

Statement of Daniel Jorjani
Principal Deputy Solicitor, Department of the Interior
Before the House Committee on Natural Resources, Subcommittee on Oversight and
Investigations
on Examining Policy Impacts of Excessive Litigation Against the Department

June 28, 2017

Chairman Labrador, Ranking Member McEachin, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the impacts of excessive litigation against the Department of the Interior. My name is Dan Jorjani and I was recently appointed to be the Principal Deputy Solicitor at the Department.

The Office of the Solicitor is responsible for providing legal services for all programs, operations, and activities of the Department. As the Principal Deputy Solicitor, I oversee the work of the attorneys in the Solicitor's Office, who provide advice, counsel, and legal representation to the Secretary, the Assistant Secretaries, and the bureaus and offices overseen by the Secretary. As would be expected by such a large agency with diverse missions, the legal work carried out in the Solicitor's Office is equally as diverse, including both judicial and administrative matters.

While the mission of the Department is great, our work is also often controversial and we are often sued in Federal court. The Department of Justice handles litigation in which the Department of the Interior is a party. The Department of the Interior's policy decision makers and lawyers therefore do not have the legal authority to litigate or settle cases on our own.

However, the Solicitor's Office performs an important service to the Department in providing legal advice to client bureaus and, ultimately, the Department of Justice on whether to litigate or settle cases. In doing so, Solicitor's Office attorneys work with Department of Justice attorneys to prepare legal defenses of agency action, support litigation through discovery or the preparation of administrative records, assess litigation risk and the effect of continued litigation on the operations of the Department, and work with the affected client bureaus and Department officials to determine whether settlement is in the best interests of the agency and the United States.

As employees of the Federal government, attorneys in the Solicitor's Office have a professional responsibility to serve the Secretary of the Interior and the officials to whom he has delegated his authority. Attorneys are also bound to the rules of professional conduct, which means we must represent our clients rather than external interests.

Any proposal to settle litigation receives a careful legal assessment by agency counsel and is assessed and, if appropriate, approved by attorneys and officials at the Department of Justice, in accordance with its regulations and policies.

Many settlements, such as those resolving class actions or requiring consent decrees, are also reviewed and approved by the presiding judges in the matter. These reviews by the Federal judiciary ensure that the settlements are consistent with the law and are in the public interest. Courts can and have refused to approve consent decrees or other settlements that are not consistent with the law.

When appropriately utilized, settlements can be useful and beneficial: they can allow for amicable resolution of disputes on terms acceptable to all stakeholders; save taxpayer dollars by reducing the amount paid in litigation and associated attorneys' fees; eliminate the risk of adverse decisions that could impact future agency operations; include terms to minimize the risk of future litigation; and conserve judicial, agency, and private party resources.

However, the system certainly is not perfect.

Ultimately, the Department and the rest of the Federal Government has a duty to uphold the highest standards on behalf of the taxpayers we serve. For example, Secretary Zinke signed S.O. 3349 which revoked the compensatory mitigation policies of the previous administration and directed a thorough review so we can shift to a more fair and accessible process. This is just one example of the work we are doing, but we appreciate the opportunity to work with you and the members of this committee to increase transparency and accountability at all levels.

I look forward to answering any questions you might have.