



# United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

OCT 27 2023

The Honorable Catherine Cortez Masto  
Chair, Subcommittee on Public Lands,  
Forests, and Mining  
Committee on Energy and Natural Resources  
United States Senate  
Washington, D.C. 20510

Dear Chair Cortez Masto:

Enclosed are responses prepared by the Bureau of Land Management to written questions for the record submitted to the bureau following the Subcommittee's July 12, 2023, hearing to consider pending legislation.

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

Sincerely,

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

Enclosure

cc: The Honorable Mike Lee  
Ranking Member

Senate Energy and Natural Resources  
Subcommittee on Public Lands, Forests, and Mining  
Hearing on Pending Legislation  
July 12, 2023

### Questions from Senator Wyden

**Question 1: The Malheur Community Empowerment for the Owyhee Act (S.1890) was written to provide management direction to the Bureau of Land Management based on local input from the community. Is the Bureau of Land Management confident in its ability to implement the legislation, including the provisions providing grazing and operational flexibility for grazing permittees?**

**Response:** The BLM is confident in its ability to implement the legislation, if enacted, including provisions providing grazing and operational flexibility for grazing permittees. The BLM is committed to balancing varied public interests in our shared public lands and following the law.

**Question 2: Will the Bureau of Land Management commit to working with local ranchers on issues such as treating weeds and motorized access to new wilderness areas that would be designated by the Malheur Community Empowerment for the Owyhee Act (S.1890) as authorized under the Wilderness Act for specific reasons such as grandfathered in grazing?**

**Response:** The BLM is committed to working with the Sponsors and local groups to address grandfathered uses in wilderness areas. The Congressional Grazing Guidelines found in House Report 96-1126 (also known as Appendix A) clarify the legislative language of the Wilderness Act with respect to grandfathered grazing operations in wilderness areas. The Guidelines address motorized access with the general statement that, "Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness." The Guidelines also provide examples of motorized access for further clarification.

Generally, use of motorized equipment is best analyzed using the "minimum requirements analysis" process. The minimum requirements analysis is a tool intended to help managers evaluate actions proposed in wilderness and consider appropriate choices about administrative actions they might take to address the issue while simultaneously preserving wilderness character.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

OCT 17 2023

The Honorable Brian Schatz  
Chairman  
Committee on Indian Affairs  
United States Senate  
Washington, D.C. 20510

Dear Chairman Schatz:

Enclosed are responses prepared by the Office of the Assistant Secretary for Indian Affairs to questions for the record submitted to the Department of the Interior's witness, Assistant Secretary – Indian Affairs Bryan Newland, following his appearance at the March 29, 2023, oversight hearing entitled *The Future of Tribal Energy Development: Implementation of the Inflation Reduction Act and the Bipartisan Infrastructure Law*.

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

Sincerely,

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

Enclosure

cc: The Honorable Lisa Murkowski  
Ranking Member

**Questions for the Record  
Senate Committee on Indian Affairs  
Hearing on the Future of Tribal Energy Development  
March 29, 2023**

**Questions from Senator John Hoeven**

**The Three Affiliated Tribes of Mandan, Hidatsa and Arikara are leaders in oil production, with about 90% of the tribes' revenue coming from oil production. This helps provide critical funding for essential needs like infrastructure and health care.**

**The Three Affiliated Tribes have produced as many as 300,000 barrels of oil per day; however, production remains down at only 146,949 barrels per day.**

**Question 1: Should we be doing more to help Tribes develop their trust resources and empower themselves through energy development?**

**Response:** The Department of the Interior (Department) supports Tribal sovereignty and economic development to help make lives better for people in their communities. It is important that Tribes maintain the ability to implement, regulate, and benefit from energy development in their communities.

The Department is currently reviewing mineral development leasing regulations. If the Department moves forward with the proposed updates, it will be done consistent with the Department's policy on tribal consultation.

- The Department has taken steps to support Tribes by creating the Indian Energy Service Center (IESC) and transferring the Division of Energy and Mineral Development (DEMD) under the Bureau of Indian Affairs (BIA). The DEMD supports Tribes and Indian beneficiaries with the development of their trust resources including minerals, energy, and renewable energy.

There are currently **10,375** active mineral leases on Indian lands encoded into the BIA's Trust Asset and Accounting Management System (TAAMS) which is the official system of record of trust title, ownership, encumbrances and land records. The breakdown is as follows:

**Questions for the Record  
Senate Committee on Indian Affairs  
Hearing on the Future of Tribal Energy Development  
March 29, 2023**

**Mineral Leases by Contract Type**

CA - Coal Lease	4
FM - Fissionable Material Lease	1
GA - General Agreement (Other)	15
GS - Gas Lease	295
IM - Indian Mineral Development Act 98	
LO - Lease Other	7
MO - Misc Other	12
OG - Oil and Gas Lease	8817
OL - Oil Lease	1054
PG - Permits (Other)	4
PP - Prospecting Permit	10
SG - Sand and Gravel	24
SS - Subsurface	34

In contrast, there are currently **46** renewable energy leases on Indian lands encoded into TAAMS. The breakdown is as follows:

**Renewable Energy Leases**

Solar	31
Wind	9
Hydro	3
Biomass	1
Unk	2

The IESC hosts quarterly Federal Partner Meetings with the Three Affiliated Tribes (Tribe) to discuss Indian energy and mineral resource development, royalty management coordination, and information exchange at the local office level. The departmental bureaus and offices represented

**Questions for the Record**  
**Senate Committee on Indian Affairs**  
**Hearing on the Future of Tribal Energy Development**  
**March 29, 2023**

on the Partnership team operate under the Federal trust responsibility to Federally recognized Indian tribes, Indian individuals, and Alaska Natives.

The Department will continue to work with Congress to help Tribal Nations further empower themselves through energy development. The Department and BIA coordinates and serves on various committees with bureaus, federal partners, and the White House Council on Native American Affairs (WHCNAA) to deliver opportunities and investments to Indian Country. This coordination includes discussion regarding the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL), is providing several resources and the opportunity to improve services in every Tribal community and advance self-determination to Tribes.

Timely approval of permitting and realty actions are critical to infrastructure investment in Indian Country. To this end, BIA recently announced an updated National Policy Memorandum (NPM-TRUS-44 A1) which streamlines the rights-of-way (ROWs) and business lease application process for projects funded by the American Rescue Plan Act and BIL, as well as Telecommunications and Renewable Energy Projects. This action advances the policy of the BIA to support Tribal Nations in exercising their sovereignty to govern their lands and pursue economic self-sufficiency, conservation practices, and climate resiliency. Specifically, this NPM provides clear direction to ensure that ROWs and business leases are expedited so there is no unnecessary delay in deploying critical infrastructure to Indian country. NPM Link: [https://www.bia.gov/sites/default/files/dup/assets/public/raca/national\\_policy\\_memoranda/pdf/npm-trus-44-a1\\_streamlining-rows-and-business-lease-applications-amendment-1\\_final\\_signed\\_508\\_0.pdf](https://www.bia.gov/sites/default/files/dup/assets/public/raca/national_policy_memoranda/pdf/npm-trus-44-a1_streamlining-rows-and-business-lease-applications-amendment-1_final_signed_508_0.pdf)

The Department is also supporting Tribes to confront legacy pollution from oil and gas development. The BIL provides \$150 million for Tribal well plugging, remediation and restoration. Tribes may seek funding to undertake the well plugging or may request that the Secretary administer the well plugging on behalf of [“in lieu of”] the Tribe. The \$150 million will be distributed over multiple funding opportunities, with an initial \$50 million available in fiscal year 2023. Up to \$50 million is available through the 2023 award cycle for three categories of projects:

- Tribal Implementation Grants: Funds are available to plug, remediate and reclaim orphaned well sites on the Indian Tribe’s respective trust or restricted lands.
- Program Development Grants: Funds are available to assist Tribes in the development or administration of a Tribal program to carry out any activities associated with plugging, remediating, and/or reclaiming orphaned well sites on the Indian Tribe’s respective trust or restricted lands.
- “In Lieu Of” Funding: Tribes have the option to request the Department to administer and carry out plugging, remediation and reclamation activities on the Tribe’s behalf.

