

OVERSIGHT OF THE U.S. FISH AND WILDLIFE SERVICE

Wednesday, February 5, 2020

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee, met, pursuant to notice, at 10:06 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Cramer, Braun, Rounds, Sullivan, Ernst, Cardin, Whitehouse, Merkley, Gillibrand, Van Hollen.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES
SENATOR FROM THE STATE OF WYOMING

Senator Barrasso. Good morning. I call this hearing to order.

I will point out that last night, President Trump called on Congress to pass America's Transportation Infrastructure Act. He said we must also rebuild America's infrastructure. He then asked Congress to pass America's Transportation Infrastructure Act, as he said, "to invest in new roads, bridges, and tunnels across our land." The Senate is ready to answer the President's call. This bipartisan legislation passed our committee unanimously by a vote of 21 to nothing.

America's Transportation Infrastructure Act is the most substantial highway infrastructure legislation in history. It will fix our roads; it will help speed up project delivery; it will help protect the environment; it will help grow America's economy.

I specifically want to thank Ranking Member Carper, and subcommittee chair and ranking member Capito and Cardin for their participation and leadership on this legislation, and all the sponsors of the bill for their hard work, and Senator Inhofe, for your leadership on this area over the years. I look forward to sending it to President Trump's desk for his signature.

This morning, we are here to conduct oversight over the U.S. Fish and Wildlife Service. I welcome our witness, Rob Wallace, who was confirmed in June of last year to be Assistant Secretary for Fish, Wildlife, and Parks at the U.S. Department of Interior. I have known Assistant Secretary Wallace for 35 years, as he has served in several wildlife conservation leadership roles, both in Wyoming and here in Washington.

Now, Assistant Secretary Wallace oversees the U.S. Fish and Wildlife Service, which is under the jurisdiction of this committee and the National Park Service, which is under the jurisdiction of the Energy and Natural Resources Committee. I look forward to hearing from Mr. Wallace about his priorities for the U.S. Fish and Wildlife Service.

I am especially interested to learn more about what the Service is doing to strike the proper balance between wildlife conservation, habitat management, and the use of our public lands. The U.S. Fish and Wildlife Service enforces our Nation's wildlife laws. It protects endangered species. It restores and conserves wildlife habitat. It administers our National Wildlife Refuge System. It manages migratory birds and restores fisheries.

Over the last three years, the Trump Administration has worked to implement policies that benefit our Nation's wildlife and remove unnecessary barriers to growing our economy. For

example, the Administration recognizes what westerners have known for years: that the Endangered Species Act needs to work better for species and for rural communities.

The Administration finalized three rules last year to improve implementation of the Endangered Species Act. These rules revised existing regulations to help clarify and improve standards for making listing and delisting decisions, as well as critical habitat designations.

The Trump Administration also recognizes the important role that sportsmen and women play in wildlife management and conservation. Last August, Secretary Bernhardt announced that the Department of Interior would open more than 1.4 million acres of lands and waters in our National Wildlife Refuge System to new opportunities for hunting and fishing.

The President also signed into law two provisions passed by this committee that improve the ability of States to use the Pittman-Robertson Act funds to promote hunting. This committee continues to move other significant bipartisan legislation that will help the U.S. Fish and Wildlife Service fulfill its important mission. In December, the committee reported America's Conservation Enhancement Act, or the ACE Act. We did it by voice vote.

Among other provisions, the legislation reauthorizes important environmental programs, including the North American

Wetlands Conservation Act, the National Fish and Wildlife Foundation Act, and the Chesapeake Bay Program. The ACE Act also solidifies partnerships among public agencies and other interested parties that promote fish conservation.

The ACE Act addresses the terrible, degenerative, highly contagious brain disease known as chronic wasting disease. Detected nearly 40 years ago, chronic wasting disease has spread to 26 States and 4 Canadian Provinces. The ACE Act establishes a Chronic Wasting Disease Task Force at the U.S. Fish and Wildlife Service to address this important wildlife threat.

The ACE Act passed the Senate in January, and I encourage the House to pass it without amendment as soon as possible. We need to get this legislation to the President's desk so the Fish and Wildlife Service can have the tools they need to fulfill their mission.

I look forward to hearing more about what the U.S. Fish and Wildlife Service is doing to both protect wildlife and to support economic growth. As I have said at other hearings, we can and we must do both.

I would now like to turn to my friend and Ranking Member, Senator Carper for his statement.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Chairman Barrasso, thank you very much, thank you for your kind words.

I am going to start today by quoting one of our finest American leaders. I want to quote one of our great American leaders, who once said these words. He said, "Along the way, I have learned so much, especially that no one ever really wins by winning everything, and that bipartisan solutions are always lasting solutions."

Some of you in the room probably don't remember who said those words, but it was our witness today, Rob Wallace. We welcome you back, and thank you for those words. I literally sat last night during the State of the Union Address thinking about those words. No one ever really wins by winning everything, and that bipartisan solutions are always lasting solutions.

If we are going to be successful, as the Chairman has said, we are going to be successfully moving service transportation legislation that actually begins to address our roads, highways, bridges, and waterworks that needs to be done. And this extreme climate weather that we are facing the challenges there. We are going to be able to do that. We have to do it together. None of us can do it by ourselves, and I welcome the Chairman's words

as he opened his statement.

Let me just say, I know we can agree on a lot in this committee, but I think we can all agree on the importance of promoting urban national wildlife refuges, like two we have in Delaware, Prime Hook and Bombay Hook National Wildlife Refuge. They are treasures to our State, and not just for our State, they are treasures for our Country. People who come and visit our Country and our State from around the world to visit those wildlife refuges would be very much in agreement with that. We are proud that people travel from far and near, from throughout the world to visit us for a variety of reasons, but especially those refuges.

As the U.S. Fish and Wildlife Service works to enhance access to these special places, I hope we can work together to ensure adequate law enforcement at our refuges and all refuges. I also want to thank you, Mr. Secretary, for your assistance on issues of importance for the First State National Historical Park, which serves as one of the newest national parks in America. It tells a story of early colonial settlement of America leading up to the ratification of our Constitution, which we talked about a lot the last few weeks.

Collaborative species conservation is another bipartisan priority. I think we can all agree that it is better to conserve species, such as the Monarch butterfly, before these

species require Endangered Species Act protection. We look forward to hearing Mr. Wallace's thoughts on these issues of bipartisan subjects.

I must, however, also express my continued concerns with actions the Trump Administration is taking that I believe will harm fish and wildlife. The mission of the U.S. Fish and Wildlife Service is to work with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the benefit of the American people.

Unfortunately, too often, this Administration has proposed, and in some cases, already finalized regulations that are not in the spirit of that mission. Specifically, I fail to see how Endangered Species Act regulations finalized last year will better "conserve, protect, and enhance fish, wildlife, plants, and their habitats."

Just last week, the Administration released its proposed Migratory Bird Treaty Act rule. This proposal, which is being met with strong, bipartisan opposition, breaks with every precedent of law and caters solely to industry, not to the American people, as the U.S. Fish and Wildlife Service mission states it should.

Recent reports suggest that the Department of the Interior is preparing nearly 100 additional policy changes for 2020. To be clear, I do not know what all of these policy changes could

be, but given this Administration's track record, I fear we have reason to expect that these policy changes will be met with some disagreement from Democrats on this committee and in Congress, along with conservation groups and other stakeholders.

As we look ahead, Mr. Secretary, I hope you can assure our committee today, and in the days ahead, that any upcoming policy changes will be more thoughtful, careful, and inclusive of all perspectives that some of the previous changes I have mentioned. We have to remember that our national resources are precious, and in many cases once they are gone, they are gone.

If there are indeed some scores of policy changes on the horizon, I urge the Administration to work with States and all stakeholders on those policies because conservation policies work best when we work together, and as you once said, Mr. Secretary, bipartisan solutions are indeed lasting solutions.

Thank you, Mr. Chairman, and welcome back, Rob.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Well, thank you, Senator Carper, for quoting our witness here today. Those are wonderful words that I am glad are once again in the record, because they are words that we can all benefit from. So thank for bringing that to our attention.

Senator Carper. Mr. Chairman, can I mention one other thing? I have my wallet here, and I put it out for a reason. Last night when the President was talking about transportation infrastructure, one of the things he did not mention is that you have to pay for this stuff. I have always believed, I think Governor Rounds and my other colleagues believe, if things are worth having, they are worth paying for.

