

MACGREGOR AND DANLY NOMINATIONS

HEARING BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

TO

CONSIDER THE NOMINATIONS OF KATHARINE MACGREGOR TO BE DEPUTY SECRETARY OF THE INTERIOR AND JAMES P. DANLY TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

NOVEMBER 5, 2019



Printed for the use of the
Committee on Energy and Natural Resources

Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

39-869

WASHINGTON : 2021

COMMITTEE ON ENERGY AND NATURAL RESOURCES

LISA MURKOWSKI, Alaska, *Chairman*

JOHN BARRASSO, Wyoming

JAMES E. RISCH, Idaho

MIKE LEE, Utah

STEVE DAINES, Montana

BILL CASSIDY, Louisiana

CORY GARDNER, Colorado

CINDY HYDE-SMITH, Mississippi

MARTHA MCSALLY, Arizona

LAMAR ALEXANDER, Tennessee

JOHN HOEVEN, North Dakota

JOE MANCHIN III, West Virginia

RON WYDEN, Oregon

MARIA CANTWELL, Washington

BERNARD SANDERS, Vermont

DEBBIE STABENOW, Michigan

MARTIN HEINRICH, New Mexico

MAZIE K. HIRONO, Hawaii

ANGUS S. KING, JR., Maine

CATHERINE CORTEZ MASTO, Nevada

BRIAN HUGHES, *Staff Director*

KELLIE DONNELLY, *Chief Counsel*

LUCY MURFITT, *Deputy Chief Counsel*

SARAH VENUTO, *Democratic Staff Director*

SAM E. FOWLER, *Democratic Chief Counsel*

CONTENTS

OPENING STATEMENTS

	Page
Murkowski, Hon. Lisa, Chairman and a U.S. Senator from Alaska	1
Manchin III, Hon. Joe, Ranking Member and a U.S. Senator from West Virginia	16

WITNESSES

MacGregor, Katharine, nominated to be Deputy Secretary of the Interior	23
Danly, James P., nominated to be a Member of the Federal Energy Regulatory Commission	29

ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Alaska Federation of Natives:	
Letter for the Record	3
American Exploration & Mining Association:	
Letter for the Record	100
American Wind Energy Association:	
Letter for the Record	101
Americans for Limited Government:	
Letter for the Record	103
Appalachian Trail Conservancy:	
Letter for the Record	105
Arctic Slope Regional Corporation:	
Letter for the Record	5
Chamber of Commerce of the United States of America:	
Letter for the Record	111
Congressional Sportsmen's Foundation:	
Letter for the Record	6
Cook Inlet Region, Inc.:	
Letter for the Record	8
Cramer, Hon. Kevin:	
Statement for the Record	20
Danly, James P.:	
Opening Statement	29
Written Testimony	31
Responses to Questions for the Record	83
Gila River Indian Community:	
Letter for the Record	112
Graham, Hon. Lindsey:	
Statement for the Record	22
(The) Industrial Minerals Association—North America:	
Letter for the Record	10
Irwin, Hon. Holly:	
Letter for the Record	114

IV

	Page
MacGregor, Katharine:	
Opening Statement	23
Written Testimony	26
Responses to Questions for the Record	63
Manchin III, Hon. Joe:	
Opening Statement	16
Murkowski, Hon. Lisa:	
Opening Statement	1
National Water Resources Association:	
Letter for the Record	12
Public Lands Council, et al.:	
Letter for the Record	13
Schumer, Hon. Charles E.:	
Letter to the U.S. Department of Energy and U.S. Office of Government	
Ethics dated 11/4/19	34
Theodore Roosevelt Conservation Partnership:	
Letter for the Record	14
Western Energy Alliance:	
Letter for the Record	116

MACGREGOR AND DANLY NOMINATIONS

TUESDAY, NOVEMBER 5, 2019

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in Room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

The CHAIRMAN. Good morning, everyone. The Committee will come to order. Go ahead and be seated. Today we are here to consider two nominees, Ms. Katharine MacGregor to be the Deputy Secretary of the Department of the Interior and Mr. James Danly to be a member of the Federal Energy Regulatory Commission (FERC). These are both very important positions that I want to thank you both for your willingness to serve today. The Department of the Interior is the steward of about 20 percent of all land in the United States, much of it in the State of Alaska.

Roughly 60 percent of all National Park Service lands and 86 percent of all Fish and Wildlife Service lands are located in Alaska, and that is why back home we oftentimes refer to the Department of the Interior as our landlord, sometimes not so affectionately. But it is why we depend on the Department to be our partner and why we look to ensure that its leadership understands our unique history and our needs. I have been encouraged by the approach the Department has taken in this Administration. For example, we are moving forward with the responsible development of a small part of the non-wilderness 1002 Area.

The Secretary has signed a very small but a very important land exchange with King Cove. And whether it is Assistant Secretary Sweeney or you, Ms. MacGregor, the Department has worked closely with us to address the crisis of missing, murdered, and Indigenous women. So we appreciate all of that. But for all the good work that has been done, we know that there is a lot more that remains to be done. We have to see greater progress in lifting the decades-old public lands orders. We are waiting on a revised activity plan for our National Petroleum Reserve-Alaska to restore balance in its management. It is critical that the permitting of projects on our North Slope, which we need to refill our Trans-Alaska pipeline, stay on track; we need forest management reforms to address the threat of wildfire and invasive species; and, of course, we need to continue to build safe and secure communities.

I know Ms. MacGregor, you are no stranger to any of these issues. You have been described, as one friend from home said, as North Slope tough. That is a very strong compliment. You have served at Interior from the start of this Administration. You also have a decade of experience here on Capitol Hill. Your nomination has drawn strong support from dozens of groups from the Alaska Federation of Natives to the Theodore Roosevelt Conservation Partnership. So we will add all of those endorsements to our hearing record today along with the statement that Senator Cramer had planned to give when he was going to be introducing you.

[The information referred to follows:]



October 30, 2019

Sent Via Electronic Mail

The Honorable Lisa Murkowski
United States Senate
522 Senate Hart Office Building
Washington, D.C. 20510
Michael_Pawlowski@murkowski.senate.gov

The Honorable Daniel Sullivan
United States Senate
302 Senate Hart Office Building
Washington, D.C. 20510
Quinton_Carroll@sullivan.senate.gov

Re: MacGregor Nomination (Deputy Interior Secretary)

Dear Senators Murkowski and Sullivan:

The Alaska Federation of Natives writes in support of President Trump's nomination of Katharine MacGregor to serve as the Deputy Secretary of the U.S. Department of the Interior. AFN is the largest statewide Native organization in Alaska. Our membership includes 12 for-profit regional corporations, 12 not-for-profit regional organizations, 171 for-profit village corporations, and 191 federally recognized Indian tribes. Our mission, among other things, is to advance and enhance the voice of the Alaska Native community on issues of mutual concern, including critical federal appointments.

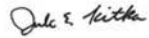
Ms. MacGregor has worked on a number of issues important to Alaska and Alaska Native peoples as the Acting Assistant Secretary of Land and Mineral Development and Deputy Chief of Staff, including offshore and onshore energy development, mining, and other critical mineral matters. She also lead the Department's efforts to harness DOI assets to advance rural broadband in communities throughout the nation.

AFN was extremely pleased to work with Ms. MacGregor on rural public safety issues, including Missing and Murdered Indigenous Women. AFN met with her on this and other issues each of the three times she visited Alaska. Ms. MacGregor was informed and genuinely interested in Alaska Native issues in those meetings, including the need to preserve the federal subsistence regulations.