**Questions for the Record**  
**Senate Committee on Indian Affairs**  
**Hearing on the Future of Tribal Energy Development**  
**March 29, 2023**

**Question 2: How will you support Tribes that are seeking to develop all of their energy reserves, including their oil trust resources?**

**Response:** The BIA offers several programs that support Tribes' efforts to develop all types of energy resources, including renewables, biomass, distributed generation, hydropower, minerals, and oil and gas. Within the BIA, DEMD administers the Energy and Mineral Development Program (EMDP) annual competitive grant program, which provides financial assistance to Tribes for the evaluation and development of energy and mineral resources on their lands. Oil and gas development is an eligible resource for funding under this program. The EMDP helps Tribes achieve economic independence through development of energy resources. Created in 1983, the DEMD provides technical advice to Tribes with respect to the location, definition, and development of renewable and traditional energy and minerals. The DEMD also helps Tribes create sustainable economies through environmentally sound development of their energy and mineral resources.

Established in 2016, the IESC is a multi-agency office that utilizes the services of the BIA, Bureau of Land Management, Office of Natural Resources Revenue, and Bureau of Trust Funds Administration. Each bureau plays a key role in the management of mineral and renewable energy resources. The increased coordination and support between these key bureaus has alleviated many of the administrative burdens and backlogs that were previously present and affecting Tribes and individual beneficiaries' development of their trust mineral and energy resources. The IESC continues to facilitate coordination between these key bureaus and as a result all bureaus are more responsive to the needs of the Tribes. As a result of the IESC's efforts, the Department has collected and disbursed approximately \$1.795 billion in oil and gas royalties to Tribes and Indian individuals as of July 26, 2023.

The IESC and DEMD have worked with the Assistant Secretary – Indian Affairs' Office to develop the Renewable Energy Accelerated Deployment Initiative for Indian Country (READI), which aims to inform decision makers of Tribal visions and needs regarding renewable energy development on Indian lands through Tribal engagement. READI is underway and scheduled for implementation by December 2023. READI will provide five hybrid virtual/in-person and two virtual-only listening sessions, the first of which took place on August 21, 2023. READI will receive input from Tribes on their future plans for renewable energy development and associated needs. At the end of the listening sessions, READI will provide a compilation report for decisionmakers' use to allocate resources and program development.

**Question 3: What steps are being taken to help Tribes access and navigate federal programs?**

**Response:** In addition to the EMDP, the BIA also administers the Tribal Energy Development Capacity (TEDC) grant program. This is a competitive, discretionary grant program that provides Tribes with the necessary resources to develop or enhance Tribal policies, codes, regulations, or ordinances for energy resource development. The TEDC and EMDP programs have collectively provided grant funding and technical assistance to over 200 Tribes via over 600

**Questions for the Record**  
**Senate Committee on Indian Affairs**  
**Hearing on the Future of Tribal Energy Development**  
**March 29, 2023**

separate projects since its establishment in 1983. Since 2011, the programs have granted \$40 million.

The Department also held two consultations with Tribes regarding the funding from the Inflation Reduction Act (IRA) to understand the unique energy and electrification needs. To assist Tribes in navigating the implementation and award process for the BIL and the IRA, the Department has also coordinated with other federal agencies, such as the Department of Energy, Federal Emergency Management Agency, and Department of Agriculture.

The IESC has also worked with the Office of Environmental Policy and Compliance, Orphaned Well Program to administer grants and assistance to Tribes looking to remediate abandoned well sites within their land. This program will be distributing \$50 million in funds for 2023 and anticipates distributing \$100 million more in the next two years.

BIA is also coordinating with the Federal Permitting Improvement Steering Committee (FPISC) through a Memorandum of Agreement (MOA) to transfer funds for Tribes to support permitting for FAST 41 projects to BIA. Within the MOA, BIA will transfer one-time funds to Tribes on behalf of the FPISC. BIA will:

- Serve as a pass through as requested by the Tribes during Consultation;
- BIA Office of Trust Services (OTS) will serve as a point of contact (POC) to FPISC on initial transfer;
- BIA will provide support to Tribes in the distribution of the funds;
- OTS will serve as POC to the Government Accountability Office on the distribution of funds;
- OTS will coordinate with the BIA Regions and the Office of Self Governance for response when required.

Tribes also will be eligible for funding once the Tribal Environmental Review Improvement Fund (ERIF) goes live.

The Department remains committed to working with Tribes, our federal partners, and Congress to ensure the energy needs of Tribal Nations are met.



**Questions for the Record**  
**Senate Committee on Indian Affairs**  
**Hearing on the Future of Tribal Energy Development**  
**March 29, 2023**

**Questions from Senator Catherine Cortez Masto**

**I think workforce development is a crucial part of infrastructure, and I think it's an area that's especially important to tribes.**

**Question 1: Do you see this as a big barrier in native communities and what can we be doing with programs like the 477 program as it relates to infrastructure?**

**Response:** Many Tribal communities face unemployment that is higher than non-Tribal communities. Public Law 102-477, the Indian Employment, Training and Related Services Demonstration Act allows federally recognized Tribes and Alaska Native entities to combine federal grants implemented for certain purposes (25 U.S.C. § 3404(a)) into a single plan with a single budget and a single reporting system. That single plan, colloquially referred to as the “477 Program,” integrates employment, training, and related services based on Tribal goals and initiatives.

In 2022, the Department led a multi-agency effort to streamline the implementation of Public Law 102-477 to better support Tribal sovereignty through the negotiation of an updated Memorandum of Agreement (MOA). The Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Justice, Labor, Transportation, and Veterans Affairs each signed on to this updated MOA. The Department continues to work with each agency to ensure a uniform approach to supporting Tribal sovereignty and self-determination in the Tribal use of Public Law 102-477.

Public Law 102-477 may be used to build out infrastructure in Tribal communities. Tribes have used Public Law 102-477 to construct childcare facilities, do minor renovations, and obtain facilities for program services. Consolidation of “477” services and activities in one location reduces the Tribal need to manage multiple locations thus significantly reducing overhead costs. Congress can support the continued success of Public Law 102-477 by ensuring each agency supports Tribes who utilize the 477 Program when disbursing infrastructure funds.

Strong Congressional support for the Bureau of Indian Education (BIE) heightens the opportunity for American Indian and Alaska Native students to receive a quality education at 183 Bureau-funded elementary and secondary schools, located on 64 reservations in 23 states, two postsecondary institutions, and through higher education scholarships. The investment develops the workforce across Indian Country including for advancing infrastructure.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

OCT 17 2023

The Honorable Joe Manchin, III  
Chairman  
Committee on Energy  
and Natural Resources  
United States Senate  
Washington, D.C. 20510

Dear Chairman Manchin:

Enclosed are responses prepared by the Department of the Interior to questions for the record submitted to the Department's witness, Assistant Secretary for Insular and International Affairs Carmen Cantor, following her appearance at the July 13, 2023, hearing before your Committee on the *Compact of Free Association Amendments Act of 2023*.

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

Sincerely,

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

Enclosure

cc: The Honorable John Barrasso  
Ranking Member

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

**Questions from Chairman Joe Manchin**

**Question 1: I understand that some changes were made to ensure greater accountability and effectiveness in the use of U.S. economic assistance. How do these oversight provisions in the new Compact agreements differ from previous agreements?**

**Response:** The United States Government and our counterparts in the Freely Associated States (FAS) have negotiated robust and sensible terms of these agreements, particularly the accountability and oversight provisions in the Fiscal Procedures Agreement and the Compact Trust Fund Agreement with the Federated States of Micronesia (FSM), and the Compact Review Agreement, including its appendices, with Palau. As a result of that work, the negotiated terms and procedures governing both financial assistance and the Compact trust funds maintain strong U.S. oversight over every taxpayer dollar being proposed, reflecting the lessons we have learned over the past 35 years regarding what practices have facilitated meaningful oversight of, and accountability for, U.S. taxpayer funds.

