

U.S. House of Representatives
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
FY 2023 Budget Request for the National Park Service Hearing
May 18, 2022

Questions from Ranking Member Joyce

LWCF Land Acquisition Appraisals

Now that the Land and Water Conservation Fund is fully funded, spending the annual appropriation efficiently and on quality projects will be key to the program's continued success. In that context, I want to raise a concern about the appraisal process, and particularly about appraisal delays that may be posing a threat to the success of the LWCF projects we fund in our bill.¹

I understand that the Department's appraisal office is not under National Park Service control, but I am hearing from Park Service partners on battlefield and other projects. Specifically, I am hearing that an appraisal process that used to take a few months, as it does in the private market, now takes a year, or two, or even longer.

Granted, no one wants the appraisal office to cut corners or otherwise detract from the integrity of that process. We need good appraisals both to protect public funds and to honor the rights of landowners to just, fair compensation when they choose to sell. But with these kinds of delays, landowners, and others — including partners who bring nonfederal dollars that leverage and stretch the Park Service's conservation reach — could give up and walk away.

Joyce Q1: Is the Park Service aware of the problem, and, if so, what steps are being taken to fix it? For example, does it make sense to move appraisal functions back under the Park Service?

Answer: The NPS is aware of this issue. The Department is currently undertaking a comprehensive review of its appraisal function, and the NPS is working hand-in-hand with Department officials to identify options to streamline the delivery of appraisal services.

Deferred Maintenance

For the first time in several years, the National Park Service released deferred maintenance estimates. The updated estimates total \$21.8 billion – nearly double the Park Service's 2019 estimate.

Joyce Q2: I recognize that construction costs have gone up, but please explain the spike in estimates and how the assessment process has changed.

Answer: The increase in the estimate of deferred maintenance and repairs (DM&R) is due to a number of things, including preventative and recurring maintenance needs that exceed available funding, an increased effort to identify condition of facilities and repair needs, and a standardization of project execution costs included in DM&R estimates.

Since FY 2019, the NPS has worked to identify and document repair needs that were not previously captured in estimates. Additionally, the NPS added project execution costs for planning, design, and construction management to DM&R estimates to better represent costs of completing projects and align with a standardization effort for the Department of the Interior.

In FY 2022, the NPS incorporated a multi-year effort to review and revise asset management processes into the DM&R estimates. These changes streamline the condition assessment process, and provide a more comprehensive, consistent, and timely identification of condition deficiencies and estimate of repair needs. The \$21.8 billion represents the new baseline against which the NPS will track progress. The NPS will report DM&R annually.

Joyce Q3: What types of deferred maintenance were not previously accounted for and how can we be sure that the Great American Outdoors Act funding is making progress to tackle the backlog?

Answer: The new condition assessment and DM&R estimation method does not capture any new types of deferred maintenance and repairs; however, the new method does more completely and efficiently capture the condition of facilities across the NPS portfolio, and captures the planning, compliance, and design costs of repair work.

The NPS is using the Great American Outdoors Act - Legacy Restoration Fund to complete priority deferred maintenance projects, which often also include code-compliance and accessibility improvements required as a part of major reconstruction or renovation. This funding allows the NPS to tackle large scale, critical projects that are often at a greater cost than the bureau could fund with regular appropriations.

Joyce Q4: Is the annual maintenance funding request for fiscal year 2023 enough to prevent adding to the deferred maintenance backlog, and, if not, how much is really needed for annual maintenance?

Answer: The FY 2023 budget requests substantial resources to support facilities maintenance. The FY 2023 proposal will help the bureau address deterioration on some of its most critical and important assets and infrastructure.

Visitation and Impacts on Local Communities

As park visitation rebounds following the pandemic, I am hearing concerns from local communities about the impact that increased visitation has on local roads, assets, and infrastructure. I am supportive of expanding access to our parks, but it cannot come at the cost of local municipalities.

Joyce Q5: Beyond the Payments in Lieu of Taxes program and some Department of Transportation competitive funding, what annual support does the Park Service provide to communities, like those in my district surrounding Cuyahoga Valley National Park, that are responsible for maintaining the public roads for the millions of annual visitors?

Answer: Absent unit-specific authorities the NPS does not provide its regular appropriations to support assets it does not own. States and local governments have direct access to other funds authorized in Title 23 of the U.S. Code from the U.S. Department of Transportation, which were established by Congress to support those activities and assets. The NPS continues to partner with local communities to support their pursuit of these funds, including programs such as the Federal Lands Access Program (23 U.S.C. 204), which is designed to support improvement of transportation facilities connecting to federal lands that are owned or maintained by non-federal entities. This program is apportioned among the States by the U.S. Department of Transportation using a statutory formula based on road mileage, number of bridges, land area, and visitation. Projects are selected by a Programming Decision Committee (PDC) established in each State. The PDCs request project applications through a call for projects. The frequency of the calls is established by the PDCs.

Joyce Q6: What access issues is the Park Service facing at other parks across the country as park visitation increases? How is the Park Service working with local communities to address these issues?

Answer: In welcoming record numbers of visitors, parks have increased efforts to prepare for and safely accommodate higher activity. This includes examples such as implementing timed entry for certain roads and designations, expanding the use of Recreation.gov to provide visitors with better planning tools, and furthering collaborative efforts with nearby state and local emergency managers to better coordinate resources and capabilities.

In FY 2021, the NPS successfully launched a national mobile app that serves visitors at all 423 park units with basic trip planning functionality. The FY 2023 NPS budget proposes to increase funding for the mobile app to support ongoing development and implementation of citizen facing app features, such as the ability to customize trip itineraries, plan hiking routes, make reservations, register for notifications and alerts, store virtual copies of permits and passes, and access mapping services.

The FY 2023 NPS budget also includes \$5.0 million to assess and address transportation barriers to parks from underserved communities. This initiative will increase access by deploying existing tools to identify the barriers which inhibit underserved communities from accessing NPS park units. The NPS would expand partnerships with the Federal Highway Administration,

municipalities and other organizations to devise solutions to bring these populations to Federal lands.

Great Lakes Restoration Initiative (GLRI) Funding

I have never been shy about my support for the Great Lakes Restoration Initiative given the critical collaborative restoration work that GLRI funds support in the Great Lakes Region to protect the Lakes for future generations.

I understand that through the GLRI, Cuyahoga Valley National Park has partnered with the U.S. Army Corps of Engineers to restore wildlife habitat and improve water quality in the Cuyahoga River within park boundaries. These efforts will help to remove the lower Cuyahoga River from the Environmental Protection Agency's list of Areas of Concern.

Joyce Q7: Does the Park Service expect this work to continue in fiscal year 2023?

Answer: Yes, the NPS has multiple Cuyahoga River restoration projects that will continue into FY23. The Ohio Environmental Protection Agency and partners compiled the Cuyahoga Management Action List, which included 19 potential projects necessary to remove the Cuyahoga River from the list of Areas of Concern. The US Army Corps of Engineers was allocated \$15.3 million from the Great Lakes Restoration Initiative to work with the NPS on two of the identified river restoration projects: East of Boston Mills Ski Area/Boston Mills North and further north in the Station Road area. These projects include support for planning, design, and on the ground project construction that will reduce erosion and sediment load, improve flood attenuation capacity, and result in improved water quality.

Joyce Q8: Does the Park Service believe, given the increased GLRI funding provided in the fiscal year 2022 Interior Appropriations bill and the Infrastructure Investment and Jobs Act, there will be other opportunities for the Park Service to partner with federal agencies and groups in the Great Lakes region on restoration projects?