We heard nothing last night about how we are going to pay for stuff, and we are looking at a budget deficit this year of a trillion dollars. A trillion dollars. I used to, when I first came to the Congress in 1982 as a freshman Congressman and joined Jim Inhofe, our budget deficit was about, I don't know, \$50 billion, \$60 billion, \$70 billion. We thought that was way too much.

We are looking at a trillion dollars this year, and the idea of passing a transportation infrastructure bill without any funding would be, I think, just an aberration. That would be just awful.

I know this is something that you share, views that you

share, and it is important that we not just say we want to improve the infrastructure, we have to do a lot more on roads, highways, bridges, but we also have to figure out where the money is going to come from. Thank you.

Senator Barrasso. Well, now, I appreciate that as well, Senator Carper, because I agree. I think that is something that we all need to work together on with the Finance Committee. We are in the process of doing that. This bill needs to be paid for. I believe we should start by agreeing that everyone who uses the roads should help pay to maintain and improve them.

There isn't a single answer, but among other solutions, I believe that the electric vehicle, which currently pays no federal gas tax, actually needs to make a contribution and pay into the system as well.

Senator Inhofe, do you have a question?

Senator Inhofe. Yes. Let me just make a comment about that, because I chaired the committee during the last three of these types of bills. It is so popular, that is one of the few taxes that everyone agrees on. But it is not just taxes. There are other ways of doing it, and we have studied and we have been able each time we passed a bill, whether it is any of the last three bills, to come up with the funding of it because it becomes necessary and that prioritizes it.

This is going to happen again, so I am glad he said what he

said, and made a commitment to do something that I think a lot of people, most Oklahomans, are enthusiastic about.

Senator Barrasso. Thank you, Senator Inhofe. Senator Carper.

Senator Carper. In my conversations with the President on infrastructure, Senator Inhofe has been there for a number of those, the President has actually been very bold in private in suggesting ways to pay for this. I think that some around him are concerned that if he is bold in making proposals, that he will turn around and look for Democrats and Republicans to support him and not find anybody, if he is bold, and strong, and honest about the need for funding, including what you just mentioned.

Folks who use roads, highways, and bridges ought to pay for them, including folks that are in electric vehicles or hydrogen-powered vehicles and all that. I realize it is not the jurisdiction of this committee. Some of us on this committee do serve on Finance, and we have our work cut out and we need to lean on the Finance Committee to do their job. Thank you.

Senator Barrasso. Thank you, Senator Carper. As we get ready to hear from our witness, Rob Wallace, remember he was unanimously confirmed July of 2019. He is a Wyoming native. His distinguished career includes 45 years of service in a variety of positions directly related to supervising the U.S.

Fish and Wildlife.

He began his career as a seasonal park ranger in the Grand Teton National Park. Since then, he has served as Assistant Director of the National Parks Service, Chief of Staff for Wyoming's Senator Malcolm Wallop, Staff Director for the U.S. Senate Energy and Natural Resources Committee, Chief of Staff for the Wyoming Governor Jim Geringer, Manager of U.S. Government Relations for GE Energy, President of our Nation's first cooperative conservation bank, co-founder of the Upper Green River Conservancy, where he built partnerships among diverse stakeholders to protect core sage-grouse habitat in Southwest Wyoming, served in numerous other organizations and boards dedicated to conserving wildlife.

Assistant Secretary Wallace, it is a privilege to welcome you back as a witness before the Environment and Public Works Committee today. Thank you for being with us. I want to remind you that your full written testimony will be made part of the official record here today, so please try to keep your comments to five minutes, so we may have more time to argue among things among ourselves.

Please proceed with your testimony.

STATEMENT OF THE HONORABLE ROBERT WALLACE, ASSISTANT SECRETARY
FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF INTERIOR

Mr. Wallace. Good morning, Chairman Barrasso, Ranking Member Carper, and members of the committee. Thank you for the opportunity to discuss the mission and work and priorities of the U.S. Fish and Wildlife Service.

The Service is the only agency of the Federal Government whose primary mission is fish and wildlife conservation. The Service's conservation mission is carried out by over 8,000 employees stationed at hundreds of wildlife refuges, fish hatcheries, and field stations and regional offices spread across all 50 States and all 5 U.S. territories.

I have been fortunate to travel around the Country to meet with some of the Service's dedicated professionals. I have been impressed with the good work they are doing on the ground to conserve fish and wildlife for the American public. Their work, carrying out the laws that you, Congress, pass ensures that America's wildlife heritage will pass on to future generations.

I will focus my remarks on a few of the priorities that are being led by Secretary Bernhardt and supported by his team at Interior. One of the Secretary's priorities is to be a good neighbor. The Service understands that the conservation of our Nation's fish and wildlife is not something that it can achieve alone. Strong partnerships with State and federal agencies,

tribes, private landowners, and other stakeholders are essential to successful conservation.

Another area of focus for the Service is partnerships with landowners. This is especially important because 60 percent of the land in the United States is privately owned. The Service invests in keeping landowners on their land and preserving working landscapes for the benefit of agriculture, ranching, timber, and traditional land uses. We do that because fish, wildlife, and plants benefit from the investment in working landscapes.

Ensuring public access to federal lands is another high priority. In addition to its core conservation purpose, the National Wildlife Refuge System plays an essential role in providing outdoor recreation opportunities for the American public, with over 59 million visitors last year.

Access to land of the refuge system also benefits local communities. We recognize this significant impact, and so, last year, the Service announced new hunting and fishing opportunities on more than 1.4 million acres nationwide.

To further facilitate public access, the Service removed or revised 5,000 site-specific hunting and fishing regulations to more closely align with State law. For example, one of my favorites, we eliminated the burdensome requirement that hunters must wear a vest or jacket containing back and front panels of

at least 600 square inches of solid, fluorescent, orange color. Instead, we aligned our regulations with the State's less burdensome requirements for just wearing blaze orange while hunting.

Other ways the Service is expanding access is by promoting wildlife conservation in hunting and fishing and outdoor recreation in our cities and getting new, non-traditional audiences to visit their local refuges. The Service has a new confirmed director, Aurelia Skipwith, who is a strong leader in this effort.

There are more than a hundred such urban refuges that are great resources to connect people with nature. To further this effort, the Secretary designated September 29th as Urban National Wildlife Refuge Day.

I will close by highlighting the Secretary's emphasis on recovery of species listed under the Endangered Species Act. The United States is a global leader in species protection and conservation. The Service is committed to the recovery of listed species and to returning management of those species to our State and tribal partners. This will allow the Service to focus our limited resources on those species of greatest conservation need.

Already, in this Administration, the Service has issued final and proposed rules to the list to down-list nearly 30

species. For example, the Service recently proposed to delist the Interior Least Tern, which migrates across 18 States in the Central United States. The tern has come back from just 2,000 individuals, thanks to years of cooperative work with Federal, State, local, and other partners. These efforts will help ensure that the continued success of the species, should it be returned to the State management.

This is one of the many great success stories to show how ESA can work and the department as a committee to making the progress going forward. Improving implementation of the ESA continues to be a priority for the Secretary. We are committed to making the ESA as efficient and predictable as possible in accomplishing its purpose of conserving threatened and endangered species and protecting ecosystems upon which they depend.

I appreciate the committee's interest in further wildlife conservation. I would be happy to answer your questions, and thank you again for having me here.

[The prepared statement of Mr. Wallace follows:]

Senator Barrasso. Thanks so very much.

We do have a number of Senators here, and some will come and go due to other requirements of their time.

I wanted to start with a couple of questions on issues that we are facing, and one is the U.S. Fish and Wildlife service determined that the grizzly bear in the Greater Yellowstone ecosystem has already met its recovery goals. The U.S. Fish and Wildlife Service said that in 1998, which was more than 20 years ago.

The Bush Administration, the Obama Administration, the Trump Administration each has agreed, determined that the grizzly bear is recovered, and that the Endangered Species Act protections are no longer warranted. That is bipartisan agreement, now we are at over 20 years.

The grizzly bear was delisted by the Service in 2007, only to be relisted by an activist judge in 2009. It was again delisted by the Service in 2017, only to be relisted again by another activist Federal judge in 2018.

Do you agree that the grizzly bear is fully recovered and should be delisted?

Mr. Wallace. Yes, Senator, we do. I think the Service believes that the grizzly bear is biologically recovered.

Senator Barrasso. I guess the next step is where we go from here, but we don't have enough time in the questioning, so

let me get to another question. But I appreciate the comment there and we will visit it additionally.