With the FSM, we listened closely to their concerns related to the strict Compact assistance regime established in the 2003 as well as their growth in terms of grant management and compliance over the past 20 years. As a result, we reached agreements on fiscal procedures and overall reporting and governance that more evenly distribute pre-award and post-award reporting requirements for receiving the economic sector grants. This balance is intended to make the approval process more efficient and reliable to carry out essential services, especially in health and education. At the same time, there are measures to address any waste, fraud, or abuse through strong audit provisions, continued financial and performance reporting, and the ability to withhold funds for non-compliance after consultation to address issues.

Unlike the FSM and the Republic of the Marshall Islands (RMI), Palau's last agreement in 2010 provided for much less U.S. oversight. However in reaching an agreement this round, we implemented a similar philosophy to focus on pre-award and post-award reporting requirements, strengthen audit provisions, and include the ability to withhold funds for non-compliance.

Although we are still negotiating with the RMI, we are working to complete a Fiscal Procedures Agreement and a Compact Trust Fund Agreement similar to the FSM's, understanding that we will need to accommodate additional projects unique to the RMI, as described in the memorandum of understanding (MOU) we signed early in the year.

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

**Question 2: GAO has reported multiple times on the unsustainability of the current Compact trust funds with the Federated States of Micronesia and Republic of the Marshall Islands. It has recommended addressing problems with the funds' structure and procedures that may leave the funds unable to disburse any payments to the countries. How do the new agreements address those structural problems?**

**Response:** The Administration's proposed Compact of Free Association (COFA) Amendments Act of 2023 addresses previously identified sustainability concerns by (i) modifying the distribution policy to be a percentage of the Compact trust fund balance and (ii) increasing contributions, both of which were recommendations provided by the Government Accountability Office (GAO) to counteract the risk of the Compact Trust Funds becoming sinking funds. Additionally, transitioning the distribution policy to a sustainable-based percentage of a historical average of the Compact Trust Fund balance also addresses concerns with annual distribution volatility and budgetary predictability, as it provides a more stable year-to-year distribution than the existing language's earnings-based distribution policy.

**Question 3: On June 23, Senator Barrasso, Congressman Westerman, Congressman Grijalva and I sent a letter to Secretary Haaland to express our concerns related to the oversight of the Bikini Resettlement Trust Fund. The United States has long accepted responsibility for compensation owed to the Marshall Islands, especially the people of Bikini Atoll, from harm arising from the nuclear testing program which the United States conducted in the Marshall Islands between 1946 and 1958. In recognition of our responsibility, Congress established a trust fund to serve that specific purpose. I appreciate your response to our June 23 letter, which we received on July 11. However, the fact remains that Congress appropriated nearly \$110 million in taxpayer money for a trust fund to help resettle and rehabilitate Bikini Atoll, with certain specified exceptions, and we now understand that almost all of the corpus of that trust fund has been spent on other things. In light of the recent depletion of the Bikini Atoll Trust Fund in the Marshall Islands, how do the new agreements protect their funds from similar mismanagement?**

**Response:** The full and proper oversight and accountability for all grants funded pursuant to the Compacts and U.S. contributions to COFA Trust Funds has always been a priority in the negotiations to amend the Compact with each FAS. Understandably, the FAS have been pushing for greater autonomy and discretion over all assistance, particularly out of the Compact Trust Funds; however, as this question implies, it is critical that the Administration find the right balance to ensure transparency, accountability, and oversight in the implementation of the funding we are requesting from Congress. This includes a decisive and immutable role for the United States government in the management of the FSM and RMI Compact Trust Funds, as well as mutually agreed terms by which FSM and RMI governments may reliably withdraw and properly use distributions – balancing sustainability with current needs. We believe we have done that with the FSM and look forward to working with RMI based on that model.

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

**Question 4: Your July 11 letter regarding the Bikini Resettlement Trust Fund stated that the Department has “engaged” with its Office of Inspector General regarding purported mismanagement of the Fund following the 2017 Rescript. Has the Department requested a formal investigation? If not, please explain the nature of your engagement with the Inspector General’s office.**

**Response:** The Department has provided relevant information and documents to the Office of Inspector General (OIG) for the OIG’s review and analysis and so it can determine the appropriate next steps.

**Question 5: Is there a requirement that the three U.S. members on the Joint Economic Management Committees concur in a U.S. position before there is a vote of the Committee?**

- **Question 5a: If not, wouldn’t this pose a problem by not having a single U.S. policy on the use of U.S. assistance?**
- **Question 5b: If so, which U.S. department and official will have the authority to resolve any internal disputes regarding U.S. policy?**

**Response:** There is not a formal requirement but, in practice, the U.S members have in the past voted en bloc on all policy and fiscal issues. As is standard for matters involving equities from multiple departments, there is an interagency process to settle any policy disputes within the United States Government prior to a vote by the Joint Economic Management Committees.

**Question 6: Please describe your Department’s Compact implementation team and staff in order to administer and oversee Compact economic assistance.**

**Response:** The Department currently has 6 full-time staff dedicated to the management of Compact of Free Association grant funds, including a staff member stationed in the FSM and another in the RMI. Additional team members provide leadership, including chairing joint economic management and trust fund committees, as well as budgetary support, communications, and administrative services.

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

**Question 7: How will the Compact economic assistance be protected from the long-term impacts of inflation? Please describe for the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands.**

- **Question 7a: Why was a partial inflation adjustment selected and not a full inflation adjustment for the Republic of Palau and the Republic of the Marshall Islands?**

**Response:** The U.S. and the FAS have agreed to assistance packages for the next 20 years that contain prescribed mandatory funding amounts. We agreed to remove an unknown and unpredictable inflationary variable in order to facilitate long-term US and FAS budgetary planning. The FSM requested, and the U.S. agreed, to allow limited Compact Trust Fund withdrawals to be used as additional sector-grant support to mitigate any future loss of real value of the economic assistance to public service delivery over the 20-year period. These withdrawals would be pursuant to an agreed-upon formula and are capped to ensure that the withdrawals are sustainable and that the Compact Trust Fund does not become a sinking fund.

Regarding the Compact Review Agreement (CRA) with the Republic of Palau, the 20-year schedules of economic assistance include an agreed-upon 2 percent annual adjustment to annual grant assistance, infrastructure project funding, and payments into the Infrastructure Maintenance Fund, as laid out in Article 1 of the CRA.

**Question 8: What's the intent behind section 106(b) and 106(e) of the Administration's Compact legislative proposal?**

**Response:** Section 106(b) is intended to provide necessary authorities to the agencies carrying out the federal programs and services covered by the Federal Programs and Services Agreements, other than the U.S. Postal Service, which is addressed separately, to continue to carry out those services. It is also intended to provide authority to allow these agencies to use their available funds for these purposes. It clarifies that these agencies shall use their own funds for these purposes, and not the funds appropriated in section 107, again, excluding USPS, which is specifically included in section 107.

Section 106(e) is intended to provide similar clarity for services and programs that have been otherwise available to the FAS to the extent that those services and programs continue to be available to State and local governments of the United States, unless Congress provides otherwise, as well as programs in section 105 that are provided exclusively under domestic law.

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

**Question 9: Why is section 101(d) of the Administration’s Compact legislative proposal necessary if section 106(d) provides for the continuation of federal programs and services?**

**Response:** We would like to avoid relying on the stopgap language if possible, which would not include the full protections and provisions of the Federal Programs and Services Agreements (FPSAs), once new FPSAs enter into force. However, we have included the stopgap language in the event that agreement on new FPSAs is not possible in time to avoid a disruptive gap in services. Section 101(d) is intended to reduce the notification requirement to Congress before amendments to the FPSA and other agreements can take effect from 90 days to 30 days. This is intended to give the United States and the Freely Associated States the opportunity to complete negotiations on the FPSA and transmit the amended FPSAs to Congress in time so that there is no gap in services.

If new agreements extending the programs and services provided under the current FPSA cannot be reached in time, Section 106(d) is intended to provide authority for federal agencies to continue providing services that would otherwise be provided under the FPSAs. Because this stopgap authority would be exclusively under domestic law and not be covered by a bilateral FPSA, we are including authority for agencies to place terms and conditions on these programs and services. This would allow these agencies to require similar oversight and/or access as is provided under the current agreements.

