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FOR THE DEPARTMENT OF THE INTERIOR
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ON ENVIRONMENT AND PUBLIC WORKS
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AND REGULATORY OVERSIGHT
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Mr. Chairman and members of the Subcommittee. Good morning. I am pleased to be here, along with my colleague, Mr. Arthur Elkins, Inspector General for the Environmental Protection Agency, to testify about our oversight of the regulatory agencies under our respective jurisdictions.

As you know, the U. S. Fish and Wildlife Service (FWS) is one of nine bureaus and offices within the Department of the Interior (DOI) over which my office has jurisdiction. Our oversight work is challenged by the scope, size, and geographically dispersed nature of DOI and the diverse nature of its bureaus' missions. These missions range from issuing oil and gas leases, supplying energy and water to the Nation, conserving resources, and providing recreational and cultural opportunities to the public. DOI employs about 70,000 Federal employees, plus contractors, grantees, and key partners, to do this work in over 2,400 locations across the Nation and in the Insular Areas under American protection.

With about 270 employees overseeing such an expansive Department, we must choose our priorities carefully. The work we have chosen to complete in relation to FWS falls within one of several of our "focus areas": financial assistance, water, energy, Indian country, and manager and law enforcement misconduct. It also represents our emphasis on providing a robust whistleblower protection program.

My office conducts a wide range of oversight of FWS programs and operations:

Wildlife and Sport Fish Restoration Program Grants

DOI disbursed roughly $9 billion in contracts, grants, and other financial assistance in FY 2014. Proper administration and oversight are essential to safeguard taxpayer dollars and to help prevent fraud, waste, and mismanagement. While we do not have the capacity to provide oversight to every contract and grant, two of the FWS grant programs we audited—the Wildlife Restoration Program and the Sport Fish Restoration Program—were among DOI's four largest grant programs in FY 2014. Around $1 billion was disbursed by FWS through these two programs. Our audits issued in FY 2014 identified $2,096,754 in questioned or unsupported costs and funds that could be put to better use.

The Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act established the Wildlife and Sport Fish Restoration Programs. Under the Programs, FWS provides grants to States to restore, conserve, manage, and enhance their sport fish and wildlife resources. In FY 2014, FWS disbursed $1 billion in grants under the Programs. Over a 5-year period, we audit each State receiving FWS grant funds to ensure that States are using grants and revenues appropriately. The Acts and Federal regulations contain provisions and principles on eligible costs and allow FWS to reimburse States up to 75 percent of the eligible costs incurred under the grants. The Acts also require that hunting and fishing license revenues be used only for the administration of the States' fish and game agencies. Federal regulations and FWS guidance require States to account for any income earned using grant funds.

For years, my office has provided consistent audit oversight to FWS for grants funded under these program. Before we took over this audit responsibility, the oversight of these grants

was being conducted by an outside audit agency, which was woefully tardy in issuing its audit reports and was, quite simply, not fulfilling its contract oversight responsibility. When we took over this audit work, we created a small, dedicated unit to perform these audits, launched a systematic coverage cycle, and established a uniform approach to all State audits. While we have audit findings that range from internal control issues to FWS' monitoring of the States' expenditures, we have found that the uniformity of our audits provide both FWS and the States with a consistency of oversight that ensures that internal controls are in place to minimize financial risk in this popular grant program.

Underground Injection Control Activities

Like the other DOI bureaus that have underground injection control (UIC) wells, FWS could not fully identify, and does not effectively manage, UIC wells on its lands. The U.S. Geological Survey estimated in 2013 that "more than 100 million people in the United States, about 35 percent of the population—received their drinking water from public groundwater systems." The Safe Drinking Water Act, passed in 1974, sought to protect drinking water by establishing the Underground Injection Control Program in the Environmental Protection Agency (EPA). The UIC Program, as administered by the EPA, contains regulations for injection wells to prevent endangering drinking water sources.

DOI is tasked with managing and protecting resources on Federal and Indian lands, including underground sources of drinking water. It must meet Federal standards of the Safe Drinking Water Act and related EPA regulations. With hundreds of thousands of acres under the management of DOI's bureaus, the possible impact of noncompliance with EPA's safe drinking water regulations is significant.

We found several issues with Class V injection wells (shallow gravity drained wells), one of six categories defined in EPA's regulations that could potentially threaten sources of underground drinking water.