Ms. MacGregor's education and professional experience make her well suited for this appointment. Prior to joining the Department, she worked on Capitol Hill for over 10 years, serving for two Chairmen of the House Natural Resources Committee; and holds a degree from the University of Pennsylvania.

If you have any questions about the content of this letter, please contact me directly. We look forward to working with you and your colleagues in the U.S. Senate on Ms. MacGregor's confirmation.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Kitka".

Julie Kitka
President

Cc: Congressman Don Young



October 31, 2019

To whom it may concern:

I write today in support of President Trump's nomination of Kate MacGregor to serve as the Deputy Secretary of the U.S. Department of the Interior.

I serve as the Executive Vice President for Arctic Slope Regional Corporation (ASRC). ASRC is one of twelve land-owning Alaska Native regional corporations created at the direction of Congress under the terms of the Alaska Native Claims Settlement Act of 1971 (ANCSA). ASRC's region is the North Slope of Alaska. The region encompasses 55 million acres of northern Alaska and includes the Native villages of Point Hope, Point Lay, Wainwright, Atkasuk, Utqiagvik, Nuiqsut, Kaktovik, and Anaktuvuk Pass.

As Acting Deputy Secretary and previously, Acting Assistant Secretary for Land and Minerals Management, Kate has gone out of her way to understand and protect the unique needs of our North Slope Native communities. The residents of our villages harvest subsistence resources from the land, rivers and ocean, as they have done for millennia, and look to the Interior Department to protect these resources. Our villages also depend for their economic survival on resource development, and we have found that oil and gas resources in particular can be developed in our region in a manner that protects the natural environment and preserves our access to subsistence resources. Our communities today depend both on the continuation of responsible resource development as well as the protection of the natural environment and of our subsistence resources. It is imperative that the Interior Department's senior leadership work closely with our communities to continue to pursue these dual objectives.

Kate's experience at the Interior Department, combined with a decade of experience on Capitol Hill, makes her a knowledgeable and capable advocate for the residents of the North Slope, including the Alaska Native shareholders of ASRC.

Please accept our strong support for Kate's nomination. If you need additional information or have any questions, please feel free to contact me directly.

Sincerely,

Quyanaqpak
ARCTIC SLOPE REGIONAL CORPORATION

Richard Glenn
Executive Vice President of External Affairs



Date: November 4, 2019

To: United States Senate Committee on Energy and Natural Resources

RE: The Nomination of Ms. Katherine MacGregor

From: The Congressional Sportsmen's Foundation
Jeffrey S. Crane
President

Dear Chair Murkowski, Ranking Member Manchin, and Members of the Committee:

The Congressional Sportsmen's Foundation (CSF) would like to express strong support for Ms. Katherine MacGregor to serve as the next Deputy Secretary of the Interior, and urges the Committee to swiftly advance her nomination out of Committee and to the Senate floor for a subsequent confirmation vote.

Established in 1989, CSF works with the Congressional Sportsmen's Caucus (CSC), the largest, most active bipartisan caucus on Capitol Hill, comprised of nearly 250 Members of Congress from both the House and Senate, led by Senate CSC Co-Chairs Senators Deb Fischer (NE) and Martin Heinrich (NM), and Vice-Chairs Senators John Boozman (AR) and Joe Manchin (WV).

Through her years of public service on Capitol Hill and at the Department of the Interior (DOI), Ms. MacGregor has demonstrated her firm commitment to advancing policies that provide a balanced approach to the management of our nation's federally owned public lands and natural resources.

Prior to joining DOI, MacGregor served as a Congressional staffer on the House Natural Resources Committee for 10 years, serving under two different Committee Chairmen. In 2017, Ms. MacGregor joined DOI, and has since served in a number of different roles, including Principal Deputy Assistant Secretary of Lands and Minerals Management, and currently as the Deputy Chief of Staff where she has been exercising the authority of the Department's Deputy Secretary since May.

Through her unique work experiences, Ms. MacGregor has demonstrated her vested commitment to advancing public access opportunities on federal lands and waters for a diversity of outdoor recreationalists, including America's sportsmen and women, while also advancing sound conservation policies. Furthermore, MacGregor has been instrumental in implementing S. 47, the John D. Dingell, Jr. Conservation, Management, and Recreation Act, which passed this Committee and Congress earlier this year with overwhelming bipartisan support.

In summary, CSF strongly supports the nomination of Ms. MacGregor to serve as the Deputy Secretary of the Interior. CSF would like to thank Chair Murkowski, Ranking Member Manchin, and Members of the Committee for holding this important hearing. Finally, CSF urges the Committee to build off of the bipartisan victories earlier this Congress by quickly advancing Ms. MacGregor's nomination out of Committee and to the Senate floor for a final confirmation vote.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Crane", with a long horizontal flourish extending to the right.

Jeffrey S. Crane
President



November 1, 2019

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural
Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy and Natural
Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

On behalf of Cook Inlet Region, Inc. (CIRI), I am writing to express our support for the appointment of Ms. Katharine Ann MacGregor as Deputy Secretary of the U.S. Department of the Interior. Ms. MacGregor has advanced many beneficial priorities for Alaska in her role as the Acting Assistant Secretary for Land and Minerals Management. She has advanced important issues for Alaska and the nation as we strive for energy dominance for our national security. Issues such as offshore and onshore energy development, mining, and exploration for critical minerals from domestic natural resources. In a similar vein, Ms. MacGregor has led the Department of Interior's efforts to harness agency assets to advance rural broadband in communities throughout the nation. This effort is critical throughout Indian Country in the Lower 48 states and even more so in Alaska.

Ms. MacGregor's track record of working closely with Assistant Secretary of Indian Affairs Tara Sweeney helped the Department advance vital Native American issues related to self-determination efforts for Alaska Natives, Alaska Native tribes and tribes throughout Indian Country, and helped Alaska Native Corporations. Most importantly, she has been actively involved in the Department's strategy focused on Missing and Murdered Native Americans, a subject of urgent importance to Alaska Native people.

Katharine Ann MacGregor has a relevant and substantial background in public service. She has worked for two chairmen of the House Natural Resources Committee on issues related to responsible domestic energy development. Her work on certain Alaskan issues has also been important as we struggle to diversify our economy and rise from the recession created by oil prices. Specifically, Ms. MacGregor has worked on major Alaska Environmental Impact Statements (EIS) including the Liberty EIS, the Ambler Mining District Access Road EIS and the Greater Moose's Tooth 2 Supplemental EIS and Record of Decision.

It is important that Ms. MacGregor has earned the respect of our Alaska Native people because she has helped lead efforts that will enable her to accomplish the

Chairman Lisa Murkowski
Ranking Member Joe Manchin
November 1, 2020
Page 2 of 2

policies and directions set by the Administration. She will provide excellent advice and counsel to the Secretary of Interior and the White House from her strong background and knowledge of promoting Alaska issues and Alaska Native Rights, cultural values and economic sustainability.

CIRI supports Ms. MacGregor's appointment as the next Deputy Secretary of the U.S. Department of the Interior and asks for her expedited confirmation to immediately assume leadership for this administration on behalf of Alaska and Alaska Native people.

Thank you for your consideration of this letter of support. If we can provide additional information, please contact me at sminich@ciri.com or by my direct line 907-263-5137.

Sincerely,

Cook Inlet Region, Inc.