**Question 10: Please provide 3 updated compilations of the Compacts of Free Association with the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau.**

**Response:** An overview of major provisions for the proposed agreements with Palau and FSM are provided. The United States and RMI are continuing to negotiate; thus there is no overview for RMI.

***Palau Overview***

- Direct economic assistance to Palau would total \$889 million.
- Infrastructure grants would continue to be made to Palau, subject to requirements regarding reporting, uses, and other oversight provisions as described in the 2023 CRA, including its appendices.
- The United States would provide \$100 million to strengthen the Section 211(f) Fund, but the United States can reclaim some or all of the \$100 million contribution under a new accountability measure if Palau grossly misuses the fund or if Palau violates two specific defense and security provisions in the Compact.
- A new provision provides \$60 million to assist Palau in paying down debt it incurred during the pandemic.

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

- Strong oversight of annual direct economic assistance includes planning requirements that include the provision of reports required under Palau law and the ability of the United States to determine grant terms and conditions.
- A revised requirement for annual bilateral economic consultations will continue to keep the U.S.-Palau relationship as a high priority while permitting easier grant management.

The United States and Palau are negotiating the continuation of the provision of certain U.S. federal programs and services to Palau under an existing Federal Programs and Services Agreement, which expires on September 30, 2024.

***FSM Overview***

- Direct economic assistance to the FSM would total \$3.3 billion.
- Direct economic assistance would support sectors currently supported under the 2003 agreement with an emphasis on infrastructure and infrastructure maintenance.
- The Compact Trust Fund would allow certain types of distributions over the next 20 years, but distributions would be capped by formulas with the overall goal of preserving the long-term sustainability of the fund.
- Oversight and accountability for U.S. taxpayer funds would be maintained by preserving an oversight role for the Joint Economic Management Committee (JEMCO) and U.S. Government control, while giving the FSM a greater voice on the JEMCO.
- The proposed agreement would streamline, but generally maintain, FSM reporting and audit requirements.

The United States and the FSM are negotiating the continuation of the provision of certain U.S. federal programs and services to FSM under an existing Federal Programs and Services Agreement, which expires on September 30, 2023.



Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

**Questions from Ranking Member John Barrasso**

**Question 1: It is my understanding that the Administration is continuing to work with the Republic of the Marshall Islands toward an eventual agreement.**

- a. Please explain what the Department of the Interior will do if an agreement is not reached with the Republic of the Marshall Islands.**
- b. Has the Department begun to develop contingency plans for this outcome?**
- c. If so, please share these with the Committee.**

**Response:** If the U.S. and RMI do not reach agreement, the Department of the Interior will work within the parameters of the existing statute to minimize disruption to public service delivery in the RMI. In particular, the Trust Fund Committee for the Trust Fund for the People of the Republic of the Marshall Islands, which consists of a majority U.S. appointed membership, is currently working to adopt appropriate distribution policies and fiscal procedures in case the need for distribution from the Compact Trust Fund arises.

**Question 2: As I mentioned in my opening statement, citizens of the Freely Associated States serve in the United States Armed Forces at high rates and with distinction. The Administration's proposal includes provisions that would ensure these veterans receive the care that they have earned.**

- a. Please explain how the Department of the Interior will work with other agencies to ensure these veterans receive the care that they have earned.**

**Response:** The Compact of Free Association Amendments Act of 2023 would give the Secretary of Veterans Affairs broader authority to provide services to veterans residing in the FAS. The Department of the Interior will work with our interagency partners to achieve the intent of the legislation by improving veterans access to the benefits they have earned.

**Question 3: The Department of the Interior has provided law enforcement technical assistance and training to the Freely Associated States under the Compacts.**

- a. Please explain the activities of this program and how this program has been successful at achieving the goals of the program.**

**Response:** The Department of the Interior does not have a program dedicated to law enforcement technical assistance and training to the Freely Associated States under the

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

Compacts. However, the authorization provided allows U.S. agencies to engage with our FAS partners on such issues when mutually beneficial.

**Question 4: Section 105(a)(3) of the Administration’s proposal amends the Public Health Service Act (42 U.S.C. 201(f)) by striking “the Trust Territory of the Pacific Islands” and inserting instead “the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.”**

**a. Does this change impact the Commonwealth of the Northern Mariana Islands?**

**Response:** No, it does not, the Administration's proposal would simply update the terminology to name the entities that were previously covered by the term "Trust Territory of the Pacific Islands"

**Question 5: Please provide the current balance of the following Trust Funds: Bikini Resettlement Trust Fund, Rongelap Resettlement Trust Fund; Section 177 Trust Fund for the People of Bikini; Section 177 Trust Fund for the People of Enewetak; Section 177 Trust Fund for the People of Rongelap Section 177 Trust Fund for the People of Utrik; and the Enjebi Community Trust Fund.**

**Response:** The current balance of the Bikini Resettlement Trust Fund is approximately \$99,120. We are not aware of the balances of the other listed funds. The administration of the Section 177 Trust Funds is not within the authority of the Department and we would defer to the Department of State with regard to questions about the funds.

**Question 6: The Administration’s proposal seeks to end a planting and agricultural maintenance program on Enewetak.**

- a. Please describe the results of the program to date.**
- b. Why is the Administration seeking to end this program?**
- c. Were the views of the Department of Agriculture consulted?**

**Response:** The Enewetak program funds the purchase and distribution of food commodities. In addition to the agriculture station on Enewetak, the program supports administrative operations on Majuro and the operation and maintenance of the field vessel that services Enewetak. The program’s mandatory appropriation ends in 2023 along with other economic assistance provisions of the 2003 Amended Compacts. The Enewetak program is managed by the Department of the Interior. The Administration plans to propose a new sector in agreement with

Questions for the Record  
Senate Committee on Energy and Natural Resources  
Hearing on Compact of Free Association  
Amendments Act of 2023  
July 13, 2023

the RMI government, which would focus on nutrition (food delivery and provision) and community support for the residents of atolls with significant barriers to arable land and food sustainability, including Enewetak.

**Question 7: The Administration’s proposal seeks to end the Communicable Disease Control Program that was originally authorized in Public Law 108-188. Why is the Administration seeking to end this program?**

**Response:** The 2003 Amended Compacts provided significant funding that was used for the delivery of health services. Compact Health Sector grants were used in part to address communicable diseases and will be once again under the proposed 2023 Amendments.

Additionally, current Department staff have no knowledge or record of the Communicable Disease Control Program as referenced. HHS, including CDC, has authorities outside of the Compact that supports the RMI in combating communicable disease impacts through various HHS programs.

**Question 8: Section 105(a)(5)(D) of the Administration’s proposal seeks to give very broad authority to the Department of Agriculture.**

- a. Please explain the intent behind this provision.
- b. To what extent did the Department of Agriculture play a role in drafting this language?
- c. Please define “food programs” as used within Section 105(a)(5)(D) of the Administration’s proposal.

**Response:** The Department of the Interior defers to that Departments of Agriculture and State to respond to this question.



# United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

OCT 27 2023

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

Dear Chairman Tiffany:

Enclosed are responses prepared by the Department of the Interior to questions for the record submitted to the Department's witness, Mr. Jeffery Rupert, Director, Office of Wildland Fire, following his appearance at the May 16, 2023, oversight hearing entitled *Examining the Challenges Facing Forest Management, Wildfire Suppression, and Wildland Firefighters Ahead of the 2023 Wildfire Year*. We apologize for the delay in our response.

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

Sincerely,

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

Enclosure

cc: The Honorable Joe Neguse  
Ranking Member

Questions for the Record  
House Natural Resources  
Federal Lands Subcommittee  
Hearing Examining the Challenges  
of the 2023 Wildfire Year  
May 16, 2023

**Questions from Chairman Westerman**

**Question 1: 1. Director Rupert, I think that one of the biggest components of addressing this wildfire crisis is transparency in the amount of fuels reduction treatments actually being accomplished. Despite the fact that DOI is statutorily obligated to report its annual hazardous fuels reduction treatments to Congress annually, your agency has failed to do so and has not publicly posted this information anywhere. Attempts to get this information have gone unanswered for months.**

- a. Why is DOI failing to properly report its hazardous fuels reduction treatments to Congress despite being statutorily obligated to do so?**

**Response:** The Department of the Interior (DOI) will ensure that annual fuels reduction accomplishments are directly reported to Congress. Fuels management accomplishments dating back to 2003 are posted online and are publicly available on the Forest and Rangelands website. Additionally, DOI has updated its hazardous fuels webpage to include hazardous fuels accomplishments for the past five years.