Answer: The NPS, as well as all the land and resource management stakeholders in the Great Lakes Basin ecosystem, will benefit from the Great Lakes Restoration Initiative (GLRI) and Infrastructure Investment and Jobs Act funds.

The additional funds from the FY 2022 Department of the Interior, Environment, and Related Agencies Appropriations Act for GLRI, and support from the Infrastructure Investment and Jobs Act provide greater opportunities and venues for larger scale collaboration and implementation of restoration projects led or participated in by the NPS.

Under the GLRI Action Plan III (2020-2024), there are five 'Focus Areas' for funding submissions, 1) Toxic Substances and Areas of Concern; 2) Invasive Species; 3) Nonpoint Source Pollution on Nearshore Health; 4) Habitat and Species; and 5) Foundations for Future Restoration Actions. The NPS is one of sixteen benefitting federal agencies collaborating to develop, evaluate, and recommend project funding needs to EPA. The increase to the GLRI allocation allows projects that may not have been initially funded and/or projects requiring additional funds to receive funding support. The NPS GLRI planned allocation for Great Lakes parks in FY 2022 is \$6.6 million with an additional \$201,000 directed to USGS for work in national parks via an interagency agreement.

Great American Outdoors Act (GAOA)

I was very proud that Congress was able to pass the Great American Outdoors Act in 2020, in large part due to the hard work of Congressman Mike Simpson. The Great American Outdoors Act has allowed us to improve infrastructure on public lands and expand recreational opportunities.

I have seen firsthand the positive impact the Great American Outdoors Act has had on my region, where funding has enabled Cuyahoga Valley National Park to take on long-anticipated projects that support its mission to provide vital green space and recreational opportunities for public enjoyment.

Joyce Q9: What impact has the passage of the Great American Outdoors Act had on the Park Service's deferred maintenance?

Answer: The FY 2023 proposal combined with the Great American Outdoors Act funding will help the bureau address deterioration on some of its most critical and important assets and infrastructure. Great American Outdoors Act funding, in particular, has allowed the NPS to start bringing some of its largest, most expensive, or most deteriorated critical assets back to acceptable condition. Once work is completed, the NPS expects that regular maintenance cycles will be sufficient to prevent deterioration and keep these assets in acceptable condition for many years to come.

Joyce Q10: Are there any GAOA implementation issues we should be aware of? How is the Park Service ensuring that the distribution of funds is equitable to parks across the country?

Answer: The biggest challenge facing smooth implementation of the National Parks and Public Land Legacy Restoration Fund has been volatility in the construction market. Several projects have been impacted by substantial and unpredictable increases in construction and materials costs. To keep these projects on track, the NPS has made use of the flexibility the Committee provided in FY 2022 and increased contingency reserve funding to address unforeseen changes, and provide re-casted project lists as needed. The NPS greatly appreciates Congress' understanding of how critical these contingency funds and other flexibilities are for successful implementation of these projects.

Deferred maintenance needs are not spread evenly across the park units, and the NPS initially considered large-scale projects for LRF funding that would be ready to obligate in the budget year. To address small to medium sized parks that may not have large-scale projects, the NPS identified LRF Maintenance Action Team (MAT) funding to address smaller-scale maintenance projects, effectively increasing distribution of LRF funds across the country. Simultaneously, the NPS is relying on its discretionary fund sources to address smaller-scale projects.

Expanding Access to Underserved Communities

Joyce Q11: As the Park Service looks to expand outreach to underserved communities across the country, what metrics does the Park Service use – especially in parks without entry gates – to track how the Service is reaching these communities and whether the strategy is working?

Answer: The NPS Social Science Program conducts and promotes state-of-the-art social science related to the mission of the NPS, delivering usable knowledge to park managers and the public. Over the past 2 decades the NPS has conducted three Comprehensive Surveys of the American Public to obtain information on visits to the National Park System, public attitudes and behaviors related to programs and services provided by the NPS, demographic characteristics of recent visitors and non-visitors and barriers to visitation. The most common barriers to national park visitation indicated by non-visitors have related to travel distance, transportation, and expenses associated with travel and entrance to national parks. These barriers have been disproportionately indicated by Hispanic non-visitors and African American non-visitors as compared to white non-visitors. Other barriers frequently attested to by underserved populations in these surveys relate to a lack of interest or a lack of knowledge regarding national parks.

Additionally, the NPS is currently transitioning to an updated socioeconomic monitoring model with one of the most important goals of the change being to better understand the scope of the problem related to park access and underserved communities. Central to the project is the implementation of the newly designed socioeconomic monitoring visitor survey at a sample of 24 park units annually. The park units of the annual sample are changed each year and drawn from larger organizing categories like visitation level, park type or location so that annually both park specific data and a representative servicewide report is created. The annual findings will provide up to date insight for strategic resource use, improved visitor experience, non-visitor engagement, and improved equity of access to parks. This is a marked improvement over the legacy customer satisfaction survey model.

Specifically, the new model will eliminate a situation that park managers often find themselves in, desiring to expand access to underserved communities with little information on who the underserved communities are or what they do, think, and know about their national park unit. And even when this information exists, it is often woefully out of date or in forms not useful or accessible to parks. This program establishes a unified, exhaustive, and routine process and dataset to systematically fill those knowledge gaps so that any future outreach effort is targeted based on the data and can be assessed for effectiveness versus a consistent metric. The NPS' FY 2023 President's Budget includes \$3.5 million to fully fund the new socioeconomic monitoring program, building on a pilot program conducted from 2014 to 2017.

The NPS FY 2023 President's Budget also includes \$5.0 million to implement the Park Accessibility for Visitors and Employees (PAVE) Network which will provide support to parks to improve accessibility. Members of this network will come from different parts of the Service and the disability community and will inform and direct national level coordination, policy, guidance, and oversight. This PAVE network will provide technical assistance and training from both internal resources as well as directly from disability organizations for parks to develop their own capacity around all types of accessibility for visitors and employees.

The FY 2023 President's Budget for NPS also includes \$5.0 million to assess and address transportation barriers to parks from underserved communities. This initiative will increase access by deploying existing tools to identify the barriers that inhibit underserved communities from accessing NPS park units. The NPS would expand partnerships with the Federal Highway Administration, municipalities, and other organizations to devise solutions to bring these populations to Federal lands.

Questions from Representative Kilmer

Lower Elwha Klallam Tribe Project Lands

As you know, the purpose of the 1992 Elwha River Ecosystem and Fisheries Restoration Act was to remove two dams, restore the Elwha River ecosystem and fisheries, and recover salmon populations. One unavoidable consequence of dam removal was the dedication of tribal land within the Lower Elwha Reservation to habitat preservation and the resulting restriction on a portion of the Tribe's small land base.

The dams were successfully removed in 2011 and 2014, and river restoration is ongoing, all through partnership with the Lower Elwha Klallam Tribe. I am currently working with the Tribe to take former Reservoir lands that have been temporarily held by the Park Service into trust for the benefit of the Tribe, as contemplated under the 1992 Elwha Act. The National Park Service has been highly supportive of this work, and I appreciate your continued partnership on this issue.

Kilmer Q1: Could you clarify NPS's authorities under the Elwha Act to transfer this land and if legislation is necessary? Could you also comment on how additional funding for NPS can facilitate collaboration and co-management of public lands with Tribes?