Sophie Minich
President and Chief Executive Officer

cc: The Honorable John Hoeven, Chair, Senate Committee on Indian Affairs
The Honorable Tom Udall, Vice Chair, Senate Committee on Indian Affairs
The Honorable Dan Sullivan, U.S. Senate
The Honorable Don Young, U.S. House of Representatives



Industrial Minerals Association — North America

October 28, 2019

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

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

RE: Confirmation of Department of Interior Deputy Secretary Nomination

Dear Chairman Murkowski and Ranking Member Manchin:

The Industrial Minerals Association – North America (IMA-NA) strongly supports President Trump's nomination of Kate MacGregor to serve as Deputy Interior Secretary. We encourage the Senate Committee on Energy and Natural Resources to confirm her as quickly as possible.

The IMA-NA is a non-profit trade association representing industrial minerals producers throughout the United States. IMA-NA represents a diverse set of member companies engaged in the mining and processing of minerals such as ball clay, barite, borates, bentonite, calcium carbonate, diatomite, feldspar, industrial sand, kaolin, perlite, talc, wollastonite, and soda ash. Many of these operations are on public lands that come under the jurisdiction of the Department of Interior.

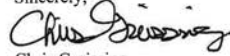
According to the United States Geological Survey (USGS), in 2018, the industrial minerals sector of the mining industry provided over 150,000 jobs in the United States. The total value of industrial minerals production was \$56.3 billion in 2018 as well. With the continued pressure on the mining sector from China and elsewhere in the global market, it is vital now, more than ever before, that we have key positions like the Deputy Secretary filled with people with the expertise and knowledge of the energy and minerals sector that we are confident Ms. MacGregor possesses. Her background as a Congressional staffer and at the Department of Interior has her uniquely positioned to be able to handle the duties of this important role on day one.

We need officials who will help best position the U.S. natural resources industries to have an opportunity to succeed with sound policy decisions. As the 2019 Mineral Commodity Summaries for 2019 from the USGS suggests, we are facing growing pressure to import minerals from foreign sources, many of these minerals are critical to our manufacturing sector and national security overall. It is important that we have policies and procedures in place to

promote proper and economical mineral development in the United States and to ensure we are utilizing our natural resources.

The IMA-NA strongly encourages the swift confirmation of Ms. MacGregor as Deputy Secretary of the Interior. We look forward to working with the Committee during the confirmation process and to ensuring the minerals sector is placed in as strong a position as possible by sound legislative and regulatory policies.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Greissing". The signature is fluid and cursive, with the first name "Chris" being more prominent.

Chris Greissing
Executive Vice President
IMA-NA



President – Cheryl Zittle
Vice President – Christine Arbogast
Treasurer – Tom Myrum
Executive Vice President – Ian Lyle

November 4, 2019

The Honorable Lisa Murkowski
Chair
Energy and Natural Resources Committee
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
Energy and Natural Resources Committee
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairwoman Murkowski and Ranking Member Manchin:

On behalf of the National Water Resources Association (NWRA), I strongly support the nomination of Ms. Katherine MacGregor to be Deputy Secretary of the Department of the Interior.

Ms. MacGregor is a well-accomplished professional who is widely respected throughout the natural resource policy community. She has spent her career developing a keen awareness and expertise in resource development policy. Her distinguished career includes serving as Staff Director for multiple chairmen of the House Subcommittee on Energy and Mineral Resources. She also has a track record of success in her recent leadership positions at the Department of the Interior where she has been instrumental in developing and implementing policies throughout multiple agencies. As someone who has first-hand experience working with Ms. MacGregor, I can speak to the respect she commands from leaders, stakeholders, and peers.

The NWRA is a nonpartisan, nonprofit federation of state water resources associations, regional associations, agricultural, and municipal water providers. Our members provide water and hydropower to approximately 50 million individuals, families, agricultural producers, and other businesses in a manner that supports communities, the economy, and the environment.

Accordingly, we understand the need for leadership at the Department of the Interior that serves as a genuine and willing partner to water users, assesses challenging water issues honestly and objectively, and implements policies to make western water work for all users. Ms. MacGregor has been a leader throughout her career and we are confident she will bring that experience and leadership to the Department of the Interior as Deputy Secretary.

We are encouraged that you have scheduled a hearing on Ms. MacGregor's nomination and support swift consideration. Should you have questions or would like to discuss Ms. MacGregor's nomination, please feel free to contact me at ilyle@nwra.org or 202-698-0693.

Thank you for your time and consideration of Ms. MacGregor's nomination.

Sincerely,

Ian Lyle
Executive Vice President
National Water Resources Association



October 2, 2019

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

The Public Lands Council (PLC), National Cattlemen's Beef Association (NCBA), and American Sheep Industry Association (ASI) support the nomination Katharine MacGregor to be Deputy Secretary of the Interior. PLC is the only national organization dedicated solely to representing the roughly 22,000 ranchers who hold federal grazing permits and operate on federal lands. NCBA is the beef industry's oldest and largest national marketing and trade association representing American cattlemen and women who provide much of the nation's supply of food and own or manage a large portion of America's private property. ASI is the national trade organization representing the interests of the 100,000 sheep ranchers located throughout the country who produce America's lamb and wool.

Ms. MacGregor's vast experience in natural resources policy make her an excellent candidate for this position. A veteran of Capitol Hill and the Department of the Interior, she has proven a capable leader and strong executor of the Department's mission. In our dealings with her as Principal Deputy Assistant Secretary for Land and Minerals Management and Deputy Chief of Staff, she has been an honest broker who listens intently to the concerns of cattle and sheep producers. We are confident that she will bring these qualities to her new role when confirmed.

As part of their business operations, livestock producers do vital work to improve water sources, revitalize wildlife habitats, and maintain the open spaces that all Americans enjoy. Having leaders at the Department of Interior who understand the agriculture industry, and the role it plays in the stewardship of America's lands and species, is vital to ensure the continuity of our national heritage.

PLC, NCBA, and ASI appreciate the opportunity to provide our input on behalf of our members – the nation's food and fiber producers. We urge swift confirmation of Katharine MacGregor to be Deputy Secretary of the Interior.

Sincerely,

Jennifer Houston
President
National Cattlemen's Beef Assn.

Bob Skinner
President
Public Lands Council

Benny Cox
President
American Sheep Industry Assn.

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
522 Hart Senate Office Building

The Honorable Joe Manchin
Ranking Member
Committee on Energy and Natural Resources
306 Hart Senate Office Building

Dear Chairman Murkowski and Ranking Member Manchin:

The Theodore Roosevelt Conservation Partnership (TRCP) is a national conservation organization working to guarantee all Americans a quality place to hunt and fish. We work collectively with our nearly 100,000 members and 60 individual partner organizations to advance conservation policies at the federal level, and much of our emphasis is placed on public lands and programs administered by the U.S. Department of the Interior. We are writing to express our support for the confirmation of Ms. Katharine MacGregor to become the next Deputy Secretary of the Interior.

The U.S. Department of the Interior has 10 major bureaus, 70,000 employees and manages more than 500 million acres, lands that form the backbone of the \$887 billion outdoor recreation economy and provide much of the nation's energy resources, wildlife habitat, grazing lands and minerals. Moreover, the Department manages the water for much of the western United States and has the lead responsibility to ensure that threatened and endangered species are protected and recovered.