- b. When does the agency plan to come into compliance with the law?**

**Response:** DOI will ensure that fuels management accomplishments are included in DOI's Wildland Fire Management program annual budget justifications that are submitted to Congress. DOI is also committed to ensuring that its prior year fuels management accomplishments are up to date and posted on DOI's Wildland Fire Management website. Fuels management accomplishments dating back to 2003 are posted online and are publicly available on the Forest and Rangelands website at the following URL:

<https://www.forestsandrangelands.gov/documents/resources/reports/2022/doi-fs-fuels-accomplishments-fy2003-2022.pdf>. Additionally, DOI has updated its hazardous fuels webpage (URL: <https://www.doi.gov/wildlandfire/fuels>) to include hazardous fuels accomplishments for the past five years..

- c. How many acres of land did DOI treat last year to reduce hazardous fuels?**

**Response:** The Department completed a total of 2 million acres of fuels management treatments in 2022. Data for 2023 are being finalized.

**Question 2: Does the Bureau of Land Management's "Conservation and Landscape Health" rule recognize that active forest management is conservation?**

**Response:** Under the proposed rule, management decisions will remain subject to local resource

management planning processes, developed in collaboration with local communities, land users, Tribal Nations, and State and local governments. The rule does not specifically identify which land management techniques are compatible with conservation, as those decisions will be made locally and through resource management planning processes. That said, active forest management—a term of art typically meaning thinning, harvesting, and prescribed burning of forest resources—can help shape change in a forest system that may contribute to conservation goals and promote landscape health and resilience, where local conditions dictate. In this way, active forest management can also be a form of restoration, consistent with the definition of conservation in the proposed rule.

**Question 3: In briefings between Committee staff and BLM staff, it has been made clear that there is a difference in the way BLM is defining conservation broadly versus how it is defining conservation for the purposes of conservation leases. Can you please explain the discrepancy between these definitions?**

**Response:** The definition of conservation in the proposed rule is broader than the type of conservation actions that are currently proposed for conservation leases. The definition of conservation in the rule is “maintaining resilient, functioning ecosystems by protecting or restoring natural habitats and ecological functions.” The definition encompasses a broad set of actions. In the section defining conservation leases, a conservation lease could only be issued for either restoration or mitigation. The BLM welcomes public comment on all aspects of the proposed Public Lands Rule, including the definition of conservation and the approach to conservation leasing.

**Question 4: The Committee has heard concerns that Tribal firefighters operating under "638" contracts have not been considered federal firefighters and have not received the same pay raises federal firefighters received under the Bipartisan Infrastructure Law. What is the Department of the Interior doing to address this pay parity issue?**

**Response:** The Bipartisan Infrastructure Law was clear in its direction “to increase the base salary of a Federal wildland firefighter...” Interior recognizes the important contributions of Tribal wildland firefighters to interagency response efforts. To ensure that their salaries are on par with federal firefighters’ salaries, Interior set aside \$24 million this fiscal year to increase Tribal firefighters’ base salaries. We have also included \$12 million in the President’s FY 2024 Budget request for Tribal firefighter pay. Additionally, Interior completed a series of formal Tribal consultations to help determine the number of Tribal firefighting personnel. This information is helping BIA determine how much funding to provide each Tribal nation for them to provide pay supplements to Tribal firefighters.

**Question 5: Can you provide information about the number of total permits issued by DOI on an annual basis? Can you also breakdown this information to include the category/type of permit these all fall under?**

**Response:** The Department and its bureaus issue a multitude of permits and use authorizations for a myriad of purposes. For example, the U.S. Fish & Wildlife Service issues permits under various wildlife laws and treaties that enable the public to engage in legitimate activities that would otherwise be prohibited by law. The National Park Service issues permits for activities in National Parks including recreation, camping, special uses, and commercial filming or photography, among others. The Bureau of Ocean Energy Management issues permits, authorizations, and approvals for activities on the Outer Continental Shelf including renewable and conventional energy production and other resource uses. The Bureau of Land Management issues permits for use of the Public Lands for purposes including recreation, grazing, and renewable and conventional energy production, and issues rights-of-way for the location of infrastructure such as pipelines, electric transmission lines, and communication equipment. One of the more commonly discussed permits are Applications for Permits to Drill (APDs) on oil and gas leases administered by the BLM. Information about the BLM's APD processing, including approval numbers, can be found at the following website:

<https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/permitting/applications-permits-drill>

Permits are administered and processed across the Department using a variety of different systems, and issuance information is not aggregated or centrally reported.

**Question 6: What effects do prior fuels reduction treatments have on wildland firefighting strategy?**

**Response:** Fuels treatment effects on firefighting operations and tactics can vary greatly based on the design and intended application of each fuels treatment. This can range from:

- Providing a safety zone, which affords firefighters a safe location to defend or, if necessary, retreat to.
- Reducing flame lengths, which supports efficient suppression (such as along a linear fuel break).
- Allowing firefighters to rely on less intensive suppression methods and thus, reduce damage to natural and cultural resources. This also allows firefighters to contain a fire in a safer manner rather than conducting suppression operations in steep and hazardous terrain.

**Question 7: Are areas that received prior fuels reduction treatments considered more safe or less safe compared to untreated areas when evaluating where to send wildland firefighters battling a wildfire?**

**Response:** The safety of our wildland firefighters and the public is our first priority, and strategic, effective fuels treatments are one of the best actions we can take to protect them. The previous response provides additional detail.

**Question 8: DOI's testimony states that the agency plans to employ 5,800 federal and 500 Tribal wildland firefighting personnel this year.**

**a. Of this total, how many federal and Tribal firefighting personnel has the agency hired as of May 16, 2023?**

**Response:** This past fire year, DOI employed a total of more than 5,600 wildland fire management personnel. We are working with the Tribes to determine their hiring totals for the year. We expect that level to be consistent with prior years, which total approximately 800 Tribal wildland firefighters. Hiring is ongoing to ensure that wildland fire management needs are addressed on a year-long basis.

**b. What hiring events does the agency plan to conduct for the remainder of the year to hire additional firefighting personnel?**

**Response:** The majority of Interior's hiring is conducted in the Fall and Spring. The bureaus conduct different hiring events throughout the year to help with recruitment efforts. Most of these hiring events occur at the local level, but regional and national level hiring events have also been successful. Interior is integrating additional hiring events into the Interior Wildland Fire Recruitment Strategy, with one more event tentatively planned in 2023.

**c. What effect, if any, is DOI seeing on the expiration of bonuses provided under the Bipartisan Infrastructure Law on firefighter retention and recruitment?**

**Response:** Interior has received positive feedback from wildland firefighters on the temporary pay supplements authorized and funded by the Bipartisan Infrastructure Law (BIL). They say that the additional pay is making significant differences in their lives, encouraging some to return to federal employment. However, if a long term pay solution is not enacted, not only will we lose any positive recruitment and retention trends resulting from the BIL supplement, but we would expect recruitment and retention trends to decline below pre-BIL levels. The BIL supplemental payments are expected to end in November, when DOI's BIL funding for supplemental payments is exhausted and the current Continuing Resolution, which includes temporary authority to continue the supplemental pay to firefighters, expires. The Administration continues to urge Congress to authorize permanent, comprehensive pay reform for federal wildland firefighters.

**Question 9: What role does the use of aerial fire retardant play in DOI's fire suppression operations?**

**Response:** Aerially delivered fire retardant is an important part of an integrated firefighting strategy and an essential tool that supports ground-based firefighting resources. Fire retardant chemicals reduce wildfire intensity and rate of spread. This aids in decreasing wildland firefighter risk, enabling safer fireline construction, and providing firefighters a strategic and tactical advantage to protect landscapes, resources, and people.