Answer: The NPS is still addressing the suitability of the lands for the purposes mentioned in the Elwha Act Section 3(c)(3). The Elwha Act does not explicitly give the NPS authority to transfer the properties, and the NPS is not aware of other existing statutes that grant authority to fully transfer all the lands in question. Should the NPS and the Department determine that a transfer is the most appropriate course of action, legislation that specifically authorizes the transfer would be appropriate.

The NPS stands ready to work with our Tribal partners. This is evident in our FY 2023 Budget Request, where we've sought \$5.7 million in additional funding for Tribal liaison positions across all levels of the agency.

Increasing Climate Resiliency of Our Parks

Given the increasing challenges, climate change is presenting for our parks and the continued importance of strengthening our parks' climate resilience. I believe it is more important than ever that the National Park Service continues to incorporate sustainability into Parks operations.

Kilmer Q2: With that in mind, how will NPS be coordinating across offices such as Sustainable Operations and Climate Change, Facilities Management, Office of Planning, Facilities, and Lands? What directives and guidance are being given to park staff including facilities managers, superintendents, concessions contracting, procurement, etc. to ensure climate change and sustainability are centered in the decision process? What mechanisms are in place for Great American Outdoors Act funding oversight?

Answer: Completed in 2021, Planning for a Changing Climate guides park planners and decision makers in addressing climate change within the broad variety of types of plans conducted in the NPS. The NPS considers current climate projections, climate change vulnerability assessments, and, where warranted, multiple climate scenarios in park strategic and project plans.

The NPS uses interdisciplinary teams to integrate climate adaptation and resiliency strategies throughout the lifecycle of a project, from planning and investment, through its final disposition. The NPS designs and builds with sustainable practices and materials, incorporating climate change science and technology, adaptation, mitigation, and resiliency strategies into park planning, investment decisions, and construction. The NPS integrates resilient design requirements through building codes, standards, executive orders, laws, and policies related to resiliency and climate change adaptation. Parks evaluate the use of materials with recycled content, water efficient plumbing fixtures, HVAC equipment, native plant species, locations of equipment above flood levels, commissioning strategies, durable building materials, building moisture protection, and climate design conditions to make built areas and infrastructure more sustainable and adapted to climate-related impacts. Projects are designed to comply with the International Urban Wildland Fire Interface Code as well as NPS Reference Manual 18, Wildland Fire Management, and utilize fire resistant construction and incorporation of defensible spaces as appropriate. Site designs incorporate flood plain considerations, revegetation and erosion control measures, onsite storm water management, and the use of native and low maintenance plant species. Projects meet federal sustainability requirements, and all new buildings larger than 5,000 square feet are designed and constructed to meet US Green Building Council Leadership in Energy and Environmental Design standards.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

OCT - 6 2022

The Honorable Joe Neguse
Chair, Subcommittee on National Parks,
Forests, and Public Lands
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chair Neguse:

Enclosed are responses prepared by the National Park Service to questions for the record received following the June 14, 2022, legislative hearing on H.R. 1548, H.R. 4658, H.R. 6364, H.R. 6442, H.R. 7496, H.R. 7615, H.R. 7693 and H.R. 7952.

Thank you for giving us the opportunity to respond to you on these matters.

Sincerely,

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

Enclosure

cc: The Honorable Russ Fulcher
Ranking Member

**Questions for the Record
Committee on Natural Resources
Subcommittee on National Parks, Forests, and Public Lands
Legislative Hearing
June 14, 2022**

Questions from Chair Grijalva

Question 1. H.R. 7615 establishes a new authority for public-private partnerships designed to fund and develop affordable housing options for National Park Service employees. Will this authority be useful in the National Parks with the greatest need for employee housing? Do you have a sense of how many and what parks could likely benefit from the new authority provided in the LODGE Act?

Response: Additional authority for public-private partnerships could benefit parks with the most challenging markets and areas where National Park Service (NPS) employees have a significant need for additional housing.

Parks throughout the country, in rural and urban areas, are experiencing severe challenges to providing housing to park staff. These challenges are shared by public and private entities in nearby gateway communities that may be interested in the housing partnership opportunities that could be made possible through new authorities.

Question 2. The housing partnership agreements authorized by H.R. 7615 would allow members of the public to live in housing within the boundaries of national parks. This authority also allows taxpayer dollars to be spent beyond the boundary of the park on housing that may not be owned by the federal government. Are there specific concerns with either of these scenarios?

Response: Any housing partnership agreement entered into by the NPS must ensure that park resources and taxpayer investments are protected. Allowing members of the general public to live in employee housing within national parks raises a number of management, legal and mission-related concerns. With respect to spending taxpayer dollars outside park boundaries on housing that may not be owned by the federal government, the NPS has existing authority to lease housing outside of park boundaries, for those instances where constructing housing within the boundaries may raise concern for cultural or natural resources. If Congress authorizes the NPS to partner with governmental and local entities outside the park to construct and operate housing for NPS employees, the NPS will be responsible for ensuring that any agreements protect both the NPS employees and the interests of the taxpayers.

Question 3. Affordable housing is a critical issue in communities across the country. Many local governments have been dedicated and determined to find reasonable and equitable solutions through their own community planning processes. NPS units value their relationships with their gateway communities and work hard to collaborate with them. Are there any concerns that H.R. 7615 would inadvertently cause problems or tension with gateway communities?

Response: Additional authority for the NPS to partner with entities outside of parks, as contemplated in the LODGE Act, could leverage the efforts of gateway communities to provide

**Questions for the Record
Committee on Natural Resources
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Legislative Hearing
June 14, 2022**

affordable housing for park employees and others in the community. Parks could work in partnership with public and private sector organizations to pool financial resources and develop solutions that have mutual benefits to all parties.

Question 4. H.R. 7615 authorizes the National Park Service to initiate housing developments outside the boundaries of national parks.

- a. Does NPS have sufficient authority to acquire land for this purpose, or would each acquisition require a subsequent action by Congress?**

Response: For partnership housing that would be developed outside the boundaries of national parks, as contemplated by the LODGE Act, the NPS does not see a need to acquire land outside of the boundaries.

- b. If it is the case that Congress would have to provide additional acquisition authority on a case-by-case basis, is this something should addressed in the H.R. 7615?**

Response: As noted above, we do not see a need to acquire land outside of park boundaries in order to enter into housing partnerships as contemplated by the LODGE Act.

Question 5. During your testimony on H.R. 6442, you mentioned that the National Park Service would like to work with the bill's sponsor to identify the specific types of "quasi-government entities" that would be eligible to enter into cooperative management agreements. Are there organizations or institutions that should not qualify for cooperative management agreements with the National Park Service?

Response: We recommend that H.R.6442 be amended to extend NPS cooperative management authority to Tribes, but not to quasi-governmental entities or any other categories of organizations, and have provided proposed amendments to the language of H.R. 6442 that would effectuate that recommendation.

Questions from Ranking Member Westerman.

Question 1. Deputy Director McDowall, at the hearing I mentioned a letter that I, along with Representatives Moore, Fulcher, and Bentz, sent on May 17 requesting information from the Department of the Interior regarding how it is implementing the Legacy Restoration Fund under the Great American Outdoors Act. Can you tell me when I should expect a response to this letter?

Response: We appreciate your interest in and support of the Great American Outdoors Act. We are preparing a response and look forward to providing a reply.

**Questions for the Record
Committee on Natural Resources
Subcommittee on National Parks, Forests, and Public Lands
Legislative Hearing
June 14, 2022**

Questions from Ranking Member Fulcher

Question 1. Deputy Director McDowall, as I mentioned in my opening statement at the hearing, the national average for a gallon of gas is now over \$5 per gallon. A recent survey from the Washington Post found that 6 in 10 Americans said that gas prices were a “major factor” in determining their summer vacation plans, more than double those who said they were concerned about COVID-19. Has the National Park Service done any projections about how visitation will be impacted this summer by rising gas prices? How does visitation now compare to this time last year?