Ms. MacGregor is clearly qualified for the Deputy Secretary position. She is currently serving as Deputy Chief of Staff, exercising the authority of the Deputy Secretary. She has held numerous positions at DOI since 2017, including Principal Deputy Assistant Secretary – Lands and Minerals Management. Ms. MacGregor has also held important staff positions in the House of Representatives, and she has a strong understanding of natural resource laws and issues.

The TRCP has worked with Ms. MacGregor on various DOI initiatives, including implementation of the Secretarial Orders on hunting and fishing and advancing new policies and funding streams for migration corridors and crossings. We have found her to be accessible and willing to consider the perspectives of sportsmen and women, and we encourage the Senate to move forward with her confirmation as Deputy Secretary.

Thank you for your consideration of our input on this important nomination for the DOI Deputy Secretary position.

Sincerely,

Whit Fosburgh
President and Chief Executive Officer
Theodore Roosevelt Conservation Partnership

The CHAIRMAN. But as you know, you also have my strong support.

Mr. Danly, I also want to welcome you to the Committee. I am glad you are here as the seat that you are nominated for has now been open for more than 10 months following the tragic passing of former Chairman Kevin McIntyre. Everyone on this Committee knows that I have been urging the Administration since the very first of the year to address this vacancy and to move on it.

So I am pleased that this time has come. You have an impressive academic and professional background, having served two tours of duty with the Army in Iraq where you received a Bronze Star and a Purple Heart, and played a key role in executing counterinsurgency efforts during the surge. We thank you for your service and your sacrifice to our country.

After the military, Mr. Danly graduated from Vanderbilt Law and chose to pursue a very different career as a FERC attorney, first practicing at a major firm and now serving as FERC's General Counsel. During his time as General Counsel, the Commission has tackled key issues such as energy storage, infrastructure development, and reform of the Agency's regulations under the Public Utility Regulatory Policies Act, PURPA.

If confirmed, Mr. Danly, you will need to address the many remaining critical issues on FERC's plate. Among these are grid resilience and capacity market reform, both of which are critical to the reliability of our nation's electricity system. As we have discussed in my office, Mr. Danly, you have my support. But before I turn to my colleague here, I also want to address what I expect will be the main source of opposition to your confirmation this morning. It is true that you are not paired with a Democratic FERC nominee to fill a second seat that just opened in August, but I hope that will not be what drives anyone to oppose your nomination. So just let me walk through the history here.

First, FERC is set up to avoid the need for pairings. I think this is one of the misconceptions that has been out there. Back in 1990 Congress passed a law to stagger the five Commissioners' terms by one year each in an effort to make sure that we did not have these double vacancies. Second, bipartisan pairings are not always the norm. More often, we have confirmed individual Commissioners or had unbalanced pairings.

Back in 2014, Colette Honorable moved forward with the two Republican Commissioners that we confirmed in 2017, after the Obama administration declined to nominate anyone for those seats. And then the third point is that this seat was already previously paired. In 2017 we paired Kevin McIntyre with Rich Glick. Rich will continue to serve through mid-2022. So the slot we are now considering is to fill the remainder of Mr. McIntyre's term through mid-2023. Then the final point is, the reality is we have one nomination in the Committee right now; we do not have two.

We all know that an individual's name has been out there for some time, but we have not seen it sent up from the White House and sent to us for our action. And so, as people have asked me, well what are you going to do here with this opening that we have right now? We have been waiting for 10 months to get a name. We have Mr. Danly's name in front of us now so I do not think it is fair to

tell the Republican nominee that we have to wait given that we have been waiting for 10 full months and recognizing that this term will end a full year earlier than the term for the Democratic seat. So know, colleagues, that when we get the Democratic candidate, we will hear that nomination, when we receive it, as we normally would. And if that individual has the support to be reported from Committee, we will move that individual from this Committee.

I would like to again thank both of you for being here this morning. Thank you for your willingness to serve.

And just for colleagues' reference here, we will have an opportunity for full questions today, but if members have additional questions after the hearing concludes, we are going to hold the record open until close of business tomorrow, because I know that there may be some members that are still traveling and I want to respect that. Let me turn to Senator Manchin for his opening comments.

**STATEMENT OF HON. JOE MANCHIN III,
U.S. SENATOR FROM WEST VIRGINIA**

Senator MANCHIN. Thank you, Madam Chairman. I do not think the microphone is working back there, right? Can you all hear us in the back? Is it working now? I will speak louder. Okay. So I want to thank you, Madam Chairman, for holding the hearing on these two important nominations. Ms. MacGregor and Mr. Danly, welcome to the Committee and thank you for your services and willingness to serve. I appreciate the opportunity to meet with each of you two weeks ago.

I think they were very enlightening meetings. Both of you are extremely professional and your desire to serve is to be commended, as are your families for joining you today. It is always good to have family. No matter how things go, good, bad, or indifferent, they are always behind you. I understand that, and I am happy to have them both here.

The job description of the Deputy Secretary is fairly simple. It is to help the Secretary run the Department when he or she is there and to do his or her job for him when he is not. I think we have spoken about that. In practice, that means that you will spend a good amount of time helping Secretary Bernhardt formulate and implement the Department's policies, but it also puts you in a unique position to help shape those policies and how they are implemented in the most compassionate way.

It is no secret that many of these policies that Secretary Zinke and some of Secretary Bernhardt's have pursued have been considered controversial and met with opposition by some in Congress and by many communities across the country. If you are confirmed, you will be in a position to expand outreach in order to ensure robust engagement by all the stakeholders affected by the Department's actions. I urge you to make the most of that opportunity, Ms. MacGregor. I also see you as qualified to better bridge the divide between the Department and Congress. Lord knows we need that. You know this institution.

You spent ten years working for the House of Representatives, including six years on the staff of the Natural Resources Com-

mittee, which gives you insight and experience. You are also clearly qualified for the position of Deputy Secretary, having already performed its duties for the past six months and having served as the Department's Deputy Chief of Staff for the past 15 months. Senior officials who are performing the duties or roles that are subject to Senate confirmation should be formally nominated and considered, and I am happy that we are starting the process for you today. I am pleased to support your nomination. And with that I ask that you commit to work with me and all of our colleagues on both sides of the aisle to find consensus rather than conflict in setting natural resource policies.

So Mr. Danly, the position to which you have been nominated is entirely different from that of the Deputy Secretary of the Interior. I think you and I spoke about this.

Congress established the Federal Energy Regulatory Commission, which we know as FERC, as an independent regulatory commission. Independent means that they are independent of the President, the White House staff, the Department of Energy, or anyone else in this or any other Administration when it administers our energy laws. It is for all the people. A Commissioner's job is to make independent determinations based on laws and facts. Congress placed the important function of regulating gas and electric rates, licensing hydroelectric projects, and natural gas pipelines, and overseeing the electric grid in an independent commission rather than the hands of a Secretary of Energy for a good reason. It wanted to make sure that these functions are performed impartially by experts following due process and free from political influence. It wanted to make sure that the Commission's decisions were made collaboratively and reflected the wisdom of a bipartisan group of five Commissioners.

I have been very vocal about the importance of pairing this nomination with a nominee for the open Democrats seat. It is not the Chairman's responsibility for that, and it is not yours, I understand completely, and I have begged the White House to please do this. This is one Committee that has worked very well as a bipartisan committee. We have looked at the facts, looked at what is best for our country and our regions, and have been able to have input on both sides without any conflicts whatsoever. And to put us in a situation to where we can have a conflict and it could be avoided is just not right. You are clearly very, very bright Mr. Danly and you understand this position very well and I have no doubt that you will be confirmed, but I think that we would be making a serious mistake by not considering this in parity. I am still very hopeful.