**Question 10: What would be the agency's projections on the upcoming fire year if the agency could no longer use aerial fire retardant?**



**Response:** Fire retardants contain fertilizer salts that change the way vegetation burns, plus surfactants that help water stick to vegetation and reduce evaporation times. This typically slows fire behavior, providing safer suppression opportunities for wildland firefighters. While fire retardant must be used in conjunction with ground fire suppression activities, if the interagency wildland fire community is prevented from using aerially delivered retardant, wildfire suppression abilities will be significantly impacted. Based on the U.S. District Court ruling in Montana, DOI will continue to be able to use aerially delivered retardant. We are working with the USDA and the Environmental Protection Agency to attain a Clean Water Act permit to come into compliance with the law.

**Question 11: In light of the new inventory of mature and old growth forests, can you please provide information about how many acres of BLM land that meet your new mature and old-growth definition framework have burned in wildfires in the last ten years?**

**Response:** The mature and old-growth inventory published on April 20, 2023, was based on Forest Inventory and Analysis (FIA) plots and used the most recent measurement for each plot. The inventory did not look at multiple measurements of the same plots to determine gains and losses of mature or old-growth forests from wildfire. The BLM is working with the Forest Service (FS) to analyze what changes have occurred and the causal factors affecting mature and old-growth forest cover for the threat assessment section of Executive Order 14072 (EO). The agencies are using current and past measurement in the FIA data and are working to report the results in the next phase of the EO published results.

**Question 12: Why was the inventory of mature and old-growth forests limited to Bureau of Land Management and Forest Service forests, and not to the other federal agencies that manage forests like the National Park Service and the Fish and Wildlife Service?**

**Response:** The interagency team followed the specific language in the Executive Order (EO) limiting the inventory to BLM and FS lands.

**Question 13: How much BLM and DOI staff time was used to develop the mature and old-growth inventory?**

**Response:** The BLM did not specifically track employees' time related to the EO.

**Question 14: Why is it important to manage forests to have a diversity of age classes?**

**Response:** A range of age classes across the forest is critical to maintaining sustainable management of timber and other forest resources, and promoting long-term resource availability and economic/community stability. A diversity of age classes facilitates ecosystem biodiversity as some species have specific forest succession requirements. Resilience is also improved by landscape level age-class diversity by mitigating fire spread and severity, and insect and disease pathogen spread. Additionally, different forest stages provide differing carbon storage and uptake rates. For example, early successional forests sequester carbon at faster rates whereas old forests contain large quantities of stored carbon but reduced rates of carbon uptake.

**Question 15: Can you please explain the importance of early successional forests?**

**Response:** Early successional forests can provide periods of high biological diversity prior to tree canopy closure, habitat for early seral dependent species, and increased nutrient cycling and soil development when compared to closed canopy forests. Early succession is also an important stage of forest lifecycle development because it provides spatial and structural diversity of forest cover in a landscape. Additionally, forest floor plants that grow under open canopy and canopy gap conditions provide important habitat and forage (pollen and nectar sources) for pollinators.

**Question 16: Is the term "mature forest" a recognized term in the scientific practice of forestry?**

**Response:** Yes, the term "mature forest" is recognized in scientific practice, although not consistently. The Society of American Foresters (SAF) provides a definition of mature as: "of trees or stands pertaining to a tree or even-aged stand that is capable of sexual reproduction (other than precocious reproduction), has attained most of its potential height growth, or has reached merchantability standards – note within uneven-aged stands, individual trees may become mature but the stand itself consists of trees of diverse ages and stages of development" (SAF Dictionary of Forestry 2018). In addition to the SAF definition, the Northwest Forest Plan and related Resource Management Plans defined "late successional" starting at the age 80 years for a significant portion of plan areas. The BLM believes that term late succession and mature have synonymous intent.

**Question 17: In the BLM and Forest Service's report on old growth, the report states that "narrative frameworks" are going to inform the "policy and practice of forest management" for old growth. The report also includes the following quote: "The role of place attachment or identity, meaning "the symbolic importance of a place as a repository for emotions and relationships that give meaning and purpose to life" may also be particularly relevant in our understanding of how people relate to and value old-growth forests."**

**Is the BLM planning to manage old growth forests based on vague concepts like "place identity" instead of scientific forest management practices?**

**Response:** The BLM recognizes that the concept of old-growth forests includes both scientific understanding of ecological processes and social values attributable to forest condition. The Mature and Old Growth inventory focuses exclusively on scientific and measurable attributes available in the FIA data set even though more nuanced social aspects are included in some regional definitions. Evaluation of other aspects of old-growth is beyond the scope of the national inventory and is more appropriately handled in the BLM's land use planning process and individual project planning where local input can be incorporated into on-the-ground management decisions. The BLM is currently seeking public input on what policies might inform mature and old-growth forest management in its proposed Conservation and Landscape Health Rule (88 FR 19583).

**Question 18: How much of the direct work at the BLM unit level is planning and assessment to include the preparation of environmental review documents under NEPA?**

**Response:** The BLM payroll and financial management system does not provide information at that level.

**Question 19: How much did DOI spend last year on planning or environmental review costs for meeting the requirements of applicable laws generally?**

**Response:** The Department's financial management system does not provide information at a sub-allocation level that would show costs for only planning and environmental review. Planning and environmental review work, and associated costs, are conducted by a combination of staff and contractors that are often inclusive of work other than planning and environmental review.

**Question 20: How many staff hours did DOI spend last year on planning or environmental review costs for meeting the requirements of applicable laws?**

**Response:** The Department's payroll and financial management system does not provide information at a level showing only the direct work associated with planning or environmental review costs, and staff are classified in positions with occupational series that include duties beyond planning and environmental review.

**Question 21: The Forest Service has provided regular, public updates regarding the implementation of its 10-year strategy and the investments made under such strategy. DOI has not made similar information available. When does DOI plan to publish a status update regarding its 5-year strategy?**

**Response:** The Department provides regular public-facing updates on BIL-funded projects supporting the Wildfire Risk Five-Year Monitoring, Maintenance, and Treatment Plan. Press releases are posted on the Department's websites and can be found at <https://www.doi.gov/wildlandfire> and <https://www.doi.gov/pressreleases>.

**Question 22: How many communities are adjacent to DOI lands that are at risk of experiencing a wildfire that would destroy structures were it to spread from DOI lands to the nearby community?**

**Response:** There are a total of 138 communities that are in direct proximity to Interior lands where there is a risk of a destructive wildfire spreading into that community. This is approximately 14 percent of all communities as tracked by the U.S. Census Bureau. Many of these communities lie within high-risk Firesheds where, if a wildfire starts, there exists a high potential for it to spread into a community's wildland urban interface and developed areas. Other communities are within areas of high to very high wildfire hazard potential levels where it would be difficult to contain a large wildfire and prevent it from spreading into an adjacent community.

**Question 23: How has DOI utilized direct hire authority for wildland firefighters? Has this been a helpful tool for the agency?**

**Response:** Direct Hire Authority (DHA) is a preferred hiring authority for all Interior positions that are on the DHA approval list. Interior hired more than 1,400 positions with this authority in 2022. We still recruit most positions competitively on USAJOBS, but DHA provides greater opportunities to expediate hiring when needed by hiring qualified applicants without regard to 5 U.S.C 3309-3318, 5 CFR part 211, or CFR part 337, subpart A. This hiring authority essentially eliminates the rating and ranking process and is a very helpful tool for hiring wildland firefighters in an expeditious manner, particularly for our entry level positions.

**Question 24: What is the average amount of time it takes DOI to hire a wildland firefighter without direct hire authority?**

**Response:** Direct Hire Authority facilitates Interior efforts to recruit and select an average of nearly 30 days faster than traditional hiring methods. However, as illustrated in the table below, the difference in the mode (i.e., the most commonly occurring number of days) shows that overall, DHA offers a more efficient method to reduce hiring time by approximately 58 days.

