarding the definition of marine mammal handicrafts benefits all subsistence users and we are currently working on several initiatives to meet this goal. The Service is participating in a joint NOAA Fisheries/ Indigenous People's Council for Marine Mammals/Service working group to provide clarity. We believe that inclusion of stakeholders in the Alaska Native community in these discussions will benefit not only the marine mammal resource, but also provide greater understanding to the Alaska Native subsistence hunting community. The Service has drafted and released written guidance requesting input and comments on the interpretation of significantly altered. We have requested review by the Alaska Native community, the State of Alaska, and NOAA/Fisheries. Additionally, the Service is working with the Indigenous People's Council for Marine Mammals to host a workshop for sea otter hunters and handicraft producers to give input on the guidance for significantly altered.

133. The Subcommittee is concerned that FWS law enforcement officials may be promoting a culture of fear and in so deterring the rights of Alaska Natives to harvest marine mammals. Does the FWS support the Alaska Native right to take marine mammals under the Marine Mammal Protection Act? If so, how is the agency working to ensure Alaska Native rights are upheld?

Response: The Service has consistently enforced all provision of the MMPA as written. The MMPA provides for a specific exemption which allows for the take of marine mammals by Indians, Aleuts, and Eskimos for subsistence or for the creation and sale of handicrafts. Our recent investigations have not focused on the issue of "significantly altered" handicraft sales but rather the illegal harvest by non-eligible individuals, the failure to report harvest to the Service, and the sale of whole, unaltered hides to non-Natives. Outreach efforts by the Service to increase understanding and compliance with the MMPA and regulations have occurred simultaneously and are outlined in our response to question 132.

134. Is the FWS requiring Alaska Native Marine Mammal Commissions to pay subsistence hunters for data collected during Commission marine mammal surveys? If yes, when did this become FWS policy?

Response: No, the Service does not require Alaska Native Marine Mammal Commissions to pay subsistence hunters.

Ranking Member Gregorio Sablan

135. The 15 million dollar increase in funding to the Bureau of Land Management (BLM) to implement Sage Grouse restoration measures demonstrates the Administration's commitment to proactive conservation. How will BLM work with the Fish and Wildlife Service to stop the decline of the Sage Grouse so they don't have to be listed under the Endangered Species Act which could impede, for example, renewable energy development? Is there a corresponding increase in funding for the Fish and Wildlife Service or other Collaborative Conservation initiatives to ensure all agencies can work together efficiently to protect the Sage Grouse?

Response: The Service is closely coordinating with the BLM in their efforts to revise their Resource Management Plans. We have signed an MOU with BLM and USFS to complete this effort and are working closely with these land management agencies at all levels of our organization to ensure their success. The Service has not received any increase in funding for this involvement. The NRCS has received financial support to implement their progressive Sage-grouse Initiative, including additional funding for their traditional programs and funding to increase field capacity in key sage-grouse habitat areas.

136. **There has been a decrease in the Fish and Wildlife Service Construction budget, and it was mentioned that there would be no new construction projects funded. Can you explain the reason for this cut, the impact of on FWS operations, and future plans to make up for the loss?**

Response: The Service is focusing attention on maintaining the buildings and structures that we currently have in our real property inventory rather than adding new facilities to our portfolio. Ongoing efforts in the Construction appropriations will be focused on maintaining structures (such as impoundment water control structures) that provide essential habitat, reducing the deferred maintenance backlog, and improving existing facilities by increasing energy efficiency and installing renewable resources.

137. **There is a reduction of 3.1 million dollars in the conservation planning activity for the National Wildlife Refuge System. What functions will be lost due to this reduction? How will the Service be able to adequately plan for future conservation?**

Response: The requested reduction of \$3.189 million in Conservation Planning in FY 2013 reflects a proposed internal reprogramming. The President's Budget requests a transfer of Land Protection Planning responsibilities from Conservation Planning to Land Acquisition. We do not anticipate losses in function due to this reduction, but rather a gain in efficiencies. The President's Budget also requests an increase of \$189,000 for Refuge Planning under the Conservation Planning subactivity. The modest increase requested in Refuge Planning will help adequately plan for future conservation by offsetting increased expenses related to preparation of refuge planning documents such as comprehensive conservation plans, habitat management plans, and visitor services plans developed by conservation planners with extensive input from the public, states, tribes, and other partners.