First, DOI has no overarching guidance or policy to assist bureaus in complying with EPA's regulations concerning Class V injection wells. This has led to inconsistent or nonexistent policies at the bureau level. FWS' Service Manual discusses pollution at FWS facilities and refers to the Safe Drinking Water Act and the Clean Water Act for surface discharges, but does not provide guidance for complying with EPA's UIC regulations. FWS stated that it also uses the Army Corps of Engineers' document, "The Environmental Assessment and Management (TEAM) Guide," which forms the basis of FWS' environmental compliance audits, but it could not provide any policy that would help it comply with EPA's UIC regulations when constructing new wells.

Second, bureaus have not effectively tracked and managed their Class V wells. As a result, bureaus are not complying with EPA's regulations to self-report these wells. FWS does not maintain a national database on sanitary leach fields or on fish hatcheries that could have aquaculture wells, another type of Class V well.

Third, we found several instances where well types banned from operation in 2005 were still operational on departmental lands. FWS listed 54 banned types of floor drains in 29 different States and did not know if these were Class V wells, but it has reportedly plugged them since we conducted our evaluation.

My office recommended that DOI's bureaus, including FWS, work with EPA to get in compliance and develop appropriate outreach efforts for better identifying and managing their class V wells. The bureaus agreed to do so.

Coastal Impact Assistance Program

The Energy Policy Act of 2005 created the Coastal Impact Assistance Program (CIAP) to provide grant funds derived from Federal offshore lease revenues to oil-producing States for conservation, protection, or restoration of coastal areas, wildlife, and natural resources. The Act authorized the Secretary of the Interior to disburse $250 million in each of FYs 2007, 2008, 2009, and 2010 to eligible CIAP grant recipients in the coastal zone counties, parishes, or boroughs of Alabama, Alaska, California, Louisiana, Mississippi, and Texas. Responsibility for CIAP was originally assigned to the Minerals Management Service, (which later became the Bureau of Ocean Energy Management, Regulation and Enforcement, or BOEMRE), and was transferred to FWS as of October 1, 2011.

At the request of FWS, we initiated an audit in 2011, focusing on grant funds awarded to Mississippi, followed by an audit of funds awarded to Louisiana in 2013. We issued our report on Mississippi's grant funds in FY 2013 and completed our audit of Louisiana's grant funds last year. Our audits revealed deficiencies in both States' management of grant funds as well as poor Federal oversight of grant recipients and weak risk management. In total, we questioned more than $44.1 million in CIAP costs awarded to Mississippi and Louisiana, representing ineligible grant charges, unreasonable costs, and expenses not supported by proper documentation.

DOI awarded the State of Mississippi and its three eligible counties 100 CIAP grants, totaling $99.8 million, between October 2009 and September 2013. During our audit, we reviewed 57 grants, totaling almost $39 million, and found significant deficiencies in how BOEMRE, FWS, and recipients managed the grants.

We questioned $17,835,862 in Mississippi grant funds as either ineligible, unreasonable, or unsupported costs and identified $12,063,403 in funds to be put to better use. We also

identified seven grant projects that should not have been approved because these projects had little or no relevance to the preservation of coastal areas, accounting for $5.9 million of the costs we questioned. We found, for example, that funding had been given to the Ohr-O'Keefe Museum of Art to install six skylights and construct a living laboratory, where less than 4 percent of CIAP funds were used for conservation purposes. Similarly, funds were awarded to construct a 6-foot-wide asphalt bike trail in a landlocked (not coastal) county where less than 2 percent of CIAP funds were used for conservation purposes. We also found that the Infinity Science Center received funding to construct a general-purpose classroom at a NASA facility. Perhaps most significantly, our audit uncovered irregularities that triggered a joint OIG and FBI investigation, resulting in multiple convictions for criminal wrongdoing.

In Louisiana, DOI awarded 127 CIAP grants, totaling about $494.2 million, to the State and its 19 eligible parishes between April 2008 and March 2013. During our audit, we reviewed 47 grants, totaling almost $370 million, and found several issues with FWS' grant monitoring that raised concerns about the potential for misuse of funds in Louisiana and FWS' ability to detect it.