**Wildland Firefighter Hiring – DHA vs. Non-DHA Hiring**

<b>DHA vs. Non-DHA Hiring</b>	<b>Mean</b>	<b>Median</b>	<b>Mode</b>
<b>Number of days required to hire without DHA</b>	149	139	132
<b>Number of days required to hire with DHA</b>	120	115	90

\*Data analyzed from fiscal year 2020 to present

**Question 25: What is the average amount of time it takes DOI to hire a wildland firefighter with direct hire authority?**

**Response:** The mean time to hire a wildland firefighter with direct hire authority is 120 days, as indicated in the Table included in the previous response.

**Question 26: What is the process for federal wildland firefighters who wish to switch their employment from DOI to the Forest Service, or vice versa?**

**Response:** Wildland fire management operates in an interagency environment that allows for simplified employment transfers from Interior to the USDA Forest Service. The National Wildfire Coordinating Group (NWCG), comprised of interagency personnel, standardizes wildland fire position qualifications, which fosters simplified positional crosswalks between federal and state wildland fire agencies. NWCG qualification standards apply to both Interior and USDA Forest Service, and most employment agency transfers occur competitively through USAJOBS.

**Question 27: Has DOI conducted an inventory on any underutilized buildings on DOI lands that could be converted into housing for wildland firefighters if the necessary deferred maintenance is addressed?**

**Response:** The Department has not performed such an evaluation.

**Question 28: Are there any restrictions on using Great American Outdoors Act funding to address deferred maintenance on underutilized buildings on DOI lands that could be converted into housing for wildland firefighters?**

**Response:** The Great American Outdoors Act does not contain a restriction funds for facilities that could be utilized as housing for wildland firefighters.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

OCT 27 2023

The Honorable Joe Manchin III  
Chairman, Committee on Energy  
and Natural Resources  
United States Senate  
Washington, D.C. 20510

Dear Chairman Manchin:

Enclosed are responses prepared by the Department of the Interior to written questions for the record submitted to the Department's witness, Jeffery Rupert, Director, Office of Wildland Fire, following his appearance at the Committee's June 8, 2023, hearing entitled *The Federal Response to Escalating Wildfires and Reforms to Land Management and Wildland Firefighter Recruitment and Retention*. We apologize for the delay in our response.

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

Sincerely,

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

Enclosure

cc: The Honorable John Barrasso  
Ranking Member

### **Questions from Chairman Joe Manchin III**

**Question 1: The Forest Service recently increased the required number of rest days after fire deployments from 2 days to 3 days, citing a study that showed a 3-day break reduced sleep debt by 16% and improved firefighters' cognitive abilities over the fire season. However, the Department of the Interior continues to use a 2-day rest requirement. Why hasn't Interior increased the number of rest days to be consistent with the Forest Service?**

**Response:** This past summer, the Department of the Interior (Department) updated its post incident rest and recovery policy to provide employees who have completed a 14-day or 21-day assignment responding to a wildland fire or other hazardous incident a mandatory three days off. Employees who have completed assignments beyond 21 days are provided two mandatory days off prior to the 22<sup>nd</sup> day and three mandatory days off at the completion of the assignment. This policy update is consistent with the 2023 "Interagency Standards for Fire and Fire Aviation Operations" and will help mitigate the safety risks associated with extreme fatigue.

**Question 2: Section 5305 of the National Defense Authorization Act (NDAA, P.L. 117-263), which passed Congress in December last year, extended certain workers' compensation benefits to Federal wildland firefighters who are diagnosed with certain cancers. What steps are the Department of the Interior taking to ensure firefighters and their managers are adequately informed of this new provision of law?**

**Response:** The Department has broadly distributed and discussed information regarding the workers' compensation policy that was included in Section 5305 of the NDAA, including with Interior's Workers' Compensation Program (WCP), the Office of Human Capital, Interior's Workers' Compensation Council, and workers' compensation specialists throughout Interior who have received training on the policy. These efforts have equipped specialists to work directly with wildland firefighters to closely follow updated Office of Workers' Compensation Programs (OWCP) processes to ensure the best outcomes for the wildland firefighting workforce. This work includes tracking individual cases as Department personnel become aware of them to promptly assist wildland firefighters when necessary or when requested. A supporting internal communication strategy is also planned to inform firefighters and supervisors of new information, and provide mechanisms for additional support and guidance throughout the process.

In addition, the Department's Office of Wildland Fire began regular meetings with the Department of Labor, Interior's WCP, Interior agencies, and the USFS to ensure coordination, receive status updates and identify opportunities to further enhance and/or streamline the firefighter compensation process.

Questions for the Record  
Committee on Energy and Natural Resources  
Hearing on Wildland Firefighting  
June 8, 2023

**Question 3: In Fiscal Year 2022, Federal firefighters were eligible for a higher-than-normal federal employee pay cap. How many of your employees benefited from the higher-than-normal pay cap in fiscal year 2022?**

**Response:** Approximately 20 Interior employees exceeded the annual pay cap in fiscal year (FY) 2022. The Department is in the process of determining the number of wildland fire management employees that exceeded the annual pay cap in FY 2023. Given the year-round nature of wildfire, wildland fire personnel are asked to provide substantial wildland fire response for prolonged periods of time, which can include both domestic and foreign assignments. As a result, a number of employees may exceed the annual pay cap in any given year. This issue has been addressed on an annual basis through a congressional waiver process. The President's Fiscal Year (FY) 2024 Budget request contains several legislative proposals that address wildland firefighter pay, including an increase in the annual pay cap level with additional authority for a Secretarial waiver if specific criteria are met in any given year.



**Questions from Senator Mike Lee**

**Question 1: Most western US ecosystems are fire-dependent, meaning that for millennia, the vegetation and wildlife depended on periodic fire to maintain ecosystem integrity. Over the last century, aggressive and largely successful fire suppression has left Western forests increasingly vulnerable to the negative effects of large fires as they have become overgrown and overcrowded. In response to these large fire events, current forest management practices have focused on reducing fuels and tree density, but often only to levels inconsistent with the forests' conditions prior to the onset of aggressive fire suppression over the last century.**

**Are these artificial density metrics adequate for true tree resiliency and long-term, massive fire avoidance?**

**Response:** The Department's land management agencies utilize an expansive set of methods to reduce wildfire risk and improve wildfire resilience across landscapes. Appropriate fuels treatments methods are selected based on the vegetation, values-at-risk, fire behavior, and other characteristics specific to an area. Interior strives to reduce wildfire risk and improve wildfire resilience in both forested and non-forested landscapes, supporting the goals in the National Cohesive Wildland Fire Management Strategy. Management actions are developed and carried out in collaboration with federal and non-federal partners to address increasing wildfire impacts across landscapes in the United States.

The U.S. Geological Survey (USGS) pointed out in their Wildland Fire Science Strategic Plan (Circular 1471) that there are typically a complex set of factors affecting fire and post-fire risk, fire behavior and effects, and the effectiveness of treatments. Using Bipartisan Infrastructure Law (BIL) investments, the USGS is working with other Interior bureaus and other partners to improve fire and post-fire risk characterization and to improve the evaluation of treatment monitoring and effectiveness to understand how investments reduce risks and restore resilience.

**Question 2: There seems to be a stark difference between forest health on federal land compared to private and state-owned land. From your experience, why is this?**

**Response:** The Department manages over 450 million acres of land under a broad range of missions and mandates. The Department implements fuels treatments and other actions to address wildfire risk across both forested and non-forested landscapes. Land health conditions are one of several factors contributing to the potential for extreme wildfire events; other factors include proximity to communities, climate change, extreme weather events, drought, fuel moisture, invasive plants, and insect and disease infestation.

While land management approaches among federal, Tribal, and state land management agencies and private land owners can vary, perceived land health differences do not always equally translate to changes in wildfire effects and behavior. For example, understory thinning can be a very useful tool to increase forest health and reduce fire intensity in landscapes that evolved with

Questions for the Record  
Committee on Energy and Natural Resources  
Hearing on Wildland Firefighting  
June 8, 2023

high-frequency wildfires. However, many forests in areas with wetter climates and/or at higher elevations are naturally adapted to less frequent, high intensity wildfires. Mechanical thinning in these forests can reduce forest health and increase fire severity, particularly if prescribed fire treatments are not implemented afterwards to address the surface fuel increases resulting from the treatment.