I have been talking to the White House. We have a person who is very competent, very qualified. She has been vilified to a certain extent, thinking she is too far to the left. I have checked her background, I have made phone calls, checked with utilities that she has worked with in her legal capacity. She is deemed to be extremely bright, extremely articulate, and can bring a lot to the table. And the Republicans have a 3-2 margin even with the 5. And if it was the other way, when there are 3-2 Democrats, that is the way it is supposed to work. We do not eliminate somebody for the sake of politics. You know, in the policies, we might differ,

but if they can bring quality information in a dialogue, I think it helps you and the other four members.

So this is what we have been hoping for. This is what we will fight for. We think it is the right thing to do. We understand the background but this is the opening right now we have to—she has been vetted, she is going through everything. The FBI reports, everything, is back, ready to go, and we are hoping that the President in his wisdom in this next week will bring her forward and hopefully next week we can get her nomination and have a full working five members. It is what we are hoping for.

We think it is good for the United States of America, good for all the people, good for Democrats and Republicans to have a five-member working Commission. So again, I want to thank both the nominees for their willingness to serve and being with us this morning. I look forward to hearing from both of you all, and I want to thank Chairman Murkowski for holding this hearing today. Thank you.

The CHAIRMAN. Thank you, Senator Manchin, and I appreciate your comments. Know that I too have always believed that when you have a five-member Commission, it is best to have five members on the Commission. And the way it is structured with the Majority leader and the Minority leader being able to appoint or to nominate and then have those considered by the White House is a process that—sometimes it can be a little bit interesting navigating, but we want this Commission, we expect this independent agency to be able to function. We send a lot of work your way and we need to have smart, committed men and women to handle that work so know that it is my intention to keep working with you on this.

Senator MANCHIN. Let me just say this about Senator Murkowski being Chairman and myself being Ranking Member, we have been working together and our staffs are working together. We are able to discuss any issue, every issue, and look at it from all of our colleagues on my side of the caucus and her side and try to work the differences out so we do not have the conflicts that we have in other committees. We do not let politics get in the way of good policy for our country.

The lady I am speaking about has been on the desk of the President and the White House staff since January. If there was a concern, if there was a reason to disqualify her, they should have let me know. We could have worked on this. There is none so it leads me to believe that I have got to fight back as hard as possible not to let politics in a committee that has worked very, very well and very close in a bipartisan way. And that is what we are fighting for. This has nothing to do with Mr. Danly. I think you are a great nominee, and I think you will do a great job. I just wish you had a partner going in there with you to have a little bit of input from both sides of the aisle. That is all. Thank you, Madam Chairman.

The CHAIRMAN. Thank you. I will just add that we are the Committee that has the jurisdiction over the FERC, but there are other committees that certainly rely on the FERC for processing of their good work as well. So it is significant this morning. I appreciate members' attention to this. We will proceed with swearing in both of the nominees.

Before we do that, I had mentioned that Senator Cramer had hoped to be here to introduce Ms. MacGregor. His statement of introduction will be incorporated as part of the record.

[The statement of Senator Cramer follows:]

KEVIN CRAMER
NORTH DAKOTA

SUITE 400
RUSSELL BUILDING
WASHINGTON, DC 20510
202-224-2043

United States Senate

COMMITTEES
ARMED SERVICES
BANKING, HOUSING, AND URBAN AFFAIRS
THE BUDGET
ENVIRONMENT AND PUBLIC WORKS
VETERANS' AFFAIRS

November 5, 2019

Senator Lisa Murkowski
Chairman
Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

Senator Joe Manchin
Ranking Member
Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

Thank you for convening today's hearing to consider President Trump's nominee for Deputy Secretary of the Interior, Kate MacGregor. I applaud the President for his nomination and echo his and Secretary Bernhardt's support for her confirmation.

I have had the privilege of knowing Kate MacGregor for over six years. When I was first elected to Congress, I served on the House Natural Resources Committee where she worked as a professional staffer. You could see Kate's hockey player roots in the way she works. She approached each task with energy, determination and excellence, never tiring of the work before her. She illustrated a true passion for good governance, public lands management, energy independence and conservation stewardship. Most importantly, she was always a straight shooter – something often lacking and underappreciated in this town. She was both honest and tenacious in all she did and the results spoke for themselves.

Thankfully, those qualities have not changed since moving to the Department of Interior and we are reaping the benefit. Whether it is continuing to roll back red tape or simply enforcing basic timelines, she continues to do her work with the utmost conviction and determination. This has led to a decrease in bureaucratic wait times and a marked increase in the energy revenues returned to States and Tribes. Just a few weeks ago, the Department sent nearly \$100M back to the state of North Dakota. President Trump's policies are working and I applaud Kate for the role she has played in this success.

I am grateful to see the Trump Administration continue to fill these important positions. Once confirmed, I look forward to hosting her back home in North Dakota. Over the years, I have enjoyed working with Kate and I believe you will as well. She has my full support and I respectfully encourage my colleagues to confirm her in a swift, bipartisan manner.

Sincerely,



Kevin Cramer
United States Senator

The CHAIRMAN. Senator Graham had also hoped to be here to introduce Mr. Danly, and his statement of support will be included as part of the Committee record.

[The statement of Senator Graham follows:]

Senator Lindsey O. Graham
Statement For the Record
Senate Committee on Energy and Natural Resources
Mr. James P. Danly, to be a Member of the Federal Energy Regulatory Commission
November 5, 2019

Chairman Murkowski, Ranking Member Manchin, and Committee Members it is my pleasure to introduce James Danly as the nominee to the Federal Energy Regulatory Commission (FERC).

I first met James in February 2008 in Baghdad. At the time, James was working as a staff officer at Multi National Forces-Iraq (MNF-I) in the Office of the Staff Judge Advocate under then - Colonel Mark Martins, someone I have known for a long time. Initially, I was in Iraq as part of a CODEL with Senator McCain before staying to serve a short deployment as a reserve Air Force JAG in the same office.

James and I spent a good amount of time together in that office. We visited the detainee facility at Camp Bucca, conducted an inspection of the Rule of Law Task Force, and observed a session of the Central Criminal Court in Iraq.

When I met James, he had just volunteered for a second contiguous tour to work in the Staff Judge Advocate's Office. The preceding year in Iraq, he served in an infantry company with distinction, much of his time spent in the Dora district of Southern Baghdad. While there, James designed and implemented a counterinsurgency program called OPERATION CLOSE ENCOUNTERS. For his service, James was awarded a Bronze Star and received a Purple Heart.

In the Office of the Staff Judge Advocate, James had two primary responsibilities. First, he conducted a wide-ranging study on the implementation of counterinsurgency principles across the theater of operations. Second, he worked as a senior advisor in the Baghdad Operations Command, as MNF-I attempted to formalize and standardize the Iraqi Army's targeting procedures.

Following his service in Iraq, James served as law clerk to Judge Danny Boggs at the U.S. Court of Appeals for the Sixth Circuit. Further, he was a managing director of the Institute for the Study of War, an International Affairs Fellow at the Council on Foreign Relations, and a member of the energy regulation and litigation group at Skadden, Arps, Slate, Meagher and Flom LLP.

James is the current General Counsel of the Federal Energy Regulatory Commission. I believe his background, temperament, and knowledge will serve him and the country well as a FERC Commissioner. I look forward to his confirmation vote on the Senate floor.