Response: The NPS has attempted and continues to attempt visitation forecasting studies based on a wide range of data. However, these models have not proven very accurate in their ability to forecast travel demand to national parks. Also, the pandemic introduced additional uncertainty that has not currently been incorporated into modeling visitation behavior. As a result, the NPS has typically relied on broader travel/tourism forecasts as a means to better understand the issue.

In 2021, 297.1 million recreation visits occurred across the National Park System. In 2020, there were 237.1 million recreation visits. Data is not yet available for 2022.

Question 2. How does the Park Service anticipate higher gas prices will impact visitation for lower income Americans in particular?

Response: See the response to the previous question.

Question 3. How have higher prices, and higher gas prices in particular, affected gateway communities outside of national parks?

Response: We do not have systemwide data to offer on this subject at this time. 2022 visitation data will be available in early 2023 for comparison with prior years' visitation trends.

Question 4. Have higher prices contributed to understaffing in and around our national parks?

Response: We do not have systemwide data to offer on this subject at this time.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

OCT 17 2022

The Honorable Joe Manchin
Chairman, Senate Committee
on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Chairman Manchin:

Enclosed are responses prepared by the Department of the Interior to the questions for the record submitted following the June 14, 2022, oversight hearing entitled, *Short and Long Term Solutions to Extreme Drought in the Western United States*. We apologize for the delay in our response.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

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

Enclosure

cc: The Honorable John Barrasso
Ranking Member

Questions from Ranking Member Barrasso

Question 1: Many of the actions taken in the past to address drought in the Colorado River Basin have increased the flexibility in how the Lower Basin States can store and use water. That increased flexibility has extended the Lower Basin's access to water and the reliability of available water supplies since early 2000. What comparable opportunities is Reclamation considering or pursuing through its authorities in operating federal reservoirs or otherwise to also increase flexibilities and water supply certainty in the Upper Basin?

Response: The 2019 Drought Contingency Plan provided for the Drought Response Operations Agreement (DROA) and the Demand Management Storage Agreement (Demand Management) among the Upper Division States and Reclamation. DROA allows adjustments to Lake Powell's monthly operations and operations at the upstream Initial Units of the Colorado River Storage Project (Flaming Gorge, Aspinall, and Navajo) to reduce the risk of Lake Powell falling below a Target Elevation. DROA activities were implemented in 2021 for 161,000 acre-feet, and in a 2022 plan for 500,000 acre-feet. In both DROA actions, Reclamation worked within the governing authorities and operational flexibilities at applicable facilities to minimize the risk of Lake Powell falling below DROA's Target Elevation. Given current reservoir conditions, consideration of a DROA plan for 2023 is likely. All water that is subject to a DROA release must be recovered pursuant to the terms of the agreement.

Demand Management allows the Upper Division States to explore and create a program to store water, free of charge, in Colorado River Storage Project Initial Units (Lake Powell, Flaming Gorge, Aspinall, and Navajo) for purposes of maintaining any future Colorado River Compact compliance obligations. The program requires approval by each Upper Division State, the Upper Colorado River Commission, and the United States to be implemented. The Upper Division States are exploring Demand Management opportunities to determine if a program will be pursued and what program options might entail.

Additionally, Reclamation announced on August 16 that in the Upper Basin, it will:

- Take administrative actions needed to authorize a reduction of Glen Canyon Dam releases below 7 million acre-feet per year, if needed, to protect critical infrastructure at Glen Canyon Dam.
- Accelerate ongoing maintenance actions and studies to determine and enhance projected reliability of the use of the river outlet works, commonly referred to as the bypass tubes, at Glen Canyon Dam for extended periods.
- Support technical studies to ascertain if physical modifications can be made to Glen Canyon Dam to allow water to be pumped or released from below currently identified critical and dead pool elevations.
- Continue to work with the Basin states, Basin Tribes, stakeholders and partners to be prepared to implement additional substantial releases from Upper Basin Reservoirs to help enhance reservoir elevations at Lake Powell under the Drought Contingency Plan's Drought Response Operations Agreement.
- Invest in system conservation and voluntary agreements.

- Consider other operational actions to establish flexibility in Upper Basin operations at Reclamation facilities.

Question 2: What opportunities exist for Reclamation to help improve water conservation and water efficiencies in the Upper Basin and what is being done to implement those opportunities?

Response: Several funding opportunities exist within the Bipartisan Infrastructure Law (BIL) that focus on water conservation and efficiencies. Reclamation BIL funding is authorized for DCP activities in Upper Basin via BIL section 40906(8), as well as Colorado River Basin endangered species programs – which help assure water reliability – via BIL section 40901(12). In addition, BIL sections 40901(7): WaterSMART, 40901(3): Water Recycling, 40901(9): Watershed Management, and others focus on competitively awarded conservation and water efficiency projects that are open to applicants in the Upper Basin. These funding opportunities can be found on Reclamation’s BIL website¹ and are posted on www.grants.gov.

Question 3: The Colorado River Compact essentially sought to divide the Colorado River equally between the Upper Basin and the Lower Basin. What are we seeing today when comparing actual use in the Upper Basin with actual use in the Lower Basin?

Response: During the five-year period from 2016 through 2020, including reservoir evaporation and other system losses, Upper Basin consumptive use averaged 4.616 million acre-feet per year. This average is shown in the below table, taken from the Summary section of the provisional Consumptive Uses and Annual Losses report for 2016-2020², provided by Reclamation’s Upper Colorado Region. The reporting information is based almost entirely on data obtained from ongoing programs and current reports. Quantitative measurements of water use were used wherever available.

¹ U.S. Bureau of Reclamation, Bipartisan Infrastructure Law Investments, Funding Distribution Method and Timing, <https://www.usbr.gov/bil/bil-funding.html>

² The 2016-2020 Consumptive Uses and Annual Losses report is available at: <https://www.usbr.gov/uc/envdocs/reports/ColoradoRiverSystemConsumptiveUsesandLossesReports/20190800-ProvisionalUpperColoradoRiverBasin2016-2020-CULReport-508-UCRO.pdf>.

Questions for the Record
 Committee on Energy and Natural Resources
 Oversight Hearing on Western Drought
 June 14, 2022

Summary. Upper Colorado River System: Water Use by States, Basins, and Tributaries¹ (1,000 acre-feet)

STATE AND BASIN OF USE	2016	2017	2018	2019	2020	Average 2016-20
ARIZONA						
Upper Basin	29	29	30	30	10	26
COLORADO						
Upper Basin	2,140	2,220	2,419	2,242	2,353	2,275
NEW MEXICO						
Upper Basin	376	483	363	489	389	420
UTAH						
Upper Basin	931	969	1,048	983	1,097	1,006
WYOMING						
Upper Basin	417	460	441	431	357	421
OTHER²						
Upper Basin Colorado River Storage Project Reservoir Evaporation	469	512	452	460	446	468
UPPER COLORADO RIVER SYSTEM						
Upper Basin	3,894	4,162	4,301	4,176	4,207	4,148
Other: Reservoir Evaporation and Channel Losses	469	512	452	460	446	468
UPPER COLORADO RIVER SYSTEM GRAND TOTAL	4,363	4,674	4,753	4,636	4,653	4,616

¹ Onsite consumptive uses and losses includes water uses satisfied by groundwater.