I wanted to get to that the committee and the full Senate has passed America's Conservation Enhancement Act, the ACE Act, with unanimous support. The ACE Act would provide the U.S. Fish and Wildlife Service with additional tools to conserve wildlife. As mentioned in my opening statement, these include provisions to help the Service address challenges like chronic wasting disease, invasive species, wetlands conservation.

Can you please speak about some of these challenges from the Service's perspective and what the agency is doing to help address them?

Mr. Wallace. Senator, we have not taken a position on the ACE Act, but we are certainly aware of the leadership that you and Senator Carper and the committee members have taken in trying to address some of the Nation's most complicated and challenging conservation issues, everything from the Genius Prize that you have focused on, Senator, to reauthorizing some very important partners in the Chesapeake and the National Fish and Wildlife Foundation.

So I think on behalf of the Service, thank you for the leadership in that role, and we look forward to working with you going forward.

Senator Barrasso. On Monday, February 3rd, the Washington

Post published an article entitled "Hunting is Declining, Creating a Crisis for Conservation." The article describes how sportsmen play such a significant role across the Country in funding the wildlife conservation efforts of States. They do it through the Pittman-Robertson Act.

It notes that a decline in hunting is cutting into some of the funding for conservation. Last year, this committee passed and got signed into law two bills to strengthen Pittman-Robertson, the Target Practice and Marksmanship Training Support Act, and then also the Modernizing the Pittman-Robertson Fund for Tomorrow's Needs Act.

How will these legislative changes help State fish and wildlife agencies that rely on this Pittman-Robertson funding, and what is the status of this implementation?

Mr. Wallace. We saw that same article, Senator, and it is something that the Service has talked about for quite a while. The decline in hunting and fishing on public lands, or hunting and fishing in general, has a direct impact on the ability of State fish and wildlife agencies to be funded every year. So it is an area that we are paying close attention to.

The Urban Refuge Program that we are starting is a good first step. I had the privilege of being at the Blackwater National Wildlife Refuge in eastern Maryland in the fall, where there is a Freedom Hunters Program going on that gets people

from the inner city area around Baltimore and Philadelphia to come to the refuges and learn not only about hunting, but cooking, and the culture of dressing animals.

They even told me they are getting some vegetarian hunters down there. I looked at them, and I thought they were gaming the Assistant Secretary, but no, there is a number of people that donate the organic meat to their friends and use the hooves for making soap and the bones for wind chimes. It is an interesting group of people that are coming together on refuges.

We are aware of it, and we are doing what we can, thanks to your help, to increase that.

Senator Barrasso. You mentioned the Genius Prize, that is the Wildlife Innovation and Longevity Driver Act, the WILD Act, enacted into law in March of 2019. It established Theodore Roosevelt Genius Prizes. These cash prizes are meant to stimulate technological innovation in several different categories for the benefit of wildlife.

Can you tell us a little bit about how far along we are in implementing these prizes, and when we can reasonably expect the first prizes to be awarded?

Mr. Wallace. We are now, at the Interior Department, looking at that Act and trying to understand how best to stand up the prizes. Do we have to, for example, have a federal advisory committee for each of the prizes, or could we stand

that up with our own internal advisory committee? We are working very diligently on that, but I don't have the exact answer to you yet, sir.

Senator Barrasso. Senator Carper.

Senator Carper. Thanks, Mr. Chairman.

Mr. Secretary, several of our colleagues and I sent a letter recently to Secretary Bernhardt, in November, actually, inquiring about the status of the Conservation Agreement for the Monarch Butterfly. Utilities and transportation departments from Delaware to Wyoming, or Delaware to Texas, or Delaware to Oklahoma, stand ready to undertake conservation measures that could preclude the Service from needing to list the Monarch later this year. But this agreement must be finalized before they can act.

The Fish and Wildlife Service has delayed, I am told, delayed finalization of the agreement for more than six months. I understand that the Service wants to resolve concerns raised by farmers, that is understandable. However, the proponents of the agreement believe that stakeholders' needs have been accommodated, and there are no outstanding legal issues that should hinder the agreement's effectiveness.

My question is a brief one. What precludes the Service from finalizing this agreement now and working with agricultural stakeholders separately to develop an additional agreement for

their continued engagement?

And I would just ask that you would work with us on this issue. Any comments, please.

Mr. Wallace. Senator, I did see your letter, and I will commit to you to putting that on my list of things I will personally drive at the department.

The good news here is this CCAA for Monarch butterflies has created a lot of very positive interest from people that have an opportunity to participate in that CCAA. The number of people that have come in to express interest may be one of the reasons that it has slowed down a little bit.

But please be assured that I am aware of your concern, and I will keep you and your team, your staff, apprised of it on a very routine basis.

Senator Carper. Thank you so much. My second question, Mr. Secretary, deals with duck stamp. During your confirmation process, I asked if you would ensure that any changes to the duck stamp are designed to increase participation in the program.

In your response, you acknowledged the importance of the Duck Stamp Program and conserving migratory bird habitat and committed to studying the program. Since that time, the Fish and Wildlife Service unveiled a new rule that will require the duck stamp to reflect the theme "celebrating our waterfowl

hunting heritage.”

However, sportsmen are not the only participants in the duck stamp program, as you may know. In fact, the American Birding Association, which is headquartered, believe it or not, in Delaware, encourages birding enthusiasts to purchase duck stamps as well, and they do.

Here is my question. How exactly does this proposed rule seek to increase sales and participation in the program? What was the impetus for the change, and what type of research did the Service conduct to study the potential impacts of this rule on duck stamp sales and user participation?

Mr. Wallace. Senator, I will answer this in a broad question with a commitment to come back to you again with a more detailed explanation. We are looking at the same thing that Senator Barrasso mentioned earlier about the decline in sportsmen on public lands, and what that means to Pittman-Robertson and Dingell-Johnson revenues.

We looked at a way to try to increase that revenue through duck stamp sales by celebrating the hunting heritage. It was a focus on trying to get more people, opening more lands to hunt and get more people into the refuges.

That is the general emphasis on that. But the idea is that to keep your constituents buying duck stamps and hopefully expand into other groups that don't necessarily think about even

ducks, but they care about wildland conservation to also participate because it goes directly into habitat conservation.

Senator Carper. All right. I look forward to hearing from you further on this, please.

Lastly, I was pleased that the fiscal year 2020 omnibus included a \$2.9 million increase in funding for refuge system law enforcement over the 2019 enacted level. As you know, lack of a dedicated full-time law enforcement officer is a challenge at Delaware's refuges, particularly given the Trump Administration's emphasis on expanding access within the refuge system. I know that is a concern at other refuges as well.

My question is how well the Service determined which regions or refuges receive new law enforcement officers with this additional funding, and will you continue to work with us to ensure adequate law enforcement at Delaware's two refuges?

Mr. Wallace. The Service has a priority system about how to identify most urgent law enforcement needs and trying to allocate funds for law enforcement in those refuges. I hope to be up in Delaware in the next couple of months to be able to sit down with the refuge managers up there, understand the needs of Prime Hook and Bombay Hook, and have a more detailed explanation about how that specifically affects the refuges you care most about. But they do, within limited resources, try to spread that money forward to where is most urgently needed.

Senator Carper. All right. Thanks, we look forward to welcoming you to the first State. Thank you.

Senator Barrasso. Thank you, Senator Carper. Senator Inhofe.

Senator Inhofe. Thank you, Mr. Chairman.

Mr. Wallace, in Oklahoma, we have two of the endangered species where there is activity going on right now that is meaningful, not just for our developers and roads people, our farmers, it is very important to them. One is the American Burying Beetle, and we understand that now that they are, due to the resurgence of the beetle, that they are proposing a down-listing of the species from endangered to threatened. That is my understanding, that is supposed to be some time around June of this coming year, this year.

The second thing is the prairie chicken. We have had Oklahoma, Texas, Kansas, Colorado, and New Mexico very active in promoting and helping Fish and Wildlife out on this issue, and I think that we are in the position now where a decision is going to be made as to whether or not to list the prairie chicken.

I would kind of like to have you respond to this question as to, where are we now on the Burying Beetle. I think we are in good shape on that. But is there anything else that we can do during the decision that is going to be made on the prairie chicken? We are now talking about five States trying to work

cooperatively with you that might impact that decision.

Mr. Wallace. Senator, as to your first question about the American Burying Beetle, we are working on down-listing from endangered to threatened, with a tailored 4(D) rule, which provides more flexibilities in how to manage that to the States. We feel like we are working cooperatively with organizations that are impacted by that.

Senator Inhofe. Do the dates still look good in terms of June of 2020?

Mr. Wallace. We are still on track, yes sir.