The CHAIRMAN. At this time, I would ask both of the nominees to stand. The rules of the Committee which apply to all nominees require they be sworn in connection with their testimony. So I would ask you to please raise your right hand. Do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth, and nothing but the truth?

Ms. MACGREGOR. I do.

Mr. DANLY. I do.

The CHAIRMAN. You may both be seated. Before you begin your statements, I will ask you three questions addressed to each nominee who appears before this Committee. First, will you be available to appear before this Committee and other Congressional committees to represent Departmental and Commission positions and respond to issues of concern to the Congress?

Ms. MACGREGOR. Yes.

Mr. DANLY. Yes.

The CHAIRMAN. Are you aware of any personal holdings, investments, or interests that could constitute a conflict or create an appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Ms. MACGREGOR. No.

Mr. DANLY. No.

The CHAIRMAN. Are you involved, or do you have any assets held in blind trusts?

Ms. MACGREGOR. No.

Mr. DANLY. No.

The CHAIRMAN. Very good. With that, we will begin, Ms. MacGregor, with you. We would ask that you provide us with about five minutes or so of a statement, anything you wish the Committee to know, and then we will proceed to Mr. Danly. If either of you have family or those in the audience that you wish to introduce, you are certainly encouraged to do so because we welcome them as well. Ms. MacGregor, if you would like to begin.

STATEMENT OF KATHARINE MACGREGOR, NOMINATED TO BE DEPUTY SECRETARY OF THE INTERIOR

Ms. MACGREGOR. Chairman Murkowski, Ranking Member Manchin, and members of the Committee, it is with profound humility that I thank you for the opportunity to appear here today as President Trump's nominee for the position of Deputy Secretary of the Department of the Interior.

This morning I am joined by one of my brothers, Robert MacGregor, who is one of my favorite brothers, and my aunt and godmother, Sheila Sanford. I am also joined by my best friend from college, Carla Spain, and my goddaughter, Elizabeth Spain, who flew out today from California. Finally I am joined by my parents, Jean and Peter MacGregor, who have sacrificed so much for us, including at least 10 straight years of weekends driving us to ice hockey games. As they are hockey parents, I feel compelled to remind them that this is not a hockey game, there are no refs to yell at, so kindly abide by the rules of the Committee.

My personal introduction to the mission of the Department of the Interior began much as one might expect in a state where the fed-

eral footprint is just two percent with our national parks. Some of my earliest memories are of my parents taking me and my brothers to Valley Forge National Park to play and learn about our nation's early history. In driving up and down the Eastern seaboard to all of our ice hockey games, I do not think there is a battlefield that my dad didn't stop at. From Yorktown, to Gettysburg, to Lexington and Concord, we saw them all.

I have to admit today that these visits drove my passion for American history and my understanding for the importance of preserving these special places for future generations. In my decade of federal service on Capitol Hill working on natural resource issues, I formed an even deeper understanding of the broad and diverse missions of the Interior Department. In addition to our parks and monuments, I learned our nation's history through a new lens, our controlling statutes.

Beginning with the Homestead Act and Pacific Railroad Acts of 1862, our laws tell the tale of an expanding, industrialized nation growing Westward, and a government providing measured access to the land so that people could carve out an existence. These laws have provided the Interior Department with a wide and wonderful range of mission areas and a land ownership and management pattern that does not come without challenges.

However, since day one at Interior, I have worked hard to achieve a balance in managing America's public lands, cultural treasures, and natural resources in order to achieve this Administration's priorities. I take seriously the call to protect our healthy natural environment and the species that depend upon it just as seriously as I take the call to foster economic growth through the multiple-use and sustained yield of our public lands. In both my time working on Capitol Hill and at Interior, I have had the privilege to visit many of your states, meet some of your constituents, and work on issues that are important to them. In the Permian Basin, we had the largest revenue sales in the history of the Department, \$1 billion, and I was able to hand over half of the proceeds to the State of New Mexico to reinvest in schools, law enforcement, and other priority municipal needs.

I have worked to enhance the reach of broadband to rural and tribal communities so that they may have the same educational and economic opportunities that we take for granted here in our 50-state world. And I have worked hard with our Assistant Secretary for Indian Affairs, Tara Sweeney, to address the outrage of missing and murdered Native American women. In fact, one of the personal stories I heard on my recent trip to Bethel, Alaska, to discuss these issues will stay with me forever. I will never again take for granted that access to justice sometimes relies upon a navigable road.

What I have learned from my time here at Interior and in your states is similar to what I have learned from many of you in our meetings last week. So many people have a profound connection to the lands and waters that we manage, just as Valley Forge National Park serves as one waypoint in my personal history that reminds me of the love, joy, and strength of my family. So many people care deeply about the decisions we make and many feel that Washington has forgotten about them, their families, and their way of life.

From landing a bowhead whale up in Wainwright, Alaska, to cutting and milling timber in the O&C counties, moving cattle around an arid landscape, or moving kids around our national parks in an RV, all of these uses are valid and important, often directed and preserved in our statutes. All of these uses can and should continue to meet the needs of current and future generations. If confirmed, I will do my best to ensure that we strike the right balance in a way that will provide conservation stewardship, enhance the safety of our communities, increase energy security, and allow rural communities to thrive and prosper.

Again, thank you for this opportunity and I look forward to your questions.

[The prepared statement of Ms. MacGregor follows:]

**Statement of Katharine MacGregor
Nominee for the Position of Deputy Secretary
of the Department of the Interior**

**Before the Committee on Energy and Natural Resources
United States Senate**

November 5, 2019

Chairman Murkowski, Ranking Member Manchin, and Members of the Committee, it is with profound humility that I thank you for the opportunity to appear here today as President Trump's nominee for the position of Deputy Secretary of the Department of the Interior.

This morning I am joined by one of my brothers, Robert MacGregor, and my Aunt and Godmother, Sheila Sanford. I am also joined by my best friend from college, Carla Spain, and my goddaughter, Elizabeth Spain, who flew out today from California. Finally I am joined by my parents, Jean and Peter MacGregor, who have sacrificed so much for us - including at least 10 straight years of weekends driving us to ice hockey games. As they are hockey parents, I feel compelled to remind them that this is not a hockey game, there are no refs to yell at, so kindly abide by the rules of the committee.

My personal introduction to the mission of the Department of the Interior began much as one might expect in a state where the federal footprint is just 2% of the landscape - with our National Parks. Some of my earliest memories are of my parents taking me and my brothers to Valley Forge National Park to play and learn about our nation's early history. In driving up and down the eastern seaboard to all of our ice hockey games, there wasn't a battlefield that my Dad didn't stop at. From Yorktown, to Gettysburg, to Lexington and Concord - we saw them ALL. I have to admit today that these visits drove my passion for American history and my understanding for the importance of preserving these special places for future generations.

In my decade of federal service on Capitol Hill working on natural resource issues, I formed an even deeper understanding of the broad and diverse missions of the Interior Department. In addition to our parks and monuments, I learned our nation's history through a new lens - our controlling statutes. Beginning with the Homestead Act and Pacific Railroad Acts of 1862, our laws tell the tale of an expanding, industrialized nation growing westward, and a government providing measured access to the land so that people could carve out an existence.

These laws have provided the Interior Department with a wide and wonderful range of mission areas and a land ownership and management pattern that does not come without challenges.

However, since day one at Interior, I have worked hard to achieve a balance in managing America's public lands, cultural treasures, and natural resources in order to achieve this Administration's priorities. I take seriously the call to protect our healthy natural environment and the species that depend upon it - just as seriously as I take the call to foster economic growth through the multiple-use of, and sustained yield from, our public lands.