For example, FWS decided it was not necessary to reassess grantees' level of risk and instead relied on risk assessments conducted by BOEMRE. During our audit, we discovered that BOEMRE had not assessed its single largest grant recipient, the Coastal Protection and Restoration Authority. As a result, FWS claimed to rely on a risk assessment that was never actually conducted for an agency that was responsible for more than $320 million in grant funds. In addition, FWS did not comply with departmental guidance that requires bureaus to proactively monitor financial assistance recipients through a risk-based approach. Finally, weak State procurement laws, coupled with inadequate capacity at the local level in Louisiana to manage

grants, increased the need for vigilant oversight by FWS. We questioned $9,878,964 in Louisiana grant funds, representing ineligible grant charges, unreasonable costs, and expenses not supported by proper documentation, and $4,343,765 in funds that could be put to better use.

Oil and Gas Management on Wildlife Refuges

FWS often manages refuge lands without having acquired subsurface mineral rights, a circumstance referred to as a "split estate." On split estates, the non-Federal mineral owners can often continue to produce or newly develop the private minerals underlying the Federal surface. As a result, FWS refuges have over 5,000 oil and gas wells, of which approximately 1,665 are actively producing. The remaining wells are either inactive or their status is unknown.
Due to minimal and vague national guidance, and questions about FWS' legal authority, FWS' management of oil and gas development activities on national wildlife refuges is inconsistent. Inconsistent management has also left FWS' refuges littered with orphaned, or abandoned, oil and gas infrastructure that could threaten the health and safety of wildlife, the safety of refuge visitors, and the environment. In addition, FWS has not completed a comprehensive database for tracking wells as recommended by the Government Accountability Office in 2003. A complete and accurate database would assist FWS in managing oil and gas operations in refuges.

FWS issued an advance notice of proposed rulemaking in 2014 to update its regulations on oil and gas activities and begin the process for complying with the National Environmental Policy Act. FWS has stated that the revised regulations would apply to new operations on refuges and cover procedures for permit applications, review and approval, and noncompliance. Updated FWS regulations or policy in this area could help to address FWS' inconsistent and uncertain management of these oil and gas wells.

OIG Administrative Investigations

Our investigative oversight of FWS has focused primarily on administrative management issues in the recent past. In 2013, we issued the Secretary a management advisory – one of the written products by which we bring issues of concern to management's attention – urging FWS leadership to act on long-outstanding complaints of retaliation made by employees who raised concerns to us and to FWS management. In May 2012, two FWS employees filed scientific integrity complaints and were almost immediately subjected to a series of adverse personnel actions including unpaid suspensions and a proposed removal. A third employee objected to managements' actions against the other employees and was apparently suspended without pay for dissenting. After the scientific integrity violations were substantiated, we issued the management advisory in July 2013 to address the retaliation complaints. As of this date, only one of the three cases was settled (in November 2014); the other two cases are still pending DOI action on settlement. The whistleblowers in this matter have requested that their identities not be disclosed. FWS has not provided a final response to our management advisory.

Another scientific integrity and retaliation complaint from the same region was filed by a Grade 15 supervisor and former deputy director for law enforcement. He claimed that after making a disclosure he was subjected to a pre-textual detail to another State to undefined and apparently meaningless job duties. The detail created significant hardship for the employee and appeared punitive. The complaint was settled after a hearing before the Merit Systems Protection Board (MSPB). The whistleblower also alleged that two FWS managers perjured themselves in their testimony before MSPB. We conducted an administrative investigation into these complaints, and the perjury allegations were not substantiated.

We also have ongoing administrative investigations into allegations of mismanagement and other wrongdoing on the part of FWS officials, including unfair and potentially illegal hiring practices, conflicts of interest, preferential treatment, and wasteful spending. Additionally, we have referred similar allegations from the same region to FWS management.

Finally, we are investigating allegations of FWS employee misconduct related to conservation efforts and wildlife management. We received allegations from a member of Congress that a FWS wildlife refuge manager had interacted inappropriately with a private conservation organization and may have violated anti-lobbying provisions included in the annual Department of the Interior and Related Agencies Appropriations Act. This investigation is also ongoing, and we will report our findings directly to Congress and FWS.

Mr. Chairman, this concludes my prepared testimony today. I would be happy to answer any questions you or the members of the Subcommittee may have.