² Mainstem reservoir evaporation in the Upper Basin

The Lower Basin mainstream consumptive use from 2011 – 2021 averages 7.174 million acre-foot per year, as shown in the below table. This average is compiled from Table 1 in the annual Decree Accounting Reports from 2011 to 2021³. These consumptive use values are derived from diversion and return flow data from the United States Geological Survey (USGS) and Reclamation data sources. Consumptive use is calculated by a state's total diversion less its return flows.

Water Accounting Report (Year)	Table 1 - Consumptive Use (Acre-Foot)
2011	7,316,616
2012	7,443,546
2013	7,478,219
2014	7,649,011
2015	7,448,217
2016	7,232,260
2017	6,779,443
2018	7,141,888
2019	6,566,389
2020	6,786,255
2021	7,072,631
AVERAGE	7,174,043

³ As an example, the Lower Basin Water Accounting report for 2021 is available at: <https://www.usbr.gov/lc/region/g4000/4200Rpts/DecreeRpt/2021/2021.pdf>.

Question 4: Annual system depletions in the Lower Basin like evaporation and conveyance losses are not accounted for or attributed to any State's use and are double Wyoming's total annual use. The Secretary of the Interior acting through Reclamation is the water master in the Lower Basin. What is being done to accurately assess and account for these system depletions in the Lower Basin?

Response: System losses and evaporation in the Lower Colorado River System are accounted for and tracked through Reclamation's streamgauge network and modeling tools and pursuant to Article V of Consolidated Decree of the Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006). Reclamation prepares a "Water Accounting Report" annually that tabulates measured diversions, measured returns, consumptive uses and other information. Reclamation has partnered with the USGS to monitor evaporation at Lake Mead from 2010 through the present and at Lake Mohave from 2013 through 2019. This information was used to update the reservoir evaporation coefficients in Reclamation's Colorado River System operations models to provide a better estimate of evaporation and improve operational projections. Reclamation, in partnership with the USGS, continues to monitor evaporation at Lake Mead, which is one of the longest continuous evaporation records for a large reservoir in the U.S. Additional information about system losses along the lower Colorado River mainstream can be found in Reclamation's Lower Colorado River Annual Summary of Evapotranspiration and Evaporation (LCRAS) reports.

Question 5: Consistent and reliable water use, and water supply data will be critical as we respond to the continuing drought. Can you describe the water data systems that the States and the federal government rely on and whether there are data gaps that Congress needs to fund so farmers, ranchers, water managers and others can have the best and most reliable data to make water management decisions?

Response: Reclamation and the USGS are focusing on long-term planning through research and development (R&D) of climate science, focusing on innovative strategies necessary to evaluate and address climate change impacts and drought. Funding has been awarded to dozens of R&D projects to improve water data systems, several of which are published on Reclamation's website⁴.

Reclamation and our partners have made significant progress to improve science and tools to support water conservation and efficiency through the WaterSMART Basin Study Program, Drought Response Program, and the Science and Technology Program. Reclamation supports the development of applied-science tools, including data visualizations, decision-support tools, and improved modeling and forecasting tools.

Question 6: The Infrastructure Investment and Jobs Act includes appropriations for implementing the Colorado River Drought Contingency Plans. \$50,000,000 of the appropriation was designated to implement the Upper Basin DCP. Wyoming and the other

⁴ U.S. Bureau of Reclamation, Research and Development Office, Research Projects by Category, <https://www.usbr.gov/research/projects/categories.cfm>.

Upper Basin States compiled a detailed list of infrastructure investments and related efforts to advance implementation of the Upper Basin DCP and presented that list to Reclamation in January. The infrastructure investments and related efforts would improve water management (flow, uses and resources: snow, soil moisture and ET) measurements and tools necessary to advance and further implement the Upper Basin DCP. What is the status of providing funding for those infrastructure investments and related efforts?

Response: A total of \$8.7 million will be provided in FY 2023 to implement the Colorado River Basin DCP in the Upper Basin, consistent with the obligations of the Secretary under the Colorado River Drought Contingency Plan Authorization Act (P.L. 116-14) and related agreements. This funding is targeted to the Upper Colorado River Operations Program based on Reclamation's analysis of likely eligible projects and their ability to execute BIL funding in 2023. Reclamation is working with the Upper Division States to develop additional projects to fund in subsequent years.

Reclamation's project managers and leadership will work collaboratively with the Upper Colorado River Commission and the Upper Basin States to identify key infrastructure and limited-duration data-gathering and analysis activities that support and further operationalize drought contingency planning. Implementation plans for specific projects will be developed by December 2022. Projects may include:

- Consumptive water-use estimation, including verification;
- Water-supply shortage and on-field irrigation efficiency shortage estimation and verification;
- Data to support water-distribution monitoring in the Upper Basin Colorado River mainstem and tributaries;
- Data to support estimation of transit losses in the Upper Basin Colorado River mainstem and tributaries;
- Support for forecasting tools to increase accuracy of Drought Response Operating Agreement-related release and recovery monitoring and tracking;
- Demand Management pilot studies for various irrigation regimes and land types, including field and remote-sensing data collection and the evaluation of the impacts;
- Modeling support to estimate the potential benefits of Demand Management action DCP implementation; and
- A communication tool for transparent data sharing to the public DCP implementation.

Reclamation has worked with the Upper Colorado River Commission to identify several projects which will assist in implementing Upper Basin DCP. A 5-year plan for implementation has been developed and the parties are working to be prepared to implement the first years planned projects, estimated to be \$8.7 million.

Questions from Senator Cantwell

Question 1: A major success story in water conservation in my state is the Yakima Basin Integrated Plan. This basin-wide water project focuses on balancing and fulfilling the needs of a robust agricultural sector, drought resilience, flood risk management, and salmon recovery.

- **Can these projects help improve drought conditions in Washington state? Can you describe how?**
- **Are there additional projects in Washington that can improve drought conditions?**

The Bipartisan Infrastructure Law included \$8.3 billion for Western water infrastructure to address drought.

- **It appears extreme drought throughout the West is here to stay and that \$8.3 billion is not enough. Does the Bureau of Reclamation have additional capability within the timeframe outlined in the Bipartisan Infrastructure Law?**

Response: Yes, projects like the Yakima Basin Integrated Plan can help address drought conditions and improve resilience, balance the need for agriculture and salmon recovery, as well as flood-risk management. In the 1990s, a few thousand salmon and steelhead returned to the Yakima River Basin. Now, during good years, upwards of 300,000 salmon and steelhead are seen. Efforts like the Yakima Basin Integrated Plan where the federal and state governments work together, hand-in-hand, with non-government organizations (NGOs) and private landowners, help to restore a self-sustainable fish population.

Question 2: Washington, Idaho and states across the West are looking at ways to protect and responsibly used our aquifers. Aquifers can be used to store water in times of high flows and during times of water scarcity. Given the worsening water conditions we face in Washington each year, it is critical they are responsibly managed. Senator Risch and I created a program in the Infrastructure Law that would allow the Bureau of Reclamation to help states manage aquifers through aquifer recharge and developing alternative sources of water. These types of aquifer protections will help states throughout the West become more drought resistant while protecting agriculture and the environment.