Senator Inhofe. Good. Good. And then on the prairie chicken?

Mr. Wallace. The prairie chicken, I believe, we are under consent decree for spring of 2021 to make a listing decision. I know there has been a lot of work with the Western Association of Fish and Wildlife managers to stand up some conservation areas that may go toward providing some assurance about the long-term health of the Lesser Prairie Chicken.

Senator Inhofe. And the other question was that, is there anything that we can do, our stakeholders, the five States that are involved in this, that would be of assistance in helping with this decision?

Mr. Wallace. Oh, thank you, I am sorry, I misunderstood. Let me come back to you on that. When I talked to the Service

in preparation for this hearing, I got the sense that things were working pretty well with the affected parties.

Senator Inhofe. I think that is right. In my remaining time, I am concerned also about the Migratory Bird Treaty Act. The new interpretation of the rule inserts the word "unintentional," damage that is done unintentionally. I think about if you are doing a bridge project some place and by accident, something happens, that you would not find yourself in a situation where you are in a criminal situation.

So I am concerned about that, and I just know that in our State, our State Highway 3 Bridge rehab project ended up taking a number of months longer than it would have otherwise, in order to comply with this. So I am concerned about that.

Can you speak to the length of delays in projects that happened as a result of criminalizing the incidental take? Now hopefully, that is going to be changed. Any comments on the change of that rule?

Mr. Wallace. As you are aware, Senator, there was a Solicitor's opinion shortly at the beginning of this Administration that said that incidental take under the Migratory Bird Treaty is not a prohibited activity, which goes to your concern about your constituents. There is a regulation that has been proposed, that was issued I think earlier this week. It is proposed regulation asking for 45 days of public

comment on that proposed rule, but it basically puts into regulation what the Solicitor said back in December of 2017.

Senator Inhofe. Yes, I am hoping you support that rule. Thank you very much, Mr. Wallace.

Senator Barrasso. Thank you very much, Senator Inhofe. We will now turn to Senator Van Hollen.

Senator Van Hollen. Thank you, Mr. Chairman, and thank you, Mr. Secretary. Thanks for being here and also for your remarks about the Chesapeake Bay and the ACE Act, the bipartisan bill that includes something called the Chesapeake Wild Act, which will strengthen the cooperation between the Fish and Wildlife Service and Chesapeake Bay Conservation Partners. So we are looking forward to passing that.

The Blackwater Wildlife Refuge, you mentioned that. As you know, that is a very important habitat for migratory birds, right? Do you agree it is a very important habitat?

Mr. Wallace. I do agree. I was just there.

Senator Van Hollen. Now, Senator Inhofe raised this issue about the so-called M opinion, the solicitor's opinion, which actually predated your coming on board. Under your leadership, it has now migrated from a Solicitor's opinion to proposed regulation. Now, you remember that BP Deepwater Horizon disaster, right? Do we all remember that?

Mr. Wallace. I do remember.

Senator Van Hollen. Massive killing of birds. But isn't it a fact that the new interpretation of the Migratory Bird Treaty would now prevent us from getting the \$100 million in damages against BP for the mass killing of migratory birds, monies that went into the Wetland Conservation Fund? Isn't it a fact that the new interpretation would mean that we could not go after BP on violations to the Migratory Bird Treaty?

Mr. Wallace. The total settlement, if I recall for the BP spill, is around \$18 billion or \$19 billion dollars.

Senator Van Hollen. Mr. Secretary, this is a very simple question. I am not asking whether you could have gotten damages under other laws. I am asking you, isn't it true that you would not be able to seek the \$100 million damages under the Migratory Bird Treaty? Isn't that a fact?

Mr. Wallace. Unintentional taking, that is correct.

Senator Van Hollen. Even though it was a massive killing. We are not talking about one bird that got killed while building a bridge. Obviously, that is not the intent of the Migratory Bird Treaty.

But it is to protect migratory birds, is it not? How does it further the mission of the Fish and Wildlife Service to take away the ability to fine a company like BP when its disasters kill masses of birds? How does that further the goal?

Mr. Wallace. If you would indulge me for a couple of

minutes to maybe understand our thinking about this issue, and hopefully assuage your concerns that we care deeply about the health of wildlife too, and migratory birds. The Solicitor's opinion that was issued by the last Administration was issued on January 10th, 2017, exactly 7 years, 11 months, and 20 days into that Administration. Here is what it said. It said that the incidental take prohibited under the Migratory Bird Treaty Act interpreted the MBA's prohibition and penalties as applying regardless of a violator's intention or state of mind.

That creates a couple of concerns for those of us that have to allocate resources. First of all, under the Migratory Bird Treaty, there is no civil penalty. Like you have done with all the other environmental statutes you have passed here, Clean Water, Clean Air, Bald Eagle Protection --

Senator Van Hollen. Mr. Secretary, I am sorry. Because of our limit, if the Chairman wants to give me additional time --

Senator Barrasso. I would be happy to do that, if there is no objection, it would be fine. Then you would still have three minutes remaining for your questioning as well.

Senator Van Hollen. Okay. That is fine. I appreciate that.

Senator Carper. I object.

[Laughter.]

Mr. Wallace. It was a concern about that strict liability,

that criminal statute is the only option of enforcement that that Act provides. You don't get a chance to have a written warning, you don't get a chance for a civilian fine. Your first indication you are in trouble under the Migratory Bird Act is a grand jury.

So it was a tool that had -- I understand what you are saying about the oil spilled in the Gulf, but it is a tool that is applied across the board. I saw you having other discussions about this. There are about a million birds unfortunately killed by wind turbines and oil ponds a year, about a million. That is too many. Two hundred fifty to 350 by automobiles. Half a billion by plate glass windows.

So all of those are potentially under the purview of that interpretation of that Act, so that is where we are.

Senator Van Hollen. Look, I understand that nobody intends for that provision to apply to someone who unintentionally kills a couple birds, right? But the way you revised it means that in the case of massive killing of birds, unless it is intentional, and obviously BP didn't set out to kill millions of birds, but under your interpretation, you can't collect the \$100 million against BP.

Here is the problem that is having in the Chesapeake Bay region. I just want to read you an article, a New York Times article. It says, is the State of Virginia prepared for a major

bridge and tunnel expansion in the tidewaters of the Chesapeake Bay last year. Engineers understood that the nesting grounds of 25,000 gulls, black skimmers, royal terns, and other sea birds were about to be plowed under.

So we are not talking about a few birds, we are talking about the nesting grounds for 25,000 birds. The State began to develop an artificial island as an alternative habitat because their understanding was, they had an obligation to do so under the Migratory Bird Treaty Act, but that is when the Trump Administration stepped in.

The Federal Government said it "appreciates the State efforts, but that new rules in Washington have eliminated penalties for 'incidental migratory bird deaths that came in the course of normal business.'" So even though they were plowing under the nesting grounds for 25,000 migratory birds, because obviously that wasn't their purpose, they didn't have to come up with an alternative habitat.

So my question to you, as somebody who is responsible for protecting migratory birds and habitat, how does that opinion further your mission?

Mr. Wallace. Keep in mind, Senator, that there are a number of environmental laws that are still going to apply to migratory birds, and we are committed to that.

Senator Van Hollen. If you could just, Mr. Secretary, does

the State of Virginia have any obligation under those other laws to build an alternative habitat?

Mr. Wallace. The permitting process, whether it is under NEPA or any other State organization, should, if the people are doing their job, incorporate best practices. Best practices do not go out the window because of the Migratory Bird Treaty. There is still going to be very much applicable to any ELM permit.

Senator Van Hollen. Mr. Secretary, I know you inherited this. I know the opinion predated your service. I understand that, but you are now in the process of turning that M opinion into regulations, and I think you are going to get a lot of pushback on those. I certainly hope so.

I think that there is a way to address the issue you raised about not wanting to have people face criminal penalties for killing a few birds in the course of their business compared to plowing under the nesting grounds of 25,000 birds or what happened in BP.

I would just like to ask you a question on another issue, and if you need more time to answer, you can get back to me in writing.

The Fish and Wildlife Service has programs to protect international iconic species, like elephants and gorillas, including programs in Central America. Last year, there were

some very serious problems with some of the contracting partners with the Fish and Wildlife Service. I understand why the Fish and Wildlife Service put that on hold back in September of last year in order to try to get rid of the bad actors.

My question to you is, have you made progress getting rid of the bad actors? It is been many months now. Do you intend now to allow that funding to go forward for those important programs to protect these species?