While fuels treatments reduce wildfire risk—and many of them also improve forest health—in some instances, the combination of climate change induced drought, hot, dry weather, and extreme wind events results in wildfires that cause extensive damage to homes, communities, and people’s livelihoods, despite previous efforts to reduce that risk, regardless of the management jurisdiction. Interior continues to work towards reducing wildfire risk in collaboration with federal, Tribal, state and local partners, which includes consistently reviewing policy and utilizing partnerships and agreements to conduct wildfire risk reduction treatments throughout Interior’s varied landscapes and ecosystems.

**Question 3: Current federal policies and regulations appear to prioritize land restriction and “preservation” over active management. This hinders the Forest Service and the BLM from conducting essential activities that will actually address the wildfire crisis we are seeing.**

**Considering the growing wildfire crisis in the West, do you believe that the current approach to forest management by federal agencies is sustainable?**

**Response:** The Department is committed to addressing wildfire risk and increasing wildfire resilience across landscapes. Bipartisan Infrastructure Law (BIL) investments have enabled the Department to treat a total of more than 2.4 million acres of land in FY 2023, which is an approximately 25 percent increase over FY 2022. A collaborative approach to fuels management and a variety of land management actions taken by federal and non-federal partners are necessary to address the increasing wildfire threat across the United States. Overall, the Department consistently reviews its policies and land management actions to best manage a variety of ecosystems and landscapes.

**Question 4: I think we can agree that active land management should be a part of any conversation on permitting reform. Please list specific policy reforms (regulatory and statutory) that would be helpful to streamline active management treatments like mechanical thinning and controlled burns.**

**Response:** The President’s FY 2024 Budget request includes legislative proposals to expand the Good Neighbor Authority and Stewardship Contracting Authority so that they are available to the National Park Service and the U.S. Fish and Wildlife Service. Only the BLM and USFS currently have these authorities. Expansion of Good Neighbor and Stewardship Contracting authorities will provide additional mechanisms for the Department and federal, Tribal, state, and local partners to work across jurisdictional boundaries. Expanding the use of these authorities fosters collaboration that is needed to address land management challenges; provides the ability

Questions for the Record  
Committee on Energy and Natural Resources  
Hearing on Wildland Firefighting  
June 8, 2023

to share resources and efficiencies to increase capacity to accomplish work on Interior-managed lands; and facilitates the Department's efforts to streamline active management treatments like mechanical thinning and prescribed fire to address wildfire risk and improve landscape resiliency.

The budget also proposes to enable Federal agencies to transfer funds provided under the Bipartisan Infrastructure Law to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to help improve efficiencies and increase capacity for environmental planning and consultation.

The Department is also strengthening and accelerating environmental reviews and infrastructure project permitting. In line with the Biden-Harris Permitting Action Plan to Rebuild America's Infrastructure, Accelerate the Clean Energy Transition, Revitalize Communities, and Create Jobs, and OMB Memorandum M-23-14 implementation guidance, Interior is dedicating and prioritizing resources to execute key strategies outlined in agency implementation plans. This means having sufficient levels of skilled agency staff to conduct effective and timely environmental reviews and infrastructure project permitting, which is another Interior priority.

### **Questions from Senator Ron Wyden**

**Question 1: The Pacific Northwest has an 18% vacancy rate for wildland firefighter positions. This is at a time when there are currently three large fires burning in Oregon. What is being done to fill these vacancies before these positions are needed this fire season?**

**Response:** This past fire year, DOI employed a total of more than 5,600 wildland fire management personnel. This is an increase from 5,462 in 2022, 5,407 in 2021, and 5,335 in 2020. Hiring is ongoing to ensure that wildland fire management needs are addressed on a year-round basis. We are working with the Tribes to determine their hiring totals for the year. We expect that level to be consistent with prior years, which totals approximately 800 Tribal wildland firefighters. The Department makes broad use of Direct Hire Authority (DHA), which allows agencies to recruit and make selections faster than traditional competitive hiring methods. Overall, DHA offers a more efficient method to reduce hiring time by multiple weeks.

There is anecdotal evidence to suggest improvements in recruitment and retention resulting from the BIL's supplemental payments; the increase to wildland firefighters' minimum wage; conversions from temporary appointments to permanent or extended schedules; and the new distinct wildland firefighter occupational series. Additionally, the Department is continuing its efforts to recruit and retain firefighters through workforce transformation efforts. This year, the Department initiated a program evaluation on wildland fire recruitment and is developing a recruitment strategy framework, along with assessing potential recruitment events in the Northwest and elsewhere. We will also be initiating a Department-wide survey of wildland firefighters to better understand their experiences with government and private housing.

**Question 2: In recent fire seasons, firefighter vacancies have resulted in unprecedented numbers of interagency requests for firefighting crews and engines going unfilled. What actions have been taken or are being evaluated to ensure that future requests do not go unfilled?**

**Response:** Longer, more intense fire years, and the need to actively manage and reduce fuels across a vast, more flammable landscape, have increased pressure on the wildland fire workforce. Wildland fire suppression and fuels management work currently requires significantly more permanent employees to address the year-round nature of wildfire and the ongoing need to increase the pace and scale of fuels treatments.

The Department is committed to investing in the federal wildland fire management workforce to deliver a competitive and equitable pay structure and an improved support system to address recruitment and retention challenges that have affected the federal wildland firefighting workforce for decades. To address recruitment and retention issues, the President's FY 2024 Budget request includes \$45 million to expand Tribal and federal wildland firefighter capacity. In total, the budget request supports the equivalent of 370 more federal wildland fire personnel and 55 more Tribal wildland fire personnel above the FY 2023 levels.

Questions for the Record  
Committee on Energy and Natural Resources  
Hearing on Wildland Firefighting  
June 8, 2023

These efforts build on a \$29 million increase in FY 2021 to support the Department's Workforce Transformation Initiative. Since then, the Department has added more than 250 permanent wildland fire positions and continues to increase its firefighting workforce capacity. However, the funding provided to the Department under BIL for the federal wildland firefighter pay supplements is depleted, and federal wildland firefighters are slated to lose this temporary supplement when the current Continuing Resolution ends in November. Unless Congress acts in the coming weeks, federal wildland firefighters will face a pay cliff on November 18. This could have a detrimental impact on the Department's ability to recruit and retain wildland firefighters. The Department urges Congress to authorize and fund permanent pay reform as soon as possible.

**Question 3: Prescribed fire is a necessary tool for reducing hazardous fuels and creating healthier, more fire resilient landscapes. How is the Department of the Interior utilizing recent investments to expand prescribed fire's use to treat fire prone landscapes in Oregon?**

**Response:** Prescribed fire is integral in reducing wildfire risk in many ecosystems. The Department is committed to addressing wildfire risk and increasing wildfire resilience across landscapes, including the use of prescribed fire in ecosystems that benefit from its use. The Department has completed more than 2.4 million acres of treatments in FY 2023; approximately one third of those accomplishments were completed using prescribed fire. Of the total number of acres treated in FY 2023, the Department completed more than 200,000 acres of treatments in Oregon and approximately 7 percent of those treatments were completed using prescribed fire. The Department continues to work towards expanding the use of prescribed fire in part using the BIL funds directed to that purpose.

**Question 4: Safely and effectively applying prescribed fire to reduce hazardous fuels requires a properly trained workforce with fire behavior experience. How is the Department of the Interior ensuring the prescribe fire workforce is prepared to increase the pace and scale of prescribed fire and are fairly compensated for this critical wildfire prevention work?**

**Response:** The Department is using recent funding increases to enhance the wildland fire management workforce, including increasing staffing to implement prescribed fire. As part of the President's FY 2024 Budget request, the Department transmitted legislative proposals to Congress that will help recruit and retain skilled personnel and ensure that they are fairly compensated for their efforts. The budget also includes \$45 million to expand federal and Tribal wildland fire workforce capacity. These proposals will support efforts to continue to increase the pace and scale of prescribed fire and other treatments to reduce wildfire risk and promote wildfire resilience.