- **Can you discuss the importance of aquifer recharge as a tool to improve climate resilience throughout the West?**
- **How do you see the aquifer recharge program and broader aquifer protection efforts fitting into the Bureau of Reclamation's implementation of the Infrastructure Bill's western water investments over the next five years?**
- **Can you share the factors that BOR and the Administration are considering in developing future budget requests for the aquifer recharge program?**
- **What are both the capabilities of BOR and needs that could be fulfilled across the West for this program once it gets fully up and running?**

- **Does the Department of the Interior have any existing estimates, potentially via USGS analysis, on the geographic location and volumetric capacity of aquifers that could be technically, economically, and legally utilized for water storage across the Western United States? Similarly, does the Department have any estimates of how many of those appropriate aquifers are currently being utilized for water storage and to what extent?”**

Response: Aquifer recharge is a critical and important tool to improve climate resilience throughout the West. Through Section 40910 of the BIL, Reclamation is authorized to provide federal assistance for groundwater recharge, aquifer storage, and water-source substitution efforts consistent with Section 40902(b) of the BIL. However, no funding was appropriated in BIL for these activities. Funding capabilities and needs will depend on eligible projects, which Reclamation is currently assessing. Separately from BIL section 40910, groundwater storage is an authorized activity by BIL sections 40901(1), 40902 and 40903, and funded by the appropriations provided in Division J of the BIL. In January of this year, Reclamation published the criteria by which it will assess the feasibility of small storage proposals including groundwater⁵, and a funding opportunity within that program is planned for late summer/early fall 2022.

There are likely many groundwater recharge, aquifer storage, and water-source substitution projects at varying stages of development that could be funded should appropriations be provided for this section, including the Odessa Subarea Groundwater Replacement Project in the state of Washington. Reclamation is well suited technically to implement these kinds of projects, however additional coordination is needed with stakeholders in order to evaluate interest in this section based on its requirements.

The USGS does not have a set of activities or products that directly address the question of water storage in aquifers at a state, regional, or national scale. They have, however, published comprehensive information on aquifer location and characteristics through the Ground Water Atlas,⁶ which describes the location, extent, and geologic and hydrologic characteristics of each principal aquifer, or rock unit that will yield usable quantities of water to wells, throughout the 50 States, Puerto Rico, and the U.S. Virgin Islands.

In addition, while the USGS does not evaluate aquifer water storage nationally, there are locally relevant studies to address managed aquifer resources ongoing in California. To date, they have not published statewide volumetric estimates of available storage capacity, but they are using modeled estimates of storage depletion to look at potential capacity for managed aquifer resources in regionally relevant aquifers such as the Central Valley Hydrologic Model.⁷

⁵ U.S. Bureau of Reclamation, Reclamation Manual, Temporary Reclamation Manual Releases, Small Surface Water and Groundwater Storage Projects Feasibility Study Review Process (Expires Jan. 13, 2023), available at https://www.usbr.gov/recman/temporary_releases/cmptmr-127.pdf.

⁶ U.S. Geological Survey, Ground Water Atlas of the United States, <https://pubs.usgs.gov/ha/ha730/>

⁷ C.C. Faunt, et al., “Water availability and land subsidence in the Central Valley, California, USA” (Nov. 17, 2015), available at <https://www.doi.org/10.1007/s10040-015-1339-x>

Questions from Senator Daines

Question 1: Commissioner Touton, the Clean Water for Rural Communities Act provided a five year authorization for the Bureau of Reclamation to complete a feasibility study for the Dry-Redwater Regional Water Authority (DRWA) water system. The recent infrastructure law broadly appropriated funding for rural water projects that had been authorized prior to July 1, 2021 to include DRWA. The Bureau's initial spend plan for Fiscal Year 2022 even referenced the feasibility study. However, to-date, no funds have been appropriated for DRWA. When will funding be appropriated in order to complete the feasibility study for DRWA?

Response: As you point out, Congress authorized Reclamation to conduct a feasibility study of the proposed Dry-Redwater Regional water system in the FY 2021 Consolidated Appropriations Act, Section 1110 entitled Clean Water for Rural Communities. Reclamation is meeting with the DWRA to discuss next steps, including the 50 percent federal cost share for the feasibility study. Bipartisan Infrastructure Law funding is one source under consideration. Reclamation will keep you updated on its progress.

Question 2: Commissioner Touton, in your testimony you noted that drought conditions in the Milk River Basin will result in a shortened irrigation season with water deliveries ceasing in mid to late June. What options are available to identify possible water supply availability for the latter portion of the irrigation season?

Response: As we predicted, the irrigation season for the Milk River Project was indeed shortened with deliveries ending on June 20. As you are aware, northern Montana has experienced extreme drought conditions for multiple years now, and the compounding effects are taking a toll on all project beneficiaries. Following the cessation of irrigation deliveries, Reclamation continues to move water through the St. Mary Canal to Fresno Reservoir up to the capacity of the canal, which is currently approximately 600 cubic feet per second (cfs). The intent is to store enough water in Fresno Reservoir to be able to provide up to four weeks of irrigation water from mid-July through mid-August. This situation highlights the significance of the St. Mary canal to the long-term viability of the Milk River Project. The original design capacity of the canal was 850 cfs, 250 cfs more than the current canal capacity of 600 cfs. Restoration of this important feature would allow Reclamation to move more water when available, subsequently extending irrigation season during drought years and increasing the drought resiliency of the Milk River Project.

Question 3: Commissioner Touton, it is my understanding that the Bureau of Reclamation has delayed in finalizing the ability to pay study for the St. Mary's Milk River project by several months. When will the Bureau of Reclamation finalize that document?

Response: The Milk River Project Ability to Pay Study has been finalized and was transmitted to the Milk River Joint Board of Control Project Manager on Friday, September 9, 2022.

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Reclamation presented the Ability to Pay Study to the Milk River Joint Board of Control on Monday, September 19, 2022.

Question 4: Commissioner Touton, on March 18, 2022 an ice jam occurred on the Yellowstone River causing significant damage to the Lower Yellowstone fish bypass located at Intake, Montana. Flooding on the Yellowstone River due to snow melt and heavy rains is now putting the fish bypass in further jeopardy and is anticipated not to withstand the incident. Will the Bureau expect irrigators to pay for the operation and maintenance of this fish bypass despite the oversight in design and the fact the project does not service irrigators? What authority do you believe the Bureau has to require irrigators to pay for the fish bypass which is outside of the scope for which the project was authorized?

Response: Damage to the fish bypass channel caused by the ice jam and the recent high flows throughout the Yellowstone River basin was largely in the form of bank erosion in areas lacking protective material such as riprap. Reclamation worked with the U.S Army Corps of Engineers (USACE) following the March 18 event, resulting in the contractor returning to the site to complete needed repairs and make improvements to portions of the channel. Although there were damages associated with the recent Yellowstone River flooding, the damages are less than they would have been without these repairs. Reclamation is again engaging the USACE to assess the current damage and identify a path forward.

Regarding the long-term operations and maintenance of the bypass, Reclamation is in year 1 of an 8-year adaptive management process whereby Reclamation, the U.S. Fish and Wildlife Service, the USGS, and the Montana Department of Fish, Wildlife & Parks will be collecting data to assess the effectiveness of the bypass and making changes, as appropriate, to identify the optimum design and operation parameters to facilitate both the upstream and downstream movements of the pallid sturgeon. During this 8-year evaluation period, Reclamation will be responsible for much of the operation and maintenance (O&M) of the bypass channel, with assistance from the Lower Yellowstone Irrigation District. Once the long-term O&M strategy has been identified, either a new O&M contract or an amendment to the existing O&M contract will be negotiated with the district to include O&M of the bypass channel.