Mr. Wallace. I had the privilege, Senator, right after I was confirmed, to lead the U.S. delegation to CITES in Geneva, where I got to see first-hand the incredible respect that the men and women of the Fish and Wildlife Service are held in that international community that is trying to stop that wildlife trafficking. So these programs are a very important part of that.

The issues you refer to about human rights abuses, about potential sub-grantees of that money is something the Department Secretary takes very seriously. We are implementing auditing programs with the hope of getting those programs back and fully functioning. But if I could come back and brief you in some more detail?

Senator Van Hollen. I would appreciate that, because I think it is important to get those programs up and running. Get rid of the bad actors, of course, but to get them up and running

again. So thank you. I appreciate that.

Mr. Wallace. Just a parish note, I had the privilege of being with the Blackwater Refuge just a couple of months ago. What a terrific resource that is. Combined with the Harriet Tubman site, the sum is more than the parts.

Senator Van Hollen. And thank you for your focus on that and visiting that, and for the great work in the Fish and Wildlife Service.

Mr. Wallace. They are great people. Thank you, sir.

Senator Van Hollen. Thank you.

Senator Barrasso. Before turning to Senator Cramer, I point out that the Department of Interior's proposed rule with regard to the Migratory Bird Treaty Act is going to provide regulatory certainty about the scope of that Act. This proposed rule is based on a legal opinion issued by the Solicitor's Office, the Department Solicitor's Office.

In December of 2017, the Solicitor reviewed the Migratory Birds Treaty Act's texts, history, purpose, and concluded that the Act take prohibitions apply only to the conduct of intentionally injured birds. I know, Assistant Secretary Wallace, you are bound by that conclusion.

The Department, I think, was correct in codifying it. I am asking unanimous consent that at least the Solicitor's opinion be admitted to the record, without objection, it will be.

[The referenced information follows:]

Senator Barrasso. Senator Cramer.

Senator Cramer. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for being here.

I was going to resist the temptation for this North Dakotan to get into the Migratory Bird Treaty Act proposed rule, but I am going to, to this degree, to simply tell you I applaud the decision. I really don't think you had a lot of choice on this. Because it is not just a matter of one Solicitor's opinion versus the next Solicitor's opinion, and the back and forth. That is part of the problem in our regulation.

But there are also mixed rulings in court, districts courts. In North Dakota, we didn't have a BP spill, but we did have three oil companies that were zealously prosecuted by the U.S. Attorney's Office over 28 birds that flew into a pit some place, in various pits over the course of months, and died.

Clearly that wasn't intentional, clearly it was a lawful commercial activity, and it was more of a representation of the hatred for the industry than it was the love of birds, the way that the U.S. Attorney's Office at the time went after these companies, and consequently, the workers.

Fortunately, there was one willing to stand up to them, and it was thrown out, for all the reasons that this new rule, this proposed rule, States, and I have great sympathy for what Senator Van Hollen is talking about, but there has got to be a

better way than simply punitive zealous prosecution of lawful commercial activity, regardless of the magnitude of it.

Hopefully we can find a balance in all of this, find a balance that is not so punitive, but rather cooperative and collaborative.

And so with that, with my remaining minutes, I want to spend this time to flesh out a little bit your views on the waterfall production area easements that you have been active in, and start off by saying, first of all, thank you again to Secretary Bernhardt for first of all coming to Hope, North Dakota last year touring on a very chilly day, some wetlands, and then coming up with the recent director's order just earlier this, or I guess, last month that really demonstrates, again, once again, that the Trump Administration cares about rural America.

As you know, the enforcement of these pre-1976 WPAs has been confusing, and in many cases. It has been a longstanding issue for landowners, often resulting in both unnecessary and far too often, again, zealous enforcement measures, excessive confrontation with law enforcement. More to the point, the Federal footprint in the WPAs only grows with time, even though there are very specific purchased acres in these pre-1976 easements that oftentimes this results in the de facto rule, what I call regulatory taking, or a land grab.

According to the January 3rd director's order, throughout 2020, the Fish and Wildlife Service will be sending updated modern maps, thank you very much, to landowners who have these pre-1976 easements. And they will be accompanied by the first-ever appeals process, again, thank you very much, so that landowners can make sure that the maps are done properly. The most fundamental protection for a landowner is an accurate map, and clearly, the technology in 1976 and previously doesn't match what we have today, and consequently, a lot of this confusion.

To that end, I want to just ask a few fundamental process-related questions so that the public knows what to expect. Because once the letters go out, and I expect they are going to go out soon, landowners will only have a short time to respond to them to sort of put the stake in the ground.

So first of all, Mr. Chairman, what I would like to do is ask unanimous consent to submit the director's order and a recent op-ed that I wrote and was published this week in North Dakota newspapers.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Cramer. So could you maybe just help me in the last minute, or help the people watching this, by describing the quality of the pre-1976 maps, and why this is even important at all, to provide some clarity to our landowners?

Mr. Wallace. Could you ask that second, that last question sir?

Senator Cramer. Yes. Could you explain why it is important that we do this at all, and talk about the quality of the pre-1976 maps versus today in light of this?

Mr. Wallace. We have made, I hope that you will agree, good progress with your constituents on trying to provide some transparency. A lot of those wetlands protection areas that were signed up pre-1976 did not have complete maps.

There was disagreement handed down from generation to generation about just what we had committed to do. I think we have 5,000 pre-1976 maps we have committed to get out to your constituents in the coming years, with 1,000 this year.

We also have an appeals process that is going to help them have some peace of mind that they are going to get a fair hearing if they disagree with what the Service has said. I also think that we are looking at the way we approach your landowners in terms of trying to represent to them that there may be a disagreement about the wetlands protection area.

So those three are, I think, already underway, and we are

not looking at a tile setback regulations and appeals process for drainage tiles.

Senator Cramer. To that, I would say amen, amen, amen, and amen to all and thank you for doing that. That is a lot of amens, but it is a lot of good news.

I think it gets to the point though, that all of us have been talking about, that the best way to do conservation is collaboratively, cooperatively, whether it is with sportsmen, landowners, oil companies, whatever the case might be, so let's amen. Thank you.

Senator Barrasso. Senator Gillibrand.

Senator Gillibrand. Mr. Wallace, now that the EPA has issued General Electric a certificate of completion for the Hudson River PCB cleanup, the focus on addressing the damage caused to the Hudson River is with the natural resource damage that has been led by the Fish and Wildlife Service.

My first set of questions relates to that process. What are the next steps and timeframe for moving forward with natural resource damage assessment? When do you expect that there will be additional opportunities for public input?

Mr. Wallace. Senator, the trustees are working diligently to complete the injury determination phase of the assessment, having documented injuries in several natural resources thus far. So we share with our trustees the goal of successful

recovery on the Hudson, and look forward to coming back to visit with you and update you on that progress.

Senator Gillibrand. Okay. When quantifying the injuries to the Hudson River, how does your agency consider the fact that far more contamination still remains in the Hudson River?

Mr. Wallace. Again, I don't know, I will have to come back again and brief you and your staff in detail on that. Sorry.

Senator Gillibrand. Thank you, sir.

I would like to briefly mention another issue related to you, your role in overseeing the National Parks Service. The Jamaica Bay Marsh Islands, which are located in the Gateway National Recreation Area in New York, are in dire need of restoration.

I have worked with the Army Corps to support including the restoration of the Marsh Island as part of the Hudson-Raritan Estuary ecosystem restoration project. The islands are critically important for migratory bird habitat, and their erosion harms the Jamaica Bay ecosystem as a whole.

I hope that we can count on your commitment to work cooperatively with the Corps and with all the relevant stakeholders in New York to help move this project forward once it is been authorized.

Mr. Wallace. We do, and again, I would like to come back and talk to you in detail about that. Marshland, wetland

restoration resiliency strategies, I think, are imperative. It is not only in the Jamaica Bay, but it is in all of them, the refuge properties that we have to pay close attention to that. So we will be back and talk to you.

Senator Gillibrand. Thank you.

My next topic is the gray wolf delisting. The Fish and Wildlife Service commissioned an independent expert peer review of the Agency's proposed rule to delist gray wolves from the Endangered Species Act.

Released last May, the peer review detailed shortcomings with both the proposal and its accompanying biological report. The independent reviewers found numerous factual errors and questioned the Service's interpretation of scientific information. The reviewers were not alone in their critique of the proposed rule; many other scientists and scholars have weighed in against removing protections for the gray wolves.

How will the Service incorporate this study into its final rule? It is clear that in its current form the proposal to remove Endangered Species Act protections for the wolves is not in line with the best available science.