In both my time working on Capitol Hill and at the Interior Department, I have had the privilege to visit many of your states, meet some of your constituents, and work on issues that are important to them. In the Permian Basin, we had the largest revenue generating lease sale in the history of the BLM - \$1billion - and I was able to hand over half of the proceeds to the State of New Mexico to reinvest in schools, law enforcement, and other priority municipal needs. I have worked to enhance the reach of broadband to rural and tribal communities so that they may have the same educational and economic opportunities that we take for granted here in our 5-bars world.

And I have worked hard with our Assistant Secretary for Indian Affairs, Tara Sweeney, to address the outrage of Missing and Murdered Native American women. In fact, one of the

personal stories I heard on my recent trip to Bethel, Alaska, to discuss these issues will stay with me forever. I will never again take for granted that access to justice sometimes relies upon a navigable road.

What I have learned from my time here at Interior and in your states is similar to what I have learned from many of you in our meetings last week. So many people have a profound connection to the lands and waters that we manage – just as Valley Forge National Park serves as one waypoint in my personal history that reminds me of the love, joy, and strength of my family. They care deeply about the decisions we make. And many feel that Washington has forgotten about them, their families, and their way of life.

From landing a bowhead whale up in Wainwright, Alaska, to cutting and milling timber in the O&C counties, moving cattle around an arid landscape, to moving kids around our national parks in an RV. All of these uses are valid and important, often directed and preserved in our statutes. All of these uses can, and should, continue to meet the needs of current and future generations.

If confirmed, I will do my best to ensure that we strike the right balance in a way that will provide conservation stewardship, enhance the safety of our communities, increase energy security, and allow rural communities to thrive. Again, thank you for this opportunity and I look forward to your questions.

The CHAIRMAN. Thank you very much, Ms. MacGregor. We appreciate that. Mr. Danly, welcome.

STATEMENT OF JAMES P. DANLY, NOMINATED TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. DANLY. Good morning Chairman Murkowski, Ranking Member Manchin, members of the Committee. It is an honor to sit before you today as a nominee to the Federal Energy Regulatory Commission. I would like to start by thanking the President for nominating me and by thanking the members of the Committee who have been so gracious with their time in meeting with me. It was a pleasure to speak with you and learn about your interests in all of the issues touching FERC's jurisdiction that matter so much to you and to your states.

I would also like to thank Chairman Chatterjee for all the support he has shown me and the faith he has placed in me as his General Counsel. And I would be remiss if I did not say thank you to former Chairman Kevin McIntyre. Everyone who worked with Kevin knew him to be wise, very humane, and I am grateful for the opportunity to have worked for him.

And lastly, I would like to thank my wife, Frankie, who is with me today. We met more than 20 years ago as undergraduates. Frankie has been with me through thick and thin, and she has my sincere gratitude for all the selfless support she has shown me over the years. As a military wife, when I was deployed to Iraq as an Army officer, when I was clerking on the Sixth Circuit through grueling hours at my former law firm, and more recently as I have been absorbed with my duties at the Commission. Our son, James, is an energetic four-year-old who, for good reason, is not here today, but I speak for him too when I say thank you, Frankie.

Since 2017, I have had the privilege of serving as FERC's General Counsel. In that capacity, I have directed the 200 lawyers in the Office of the General Counsel, overseen the Commission's appellate litigation, and provided legal counsel to two different Chairmen and four other Commissioners. I have seen firsthand what can be accomplished when talented, dedicated Commissioners take on the challenges presented by the nation's ever-changing energy landscape. As every member of this Committee knows, FERC's role as a regulator, though narrow, is profound. The importance of the work the Commission does in regulating electric and gas rates, permitting infrastructure, protecting the reliability of the bulk electric system, and overseeing our electric markets cannot be overstated.

Every aspect of American life is touched by the work done at the Commission. Although FERC's organic statutes were passed some 80 years ago, those laws are as relevant today as ever. In an era in which the very structure of our electric system changes at an ever-increasing rate, FERC has worked diligently to ensure open access, to guarantee fair, competitive markets, and to remove barriers to entry that could stifle progress as new technologies are developed to enhance the efficiency and reliability of our electric system.

The fact that the Commission, operating under authorities nearly a century old, the fact that it has overseen such transformative

change to the American utility sector is a testament not only to the dedication and ingenuity of the Commission and its staff—

[Public Outburst.]

The CHAIRMAN. Go ahead.

Senator MANCHIN. Welcome to the U.S. Senate.

Mr. DANLY. Thank you. The fact that the Commission, operating under authorities nearly a century old, is overseeing such a dramatic change in the American utility sector is a testament not only to the ingenuity and dedication of the Commission and its staff but also to the robustness and flexibility of the institution that was created by Congress and by Commissioners past and present. One of FERC's greatest attributes is that it is a collegial body.

And I am speaking not just to the fact that the Commissioners work collaboratively, though FERC quite rightly enjoys a reputation for that kind of collegiality. I am also speaking of the fact that as a multi-member body each Commissioner brings their own experience and point of view when deciding the questions presented to the Commission. As a lawyer I take my role and obligations seriously, and I care deeply about the rule of law. I believe it is incumbent on every Commissioner to act within the authorities granted by Congress when discharging the Commission's duties.

I also believe that every Commissioner is obligated to decide each case presented on the law and the record before them. Should I be so fortunate as to be confirmed, I pledge to this Committee that I will strive to continue all of the critical work the Commission has done to ensure just and reasonable rates, to strengthen our electric system's reliability, and ensure the timely review of infrastructure.

I truly appreciate the honor that has been bestowed upon me, and should I be confirmed, I will endeavor to live up to FERC's great tradition of flexibility, independence, and collegiality. Thank you for the opportunity to appear before you and I look forward to your questions.

[The prepared statement of Mr. Danly follows:]

Statement of James Danly
Nominee to the Federal Energy Regulatory Commission
Before the
Committee on Energy and Natural Resources
United States Senate
November 5, 2019

Chairman Murkowski, Ranking Member Manchin, members of the Committee: it is an honor to sit before you today as a nominee to the Federal Energy Regulatory Commission. I would like to start by thanking the President for nominating me, and by thanking the members of the Committee who have been so gracious with their time in meeting with me. It was a pleasure to speak with you and discuss all of the issues relating to FERC's jurisdiction that matter so much to you and to your states. I would also like to thank Chairman Chatterjee for all the support he has shown me and the faith he has placed in me as his general counsel. And I would be remiss if I did not also thank former Chairman Kevin McIntyre. Everyone who worked with Kevin knew him to be wise, fair and humane. I will forever be grateful for the opportunity I had to work for him.

Lastly, I would like to thank my wife, Frankie, who is with me today. We met more than twenty years ago as undergraduates. Frankie has been with me through thick and thin and she has my sincere gratitude for all the selfless support she has shown me over the years: as a military wife when I was deployed overseas as an Army officer, when I was clerking on the Sixth Circuit, through grueling hours at my former law firm, and more recently as I have been absorbed with my duties at the Commission. Our son, James, is an energetic four-year-old who is not here today but I speak for him too when I say thank you, Frankie.

Since 2017, I have had the privilege of serving as FERC's general counsel. In that capacity, I have directed the 200-lawyer Office of the General Counsel, overseen the Commission's appellate litigation, and provided legal counsel to two different Chairmen and four other Commissioners. I have seen firsthand what can be accomplished when talented, dedicated Commissioners take on the challenges presented by the nation's ever-changing energy landscape.