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Question from Senator Hoeven

Question: As you know, North Dakota and the Bureau of Reclamation are working to advance multiple important water supply projects, including the Eastern North Dakota Alternate Supply Project (ENDAWS). Considering the inflationary pressures and supply chain challenges that impact construction costs, will you work with our state to provide the support and regulatory flexibility needed to accelerate the construction of ENDAWS and other critical water projects?

Response: Reclamation is committed to working closely with the state of North Dakota to continue the development and construction of important water projects throughout the State and will continue to do so within our existing authorities.

Question from Senator King

Question 1: The Bureau of Reclamation (BOR) owns over 8,000 miles of canals. Building solar panel installations over canals may provide benefits in terms of renewable energy generation, lower evaporative losses of water, and decreased need for aquatic vegetation control. Does BOR have the authority to enter into public-private partnerships to build solar panels over canals at no cost to the government? If not, what authorities would be required to enable such partnerships? Finally, what work if any has the BOR engaged into date on these types of projects?

Response: Reclamation is authorized to issue use authorizations and enter public-private partnerships with non-federal entities that fund the development of solar power production on Reclamation land. This type of development is an acceptable, discretionary use of Reclamation land, facilities, and waterbodies provided it is compatible with authorized Reclamation project purposes and is in the best interests of the public. Projects that incorporate renewable energy improvements into existing water-delivery systems are also eligible for funding via WaterSMART Water and Energy Efficiency Grants. Under this program, eligible entities such as irrigation districts, tribes, and municipalities may seek up to \$5 million in cost-shared federal funding for projects to be completed within 3 years. In addition, Section 50232 of the Inflation Reduction Act of 2022 (P.L. 117-169) provided Reclamation with \$25 million in funding for the design, study, and implementation of projects (including pilot and demonstration projects) to cover water conveyance facilities with solar panels to generate renewable energy that increase water efficiency and assist in implementation of clean-energy goals.

In 2016, Reclamation published a white paper titled “Fundamental Considerations Associated with Placing Solar Generation Structures at Central Arizona Project Canal,”⁸ which was funded by Reclamation’s Science and Technology Program. We are not aware of a solar installation over Reclamation canals, but we believe that such project would be eligible for consideration. Reclamation would assess the impacts to the project facility and underlying land. Criteria considered for authorization include compatibility with the project purpose and operations, safety, security, environmental compliance, compatibility with public interests, conflicts with federal policies, public health and safety and ensuring the project is in the best interest of the United States. Proposals for this type of improvement located on a Reclamation facility involve numerous complex issues that would need to be reviewed before moving forward.

⁸ U.S. Bureau of Reclamation, Phoenix Area Office, “Fundamental Considerations Associated with Placing Solar Generation Structures at Central Arizona Project Canal” (2016), available at <https://www.usbr.gov/main/going/docs/09.27.2016%20Placing%20Solar%20Generation%20Structures%20Over%20the%20CAP%20Canal%20final%20.pdf>.

Questions from Senator Hickenlooper

Question 1: The Ute Mountain Ute Tribe operates a very successful farm and ranch enterprise when sufficient water is available. Their reservation is located in one of the driest part of Colorado, and their water supply from the Dolores Project was only 8 percent last year. In spite of this, they did not qualify for relief from Operations and Maintenance obligations under the Emergency Drought Relief authority. What needs to be changed so that communities and tribes with clear water shortages can access relief immediately, without spending nearly a year negotiating with Bureau of Reclamation for a solution?

Response: Reclamation is very interested in working with the Ute Mountain Ute Tribe (UMUT) to identify other potential options for drought assistance that may benefit the UMUT in the face of the challenging hydrology that continues into 2022. We have worked with the UMUT on their proposals and have provided funding through our Native American Affairs Technical Assistance Program (NAA/TAP). In addition, we have determined that UMUT proposals are eligible for discretionary funding, consistent with the provisions of Reclamation's Drought Response Program, and anticipate funding to be awarded in fiscal year 2023. We believe these two programs have the greatest potential and resources to address the UMUT's situation.

Question 2: As water becomes more scarce, it becomes more important to accurately and transparently account for both its usage and loss. What are some of the differences between how the Upper and Lower Basins of the Colorado River account for their water? What can the Bureau do to help harmonize accounting of evaporative losses in particular between basins?

Response: Accounting for water use and loss is a vital component of Reclamation's water management process. Reclamation generally reports water use within the Upper and Lower Colorado Basin across three main reporting areas: (1) Upper Colorado River Basin, (2) Lower Colorado River Basin Tributaries, and (3) Lower Colorado River Mainstream. A key difference in managing water accounting between Reclamation's Upper and Lower Colorado Basins is that Reclamation acts as the water master within the Lower Colorado Basin Mainstream area on behalf of the Secretary of the Interior. In the Upper Colorado River Basin and the Lower Colorado River Basin Tributary Areas, the seven Upper and Lower Basin States retain this authority. In other words, water uses in the Lower Basin mainstream area are approved by Reclamation, whereas water uses in the Upper Basin and Lower Basin tributary areas are approved by the Upper Division States of Colorado, Wyoming, Utah and New Mexico and Lower Division States of Arizona, California, and Nevada for each respective area.

The Upper Colorado River Basin and Lower Colorado River Basin Tributaries reporting areas use similar accounting methods, whereas the Lower Colorado River Mainstream reporting area

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relies on methods unique to this one reporting area. Each reporting area's water use and loss estimation methods are outlined in USGS Scientific Investigation Report 2018-5021.⁹

In the Upper Colorado River Basin and Lower Colorado River Basin Tributaries reporting areas, reported losses are separated into two sectors: (1) reservoir evaporative losses, and (2) stock ponds evaporative losses. A net evaporative loss is calculated for both reservoirs and stock ponds. The net evaporative loss figure is calculated as gross evaporation minus salvage. Salvage is defined as water that was consumptively used before a reservoir came into existence. This includes water used by natural vegetation or people living on the site.

In the Lower Colorado River Mainstream reporting area, evaporative losses from reservoirs are determined as gross evaporation. These Lower Mainstream evaporative reservoir losses are not charged against each Lower Division State's mainstream allocations (2.8 million acre-feet for Arizona, 4.4 million acre-feet for California, and 0.3 million acre-feet for Nevada) or typically included in their reported uses. This differs from the Upper Basin, where evaporative losses are charged against each Upper Division State's allocation and included in their reported uses, in accordance with the terms of the 1948 Upper Colorado River Basin Compact.

Reclamation's Upper and Lower Basin regional offices independently compute water use within each respective Basin. The regions strive to coordinate water-use estimation methods when possible but may require different estimation methods given variations in available data and climatological difference within each respective Basin. There is not a formal requirement for Reclamation's regions to use the same methods. With respect to evaporative losses from reservoirs, Reclamation reports beneficial water use in the Upper Colorado River Basin and Lower Colorado River Basin Tributaries reporting areas pursuant to Section 601(b)(1) of the Colorado River Basin Project Act of 1968 (P.L. 90-537). In the Lower Colorado River Mainstream reporting area, Reclamation reports beneficial water use pursuant to Article V of the Consolidated Decree of the United States Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006), which does not list reservoir evaporation as a reportable loss. The accounting information is documented in the Annual Operating Plans, annual Decree Accounting Reports, and other official reports published by Reclamation.

⁹ U.S. Geological Survey and U.S. Bureau of Reclamation, "Comparison of U.S. Geological Survey and Bureau of Reclamation water-use reporting in the Colorado River Basin" (June 26, 2018), available at <https://www.pubs.er.usgs.gov/publication/sir20185021>



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

OCT 17 2022

The Honorable Raul Grijalva
Chair, Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chair Grijalva:

Enclosed are responses prepared by the National Park Service to the questions for the record received following the March 8, 2022, oversight hearing titled *Examining the History of Federal Lands and the Development of Tribal Co-Management*. We apologize for the delay in our response.