Mr. Wallace. Senator, in regard to the amendments to ESA that were released, there are three major pieces to that. The first is trying to separate the distinction between an endangered species and a threatened species. Under previous

interpretation, there was very little daylight between the two.

In other words, if you had a threatened species, you still had very tight limitations on take, both the species and the habitat. So the most probably consequential piece of this is to have the ability to issue a tailored 4(D) rule for specific species. It may have specific habitat needs, and it may require taking some habitat to increase the species down the road.

The other that has received a number of discussions has been the doctrine of the foreseeable future, what do you do with the foreseeable future standard. I can simply say that we are still committed to looking at climate change as a decision on listing. We have two stone fly de-listings, I believe one in Montana, one in Wyoming that had a climate change consideration to it. So climate change is still going to remain an important part of listing decisions.

The third one is the economics associated with the listings decision. We are prohibited by law from using economics to make a listing decision.

Senator Gillibrand. Great.

Mr. Wallace. But we are not prohibited from being transparent in telling the public what the cost could be, but they are separated in the decisions.

Senator Gillibrand. That makes sense. My last question is about migratory bird projection. One of Fish and Wildlife

Service's key mandates is to conserve America's migratory bird species. Although the National Audubon Society recently published a report that found that two-thirds of North American birds are at increased risk of extinction due to climate change, the Service appears to be focusing its efforts on developing policies that undermine protections for birds.

Would you please explain what the Service is doing to improve protections for migratory birds, and address the existential threat they face due to the impacts of climate change? What action is the Service taking to address the current and anticipated climate change impacts on the migratory bird habitat?

Mr. Wallace. Well, a very general answer to that is we have best practices working groups that are committed to working all sorts of industries, whether it is oil and gas industry, the wind energy industry, on developing best practices to give to them to operate and minimize the amount of take on migratory birds.

We are very committed to bird health populations, and regardless of the controversy around this last decision, we are not going away anywhere when it comes to a strong commitment to wildlife and migratory birds.

Senator Gillibrand. Thank you. Thank you, Mr. Chairman.

Senator Barrasso. Thank you very much.

Senator Braun.

Senator Braun. Thank you, Chairman Barrasso. General observation, because I remember back 35, 40 years ago where in southern Indiana, there were no beavers. The deer population was very low, I think turkeys had to be re-introduced. We are also a State that at one time had 20 million acres, 19 million acres were wooded. That got cut down to just a million acres.

So what Fish and Wildlife does, I think, is so important. I think you always err on the side of anything that is endangered or threatened, giving it the benefit of the doubt.

I am a conservationist from way back. I think it is important and including bringing climate into the discussion. I was proud to be the first Republican to join the Climate Caucus, and six others have since joined, so it is a big, I think, general area of discussion.

Pivoting now to, beavers are everywhere. Otters have been re-introduced very successfully. Bobcats, I am a hunter and an outdoorsman. I have a question in terms of the cross-jurisdiction between U.S. Fish and Wildlife and the reflective State agencies. Specifically, if you know anything about the bobcat population, because that is currently an issue throughout all of Southern Indiana, where we have got some cases more of them showing up on trail cams than we do the prey that most folks pay a hunting license fee for.

So when it does ebb and flow, and you get into a situation like we are dealing with, with bobcats, where is the U.S. Fish and Wildlife Act on that particular kind of issue? How do you work with your corresponding State agencies, that, you know, probably have the same point of view in mind?

Mr. Wallace. I think it may be a broader answer to your question, but we are committed to working with, it goes to Secretary Bernhardt's commitment to work with State game agencies to manage wildlife and be of support in whatever way we can to do that.

We have lots of success stories around the Country now about recovering the wildlife species. Senator Barrasso's frustration, I know about, the grizzly bear. There are bears everywhere in Wyoming right now. They are back.

Senator Braun. Bobcats as well, in Southern Indiana.

Mr. Wallace. Maybe to be more specific, if I could come back to your office with a more detailed explanation about that.

Senator Braun. That would be great, please do that.

Generally, would you give most of that latitude to the State agency in terms of what they would do, and you are just kind of a source of information? I would like to know, because currently, that is a big issue there.

We have come back to where we have reforested, we have a much broader array of fish and wildlife, compared to what it was

just 40 years ago, and that is so good, that is great. But occasionally, you do run into issues where you at least need to discuss when it has maybe come back too far the other way, so that is something, if you could, I would love to know more about how U.S. Fish and Wildlife weighs in vis-a-vis, especially, the Indiana Department of Natural Resources.

Mr. Wallace. We will come back in detail about that. But the default position is we want the States to be managing as much wildlife as they can handle with our support.

Senator Braun. Thank you.

Senator Barrasso. Thank you, Senator Braun.

Senator Cardin.

Senator Cardin. Thank you, Mr. Chairman, and thank you, Mr. Wallace for your service.

I want to follow up on Senator Gillibrand's point in regard to our wildlife refuges. I am going to refer specifically to Blackwater, which of course is located in the great State of Maryland. First, Mr. Chairman, I am going to ask unanimous consent to submit the Blackwater 2100 Strategy for Salt Marsh Persistence in an Era of Climate Change.

Senator Barrasso. Without objection, so ordered.

[The referenced information follows:]

Senator Cardin. And I do that because I have been to Blackwater many times, and I have seen first-hand the erosion of the wetlands that is taking place as a result of sea level rises and climate change. This report spells out "no-regret strategies firmly based on today's best science and predictable tools to ensure that future generations will enjoy the same benefits of the region's tidal marshes as we do today."

So I would like to get your response to what we could do at Blackwater. We have some novel ideas for looking at using dredged material to restore wetlands, and it works. It costs some money to do that, but that is one idea.

But if we are going to preserve these tidal marshlands for the future, we are going to have to be very aggressive. This is a real treasure for wildlife and for our community.

So are you committed to using best science and innovative approaches to deal with the challenges that have been brought out in this report?

Mr. Wallace. Senator, I absolutely am, and I hope you are pleased to know that Blackwater has helped inform me on my opinion on this. I had the pleasure of going out there in October and spending a day with Marcia Pradines, who is the refuge manager out there. Also went over to the new Harriet Tubman visitor's center. Talk about a marvelous one-two combination where the visitor center that interprets her life,

you can walk out the door, and thanks to the Blackwater Wildlife Refuge, get an understanding of what it must have looked like back there in the 1800s. It is a great resource for your State, and you should be very proud of it.

They also, we talked about invasive species down there. They have a pretty good handle on nutria, I understand, they don't have a handle on snake heads. But they also have a machine that Marcia showed me where they are digging up from the Blackwater River, trying to build up some of the refuge area to preclude that creeping saltwater from getting into some of those hard pines, thinking if they can build up the base, it is almost like a mini-dike.

So you are doing some creative things down there that the entire Service can learn from, so you have my commitment, absolutely.

Senator Cardin. Well, I really appreciate that answer, and thanks for giving the plug for the Harriet Tubman National Park and Visitor Center. It is relatively new. It is one of the new additions to the National Park Service, and it has been very, very popular as an educational tool in regard to Harriet Tubman.

Thank you for mentioning that, because that is all part of the area where she was a slave and later helped conduct the Underground Railroad, all part of this pristine area of the eastern shore of Maryland that we are trying to preserve.

Let me ask one more question. I want to follow up on a point that Senator Van Hollen raised in regard to migratory birds. I appreciate what you just said a little bit earlier in response to Senator Gillibrand, as to working with the utilities in order to mitigate the loss of migratory birds.

But I am concerned, I want this to go on record, that changing the Migratory Bird Treaty Act by the opinion on intentional taking, it does open the door for irresponsible corporate action. I just hope that you will be vigilant in this regard and recognize that you don't want to give a legal footing to irresponsible corporate action as it relates to migratory birds.

Mr. Wallace. I totally agree with you. I think we need to be in the forefront of it as leaders on best practices to inform industries about how we believe they can be responsible on public and private lands, and we are all in on that commitment, sir.

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

Senator Barrasso. Senator Sullivan.

Senator Sullivan. Thank you, Mr. Chairman, and Secretary Wallace, welcome.

I am going to begin by just mentioning, I am going to submit a number of questions for the record on polar bears and

sea otters in my State. A lot of questions for you and your team.

I am going to start, it is kind of a broken record for me in this committee that my State, my officials, my people, my constituents, the native people of Alaska, have so much knowledge about protecting our species, protecting our environment, building our economy. These are challenging issues, but my State is really, really good at it. You have been to Alaska, right?

Mr. Wallace. Many times.