Thank you for giving us the opportunity to respond to you on these matters.

Sincerely,

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

Enclosure

cc: The Honorable Bruce Westerman
Ranking Member

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Questions from Chair Grijalva

Question 1. During the hearing, Director Sams mentioned that the National Park Service (NPS) is working with DOI to examine opportunities to expand tribal co-management under existing authorities. Pending the completion of that assessment—

- o **What additional authorities does NPS require to implement tribal co-management effectively?**

Response: One authority that could potentially improve the NPS's ability to implement tribal co-management is the cooperative management agreement authority found in 54 USC 101703. This authority allows the Secretary to enter into agreements with State and local governments to acquire goods and services in order to create a more effective and efficient delivery of service. National parks across the country have used this authority to provide a variety of services from snowplow operations to transit. H.R. 6442, which the House Natural Resources Committee has approved, would expand cooperative management agreement authority to include Tribes. The Department believes this authority could yield substantial benefits for the both the NPS and our tribal partners, which is consistent with Secretary's Order 3403, *Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters*, and NPS Policy Memorandum 22-03, *Fulfilling the National Park Service Trust Responsibility to Indian Tribes, Alaska Natives, and Hawaiians in the Stewardship of Federal Lands and Waters*.

- o **Is additional funding necessary to expand tribal co-management?**

Response: Congress may want to consider expanding funding streams available for the NPS to increase its engagement with Tribes in co-management opportunities.

- o **Please provide information on the appropriate levels and accounts if additional funding is necessary.**

Response: We recognize it is the role of Congress to determine appropriate funding levels.

Question 2. Director Sams, you mentioned that NPS is expanding the use of agency funding agreements to expand tribal co-management across NPS units.

- o **Can you provide additional details on these efforts?**

Response: The NPS's commitment to strengthening nation-to-nation relationships with Indian and Alaska Native Tribes and supporting Tribal self-governance through cooperative agreements and service contracts is reflected in Policy Memorandum 22-03, *Fulfilling the National Park Service Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters*. On an annual basis, the NPS works with the Office of Self Governance to publish a list in the Federal Register of potential activities and locations of national parks with close proximity to Self-Governance Tribes that may be eligible for inclusion in annual funding agreements (AFAs) for the upcoming fiscal year. Elements of programs that may be

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eligible for a Self-Governance AFA include resource management research and activities, planning documents, fire protection, housing construction and rehabilitation, interpretation and educational programming, maintenance functions and services, road and trail repair or rehabilitation. Federally recognized Tribes that are traditionally associated and have cultural, historical, or geographical significance to a park in the National Park System may initiate the request to enter into negotiations for an AFA. Funds are transferred through AFAs to the Tribe to carry out the agreed upon programs, services, functions, and activities. Overall, since the NPS began entering into AFAs with Self-Governance Tribes, the tribal communities have received an aggregate amount of over \$38 million.

- o **Are you aware of similar efforts within other Department of the Interior agencies?**

Response: Other DOI bureaus engage in similar efforts.

Question 3. Director Sams, you identified the need for additional employee education on the Indigenous history of the United States and Indigenous connections to current agency resources as an essential next step in better integrating Indigenous perspectives at NPS and expanding tribal co-management.

- o **What efforts is the NPS making to provide staff, both at headquarters and in the field, with Indigenous culture and history education?**

Response: The NPS will, in accordance with Secretary's Order 3403, and NPS Policy Memorandum 22-03, prioritize and make available training for all staff who may be involved in programs and decision making that may impact Indian or Alaska Native Tribes, relevant Alaska Native entities, or the Native Hawaiian Community to ensure staff have an appropriate understanding of applicable laws and policies, treaty rights, trust responsibilities, and the Federal relationships with Indian and Alaska Native Tribes and the Native Hawaiian Community. Many of the parks that have ties to Indigenous cultures are increasing their training in Indigenous culture and history in order to help ensure the protection of resources associated with those cultures and to appropriately interpret the culture and history for park visitors.

- o **Is the agency working with other federal agencies or non-federal organizations to plan or provide this training?**

Response: The NPS encourages continuous learning and skills development for staff with ongoing and sustained Federal-Tribal/Alaska Native/Native Hawaiian responsibilities and supports formal and informal networks of subject matter experts. The NPS encourages and supports joint training opportunities with Indian and Alaska Native Tribes, the Native Hawaiian Community, and other Indigenous or traditionally associated peoples to promote shared understanding, build working relationships, and develop best practices for communication and collaboration at local, regional, and national levels

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Question 4. Director Sams, you mentioned that NPS supported the work of tribal youth corps programs.

- o **Can you share the current state of the Indian Youth Service Corps program (as outlined under P.L. 116-9)?**

Response: The NPS Youth Partnership Program service-wide funding source (about \$11.5 million annually) supports youth engagement and development, including various Indian youth employment, education and outdoor recreation projects, across the National Park System. The NPS received a funding increase of \$700,000 in fiscal year 2020 to develop and invest in Indian Youth Service Corps programs. This funding was in addition to funds that were already dedicated to natural and cultural resource conservation projects involving Native American youth and young adults through service and conservation corps organizations.

Fiscal Year 2022 national funding allocation for Indian Youth Service Corps (IYSC)

Total IYSC Allotment FY22: \$700,000		Number of Participants	Allocation of funds
Traditional Trades Apprenticeship Program (TTAP)	TTAP is recruiting IYSC interns for Bandelier NM, Casa Grande Ruins NM, Haleakala NP, Southern Four Corners Group of parks, and Zion NP.	11	\$250,000
Indian Affairs Outreach Internship Program	Funding will support 2 to 3 long-term interns working in support projects led by the NPS Native American Affairs Liaison.	3	\$120,000
Capacity Building Service Corps Programs	Native crew members and interns will be helping to preserve and maintain the natural and cultural resources of Navajo NM and Canyon de Chelly NM for 2 to 3 months. The program participants will be recruited from the local Navajo communities.	16	\$250,000

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Alaska Native Internship Program	Funding will support the continued work at the Ahtna Cultural Center (Wrangell-St Elias NP & Pres) for educational and community outreach with a focus on shared tradition, science and shared stewardship goals.		\$80,000
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- o **How many individuals are working under these authorities?**

Response: See chart above.

- o **In what NPS units?**

Response: See chart above.

- o **Are there plans to expand these programs to other NPS sites?**

Response: Yes, as additional funding is available.

Question 5. In his testimony, one of our other witnesses, Dean Washburn, noted that providing contract support costs, engaging in consultation regarding tribal co-management opportunities, and incentivizing land managers to support co-management would be key steps towards expanding tribal co-management.

- o **Would any of these suggestions require legislative authority?**

Response: The NPS is examining its existing authorities in these areas. We look forward to continued discussions with the Committee about future opportunities and potential changes.

- o **Is NPS considering undertaking any of these efforts? If so, please provide additional details.**

Response: The NPS is open to exploring multiple pathways to increase engagement with Tribes.

- o **How can Congress support these efforts?**

Response: We appreciate the support of the Committee and look forward to continuing conversations regarding tribal engagement and co-stewardship.

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- o **Are you aware of efforts at other federal agencies to act on these items?**

Response: We defer to these other federal agencies to speak on these issues.

- o **Can you provide a cost estimate for these efforts if they were implemented?**

Response: Further details would be needed to develop cost estimates.