Senator Sullivan. Pristine, beautiful, one of the most beautiful environmentally protected, gorgeous places on the planet.

Mr. Wallace. Right up there with Wyoming, sir.

[Laughter.]

Senator Sullivan. No comment.

[Laughter.]

Senator Sullivan. But then you travel up the east coast corridor on a train, and you see a chemical environmental wasteland. And yet, many of my colleagues, and I am going to be a little partisan here, because it is always coming from the Democrats, seem to always want to tell me and my State how to manage Alaska's environment. And then you take the train, and you are like, holy crap. You are telling me how to manage my

environment? Look at this environmental wasteland.

So we have it again, just recently 16 of my colleagues sent a letter, several letters to the top 15 heads of the biggest banks in America, essentially saying, don't invest in Alaska's North Slope. They lose a vote on opening ANWR, and now they are pressuring the banks not to invest in my State. Unprecedented. I have been here five years. Over one-third of the Democrats in this Senate sent a letter to some of the top bankers in America to further impoverish my constituents. Unprecedented.

A lot of times in this committee, I get steamed, because when I see Senators from Oregon or whatever, Massachusetts, telling me how to run my State, it just makes me a little mad. I don't go to Delaware or Oregon and say, hey, do this or do that. But it always seems to happen here.

I am beyond steamed on this one, I am just disappointed. It is sad. It is sad. One-third of the Senate Democrats are telling the biggest banks in America, don't invest in this part of Alaska.

So I am going to send a letter to all these Senators, just expressing my sadness, in attaching, and I would like to submit it for the record, Mr. Chairman, a recent op-ed in the Wall Street Journal from the Mayor of the North Slope Borough.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Sullivan. He is an Inupiat leader, Native leader who has been in this part of Alaska for generations. It is entitled "Goldman Sachs to Alaska Natives: Drop Dead." It is all about how these ideas from my Senators are impoverishing some of the poorest people in America, and they don't care, because I guarantee the letter that was written by the 16 Senators was from extreme environmental group that they are probably going to do a lot of fundraising off of, but it is sad.

I mention that, Mr. Secretary, because right now, you are developing an incidental take authorization for 2021 through 2026. I have had concerns about some of the issues that have been raised here, and what is happening is it looks like the model you are using, particularly as it relates to the polar bear, has not been validated by peer review. It is reportedly based on a few recent papers that have not been peer reviewed.

What I want to get a commitment from you on is that -- your commitment is very important to me that this is going to be a huge impact on my State and the economy and my constituents. It is essential that my constituents have a voice in this process because by the way, they are some of the most knowledgeable people on the planet, more than your people, no offense. Especially more than this recent paper that has not been peer-reviewed.

Can you commit to me that you will include State and local stakeholders, including some of the people I just talked about, not only making the final decision on the incidental take, but on participating in the incidental take application for seismic work in the National Wildlife Refuge right now? None of them have even been invited to be at the table. It is remarkable, and it is really upsetting.

So can I get that firm commitment from you right now? I am going to have a whole bunch of other issues, similarly on the sea otter in Southeast Alaska. You need additional data, we understand that, but we need to move on that too.

This is really frustrating to me, but it really hurts the people I represent. With all due respect to my Senate colleagues here, I know a hell of a lot more about representing Alaska than they do, and in some ways, the people under your command.

So can I get that commitment from you, Mr. Secretary, and perhaps you would like to talk about this?

Mr. Wallace. I do have a comment, Senator.

Senator Sullivan. First, I need the commitment that you are going to include my experts, my knowledge. Right now my State is telling me they are not involved.

Mr. Wallace. We have a commitment for total and transparent system on how we evaluate the ITR.

Senator Sullivan. You did not answer my question.

Mr. Wallace. Ask it again, please.

Senator Sullivan. I need a commitment from you that the State of Alaska, with all its expertise and indigenous knowledge on issues like polar bears will be at the table, not only on the ITR for 21 through 26, but the seismic program that is being looked at now, which, I am being told by State of Alaska officials, they are not being included. And I need a commitment also on peer review of this paper.

Point Thomson was just developed in Alaska. I oversaw that. That is right next to ANWR. The impacts on polar bear denning was almost minimal or zero. These are experiences that you need to take into account, and right now your people are not doing that.

I need a commitment that you are going to work closely with Alaskan experts on all of this. I just need a yes.

Mr. Wallace. You have that commitment, yes. And with another footnote, I met with your commissioner yesterday in my office, and told her the same thing.

Senator Sullivan. Thank you. And I will have many, many more questions for the record.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Sullivan.

Senator Merkley.

Senator Merkley. Thank you very much. Good to have you here.

My colleague has identified a major debate here in the United States, and the Senate is a place we should debate these issues. He has raised a question, why is it that folks outside Alaska have concern about oil production, which can certainly be an economic activity that creates jobs, creates prosperity for a local community?

I would invite you to come and tour Oregon with me, to my colleague, because we are seeing the impacts in rural Oregon. These are very Republican counties very concerned about dramatic transformations that they are witnessing from the increasing carbon levels in the air. Our Cascade snowpack is melting earlier, which means that our irrigation water for our farmers is deeply compromised. It has a huge impact on our ranchers, as well.

The richer carbon dioxide is promoting, it is a beneficial fertilizer, if you will, for an invasive grass that is damaging the grasses important for ranching. We are seeing our lakes impacted by algae, toxic algae. Not only is it toxic, but when it dies, it strips the oxygen out of the lake. So it is having a big impact.

We have smaller, warmer salmon and trout streams, which our rural fisherman care a great deal about. We have a forest fire

season that is two months longer than it was, and it doesn't have to do with raking the forest, it has to do with how dry the forests are for how long.

Our groundwater supplies for our farmers are dropping because we are getting less rainfall to re-enrich the groundwater, restore the groundwater. And off our coast, we have the most acidic water that human civilization has ever experienced in the Pacific Ocean, having a dramatic impact on the ecosystem off the coast from which our fisheries depend.

So we do have a stake. Everyone on this planet has a stake in whether we produce and burn fossil fuels. So that is why we are all in this conversation, and this is the place to debate it and wrestle with it.

Alaska is seeing even a bigger impact, proportionally, than is Oregon, the changing climate. That is something for us all, as Senators fighting for the best future for our Nation and for the planet, have to be engaged by.

I am certainly struck, Mr. Wallace, that we have seen a change in the language. In your testimony, you talked about fish, wildlife, plants, and habitats face many stressors and threats across the Nation and around the globe, including habitat loss, invasive species, wildlife disease, wildlife trafficking, and a changing planet.

What are you trying to encompass with "a changing planet?"

Mr. Wallace. Trying to accomplish what, Senator?

Senator Merkley. What are you trying to address when you say a changing planet?

Mr. Wallace. As you think of the authority of the Fish and Wildlife Service, National Parks Service in terms of the broader issue that you just discussed, the changes you are seeing in Oregon in lots of different areas, there are sort of three things that I think we can move the needle on, to be helpful on in that regard.

One is healthy forest management. Years ago, when I started in this business, that was a pejorative, you talked about healthy forest management, it meant so many things to so many people. Now, it is communities from all over the Country and to say, what do we do to minimize the possibility of a catastrophic wildfires in our lands.

The second thing we see, and especially after the Hurricane Dorian came through on the East Coast is beach re-nourishment strategies about whole areas on Cape Paterson, Point Lookout.

The third is invasive species. If I had a preference, I would like to see invasive species mentioned in the national dialogue as much as any other comment. In those three areas, the Fish and Wildlife Service and the National Park Service can take a leadership role.

Senator Merkley. I am struck how you talk about forest

fires without mentioning the underlying causes, the greater storms and the impact those storms are having on our States without addressing the underlying issue, invasive species dramatically affected by the changing carbon in the atmosphere and the warming temperatures.

Can we just have an honest discussion? Why is it that you have to dodge around the issue, and you are afraid to use the words carbon pollution, climate change? This is the most serious threat facing humanity. Don't you feel some responsibility as a public servant to actually get to the real issue and recommend and wrestle with real strategies to address this challenge?

Mr. Wallace. I think those are real strategies. I think adoptive management and teaching a generation of people how to prepare for changes, as Senator Cardin just mentioned, in the Blackwater Refuge in Maryland. We see it on the Coast of the Carolinas and Alaska. You want people that are caring for public resources to understand what is changing around them and have tools in place. That is where we, at my position at Interior, can help.

Senator Merkley. Well, I will wrap up and just say I disagree that addressing the impact from these changes, which are devastating and say, let's restore some beach sand, and we will all be happy, and not address the underlying cause is, it

is pretty much addressing the issue after the horses are out of the barn, and we need to get the horses back in the barn.

Senator Barrasso. Senator Carper.

Senator Carper. Senator Merkley, before you arrived, in response to an earlier question, the words climate change came out of his mouth a number of times. Our colleague, Senator Braun over here, raised his hand and acknowledged he was the first Republican to join the Climate Change Caucus. Senator Barrasso tells me he has been joined by six other Republicans. I am urging him maybe to summon up his I don't know what, and join as well.

So I think the interest in going at root causes is growing, and we need to grow it some more.

Senator Merkley. Well, I will note those words did not appear in your testimony, and they don't appear in the most recent report. But I am heartened by your observation. Thank you.

Senator Carper. Secretary Wallace, two questions if I could. Fish and Wildlife Service estimates that oil fuel waste pits kill between 500,000 and 1 million birds every year. That is bird mortality that is equivalent to practically one Deepwater Horizon spill every year.

These pits, as you may know, are especially harmful for waterfowl. One Fish and Wildlife Service study found that 57

percent, almost 60 percent of the birds killed at these sites are waterfowl.

These bird deaths are problematic for many constituencies, including the hundreds of thousands of sportsmen and women who hunt waterfowl. The Migratory Bird Treaty Act has been the most important tool for cleaning up these pits, including throughout the George W. Bush Administration.

The Trump Administration has essentially eliminated this tool through its unprecedented interpretation of this Act. Here is my question. How does this Administration reconcile its position on the Migratory Bird Treaty Act and cleaning up these sites with its position to expand opportunities for sportsmen?

I will say that again. How does the Administration reconcile its position on the Migratory Bird Treaty Act with cleaning up these sites with its position to expand opportunities for sportsmen? Please.

Mr. Wallace. Senator, regardless of this particular Migratory Bird Treaty issue that you asked me about, we have a large quiver of environmental statutes, thanks to your committee and others, to enable us to protect and preserve species. The Clean Water Act, for example, the Bald and Golden Eagle Protection Act, Endangered Species Act, Oil Spill Act.

In addition to that, we have working groups with all of these industry groups about best practices, about netting your

pond, about flagging it, about putting louvers over heater treaters so a bird doesn't crawl into one vent and it is turned on. So we are not going away from this debate.

We just could not criminalize such a broad activity of actions under the Migratory Bird Treaty and understand how to implement it. Who do you pick, and who do you choose from? We would invite, if you have ways of putting sidebars on that, we would look to the legislative branch to tell us how to enforce that treaty.

Senator Carper. All right, thank you.

One last question. Last year, news investigations raised several important questions about whether or not U.S. funding for international wildlife conservation-supported activities that violated human rights, both the Fish and Wildlife Service and the implicated conservation organizations, should continue to take these issues very seriously and ensure that such abuses do not occur.

However, I understand that the Department of Interior has frozen about \$12 million for international wildlife conservation activities that are unrelated to human rights abuse allegations, unrelated to human rights abuse allegations. Congress appropriated this funding, I think for fiscal year 2018, 2018.

The question: when do you expect the Department of Interior to release these obligated funds? When do you expect your

department to release these obligated funds, the \$12.3 million dollars that is been frozen?

Mr. Wallace. Senator, we had an issue where they were held at the Department of Interior because of allegations that were coming forward about potential abuse to second and third generation grantees in range countries where we were trying to curtail wildlife. We don't want to be a part of any of that, if it were true.

We have set up audits. We are working with the USAID on best practices from them. We know it is an important part of our diplomacy and wildlife trafficking, and it is an issue that I talk about with our team weekly. So I am going to put that on my list to come back and talk to you and the committee about. But please be assured that it is not in some shoebox at the Department of Interior; it is a high priority.

Senator Carper. All right, we will continue to focus on it with you, and thank you for joining us today. Thank you.

Senator Barrasso. Senator Whitehouse.

Senator Whitehouse. Thank you very much, Chairman.
Welcome back, Mr. Wallace. It is good to see you again.

I have two topics with you today. One is that from the Department of Interior's very name, right down through its focus, what we coastal States see as an organization that is heavily focused on western, inland, and upland issues, and that

pays very little attention to coastal concerns.

I raised this with you during the confirmation hearing, and I would like to ask you to, perhaps in a response, a written response, take this as a question for the record if you would like, because I don't want to put you on the spot or just get a one-minute answer to a longer question.

What are the ways that you have undertaken to make sure that your organization pays attention to coastal areas, and that we get fair treatment up against upland, inland, and western areas? I know that this will distress our Chairman from his upland, inland, and western State, but I do think it is fair that coastal States like mine and Senator Carper's are not left out of the Department of Interior's attention.

The second question is much more local to us. We have had the chance to discuss this, you and I offline, and that is the park that is being developed along the Blackstone River in Rhode Island and in Massachusetts. Unlike the west, where you can draw big squares on big chunks of territory and call them parks, we have been developed since the 17th century, in some places, and certainly since the 18th century. So trying to carve out park areas is complicated.

What we are able to do is in the Blackstone Park, treat the Blackstone River as sort of the bracelet, and attach to it a variety of charms of historic significance. Then we have the

question of, how do you link it all up. By road, by the river itself, by bike paths, and all of that, and that requires a whole different and more complicated regime of looking for easements and put-ins, and take-outs, all of that.

I would like to invite you to come to Rhode Island at a convenient time, once we have a meeting set up for you, and sit down with Senator Reed and myself, and go through where we are on concluding that park and get your attention to getting this done for once and for all.

Mr. Wallace. I would answer the second question first. Yes, absolutely, I look forward to coming up to Rhode Island to see you and learn more about Blackstone. I think we have talked about it. There may be some lessons learned with the Cuyahoga Project.

Senator Whitehouse. Cuyahoga. Fortunately, the Blackstone never caught fire.

Mr. Wallace. Yes. I look forward to coming to see you.

As to your question, is the Interior going to get into the exterior of the Country, I think we already are there. If you look at the coastal areas that we have under management either as refuges or parks in Florida, Cape Hatteras, Point Lookout, the Texas Gulf Coast, we are in the business of understanding these big changes that are happening.

Dorian re-carved some of the North Carolina coast right

now. What is that mean for us as an agency on how we look at beach restoration?

So we are being challenged by today's times to understand those questions that you have asked me. We are in the business, and we are going to be in it even a bigger way in the future.

Senator Whitehouse. When we drill down into your accounts, and into the Army Corps of Engineers accounts, we very often see huge discrepancies in where funding ends up, with the vast majority, in some cases, 80 percent, 90 percent of funding and accounts going to inland and upland uses and not to coastal uses. So I will take you through those accounts, and we will see if we can get them to be balanced a little bit more fairly in favor of the coastal States that have so long been not the Department of Interior's focus.

Thank you.

Mr. Wallace. I look forward to that, Senator. Thank you and it is nice to see you again.

Senator Whitehouse. Nice to see you again.

Senator Barrasso. I would point out to the Senator from the coastal State on the east coast that we previously during this hearing today, had quite a bit of a discussion debate, and some division and disagreement among coastal States on the western part of our Country, with the Senator from Oregon and the Senator from Alaska having somewhat diverging views on

issues of resources and coastal activities.

Senator Whitehouse. That is what happens when you have so little to fight over along the coast, whereas you all are just choking with federal money to the extent that you have sage brush rebellions to drive it away.

[Laughter.]

Senator Barrasso. I did have a final question before we close down this hearing. There was a discussion earlier about migratory birds, and deaths related to those. Somewhere I was reading a list of the things that cause bird deaths. You mentioned a few, vehicles, plate glass windows, wind turbines, animals that can cause death.

Is there a listing somewhere of a proportionality of those sorts of things? I mean, you mentioned some different numbers for different things, but I wasn't able to get them all down.

Mr. Wallace. We do have a list at the Fish and Wildlife Service. The number one issue, not surprisingly, is cats, about 2.4 billion estimated. And it goes down into oil, it comes down. Cell towers, transmission towers, plate-glass windows, even cars. There is a big list of things that happen in America that kill birds. We will get that to the committee.

Senator Barrasso. Thanks so much. If there are no further questions, and we had quite a turnout, I think we have had questions from 11 different Senators. Others were here and had

to leave before having a chance to offer questions. But they may be able to write to you questions. So I would ask that we keep the hearing record open for another two weeks.

I want to thank you for your time and your testimony. We look forward to seeing you back in the committee and all your thoughtful comments. Thank you, Mr. Wallace. The hearing is adjourned.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]