As every member of this Committee knows, FERC's role as a regulator, though narrow, is profound. The importance of the work the Commission does in regulating electric and gas rates, permitting infrastructure, protecting the reliability of the bulk electric system, and overseeing our electric markets cannot be overstated. Every aspect of American life is touched by the work done at the Commission.

Although FERC's organic statutes were passed some eighty years ago, those laws are as relevant today as ever. In an era in which the very structure of our electric system changes at an ever-increasing rate, FERC has worked diligently to ensure open access; to guarantee fair, competitive markets; and to remove barriers to entry that could stifle progress as new technologies are

developed to enhance the efficiency and reliability of our electric system. The fact that the Commission, operating under authorities nearly a century old, has overseen such transformative changes to the American utility sector is a testament, not only to the dedication and ingenuity of the Commission and its staff, but also to the robustness and flexibility of the institution created by Congress and by Commissioners past and present.

One of FERC's greatest attributes is that it is a collegial body. I am speaking not only of the Commission's longstanding tradition of collaboration amongst the Commissioners—though FERC quite rightly enjoys a reputation for just such collegiality. I am also speaking of the fact that, as a multi-member body, each Commissioner brings their own experience and point of view when deciding the questions presented to the Commission.

As a lawyer I take my role and obligations seriously. I care deeply about the rule of law. I believe it is incumbent on every Commissioner to act within the authorities granted by Congress when discharging the Commission's duties. I also believe that every Commissioner is obligated to decide each case presented on the law and the record before them.

Should I be so fortunate as to be confirmed, I pledge to this Committee that I will strive to continue all of the critical work the Commission has done to ensure just and reasonable rates, to strengthen our electric system's reliability, and ensure the timely review of infrastructure applications. I truly appreciate the honor that has been bestowed upon me, and should I be confirmed, I will endeavor to live up to FERC's great tradition of flexibility, independence, and collegiality.

Again, thank you for the opportunity to appear before you. I look forward to your questions.

The CHAIRMAN. Thank you, Mr. Danly. I apologize for a little bit of an interruption there.

Let me start with you, Ms. MacGregor, and this relates to what we have all been watching these past couple weeks in California with the intensity of the fires in that region. In the 2018 Appropriations Act, we in Congress included a provision that expedites removal of vegetation and hazardous trees inside power line rights-of-way corridors on federal lands. Last month, the Forest Service issued some proposed regs to implement the law. It is my understanding that Interior is working on guidance. We have not seen anything to date.

So I would ask you not only what is the status of that guidance, but can you speak to actions that the Department has taken since Secretary Zinke's Executive Order 3372 which focused on reducing wildfire risk? This is something that is on everyone's mind, so there is interest in knowing what has been done and what more needs to be done, and then the guidance on the vegetation management.

Ms. MACGREGOR. Thank you for the question, Senator. This is of vital importance to the Department and something that I care about personally. Since the passage of Section 512 we have implemented it in certain states. I believe the State of California has an instruction memorandum with the Bureau of Land Management (BLM) to abide by the provisions that you provided in that law. I would state that the Bureau of Land Management has doubled their fuels treatment since 2015 and I believe we are doing everything we can, in accordance with NEPA (National Environmental Policy Act), to conduct mechanical thinning, clearing, targeted grazing, salvage sales where applicable, and prescribed burns.

And we are trying to make sure we are laser focused on doing this in the wildland-urban interface to protect communities. There are other tools that we may use in the form of categorical exclusions. I believe the Department, and the BLM in particular, only has access I think to 300 acres for salvage sales right now, which is quite different from the Forest Service, but we are doing everything in our power to get out there and make sure we are making use of those provisions and evaluating whether or not a rulemaking would be necessary as well.

The CHAIRMAN. And the timing on the guidance?

Ms. MACGREGOR. So the BLM California guidance is out now, and I anticipate similar guidances are going out in the form of instruction memoranda.

The CHAIRMAN. Right. Thank you.

Mr. Danly, I want to ask about a letter that Senator Schumer sent yesterday calling on DOE's Inspector General to investigate what he calls the "provision of inconsistent and inaccurate ethics advice by FERC's Office of General Counsel and the enforcement of the ethics pledge."

[The letter referred to follows:]

CHARLES E. SCHUMER
NEW YORK

DEMOCRATIC LEADER

United States Senate
WASHINGTON, DC 20510

November 4, 2019

The Honorable Teri L. Donaldson
Inspector General
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

The Honorable Emory Rounds
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington DC 20005

Dear Inspector General Donaldson and Director Rounds:

I write to express my concerns regarding the Federal Energy Regulatory Commission's (FERC) ethics program.

Recently issues have been raised related to inconsistent and inaccurate ethics advice provided by FERC's Office of General Counsel regarding recusal obligations, waivers requirements, and implementation of the Administration's ethics pledge. To ensure that decisions are free from conflicts of interest and are made in the public interest, federal ethics requirements generally obligate federal officials to recuse from matters involving former employers and clients for a period of time and seek waivers only in limited circumstances.

It appears, however, that at least one commissioner was provided deficient ethics advice that, because of the seriousness with which he took his ethical obligations, ultimately forced him to abruptly recuse and cease work on certain proceedings. Another commissioner sought a waiver of his obligations under the pledge, weakening his initial contractual ethics commitments.

These circumstances have led to serious consequences – leaving FERC in some instances without a quorum to complete its work. This lack of quorum has resulted in delays to important energy projects as companies and consumers wait for approvals, and uncertainty has increased as previous decisions may now be subject to legal challenge. The potential for ethical lapses may also erode the public's confidence in the integrity of a critical regulatory agency.

In addition, these concerns are heightened because these deficiencies occurred within an ethics program overseen by Chairman Neil Chatterjee and within the office managed by General Counsel James Danly, who was nominated by the President to serve as a commissioner. As part of the Senate's constitutional advice and consent responsibilities, it is important to understand how Mr. Danly's role in FERC's ethics program and implementation of the Administration's ethics pledge may impact his suitability for confirmation.

Accordingly, I ask that the Inspector General of Department of Energy, which has jurisdiction over FERC, investigate the provision of inconsistent and inaccurate ethics advice by FERC's Office of General Counsel and the enforcement of the ethics pledge. I also ask that the Office of Government Ethics, which has oversight of executive branch ethics programs, review FERC's

ethics program to ensure its compliance with federal ethics requirements, including enforcement of the ethics pledge and the appropriateness of past waivers. Finally, I request that you expeditiously provide the findings of your reviews to Congress so that the Senate may use this information to evaluate Mr. Danly's nomination. Please also confirm with my office once you have initiated these reviews and provide an estimated timeline for completion.

Thank you for your attention to this important matter and help ensuring that public service remains a public trust.

Sincerely,

A handwritten signature in black ink, reading "Chuck Sch", with a stylized flourish at the end.

Charles E. Schumer
U.S. Senator

The CHAIRMAN. Now despite the claims in this letter, it is my understanding that the ethics advice at FERC is provided by FERC's designated agency ethics official. This is a position that is not overseen or managed by the Office of General Counsel. So I would ask you to respond to the claims made in Senator Schumer's letter and explain your role, if any, in ethics advice that has been provided by FERC's designated agency ethics official or in the White House issuance of waivers.

Mr. DANLY. Yes. Thank you, Senator. I appreciate the question. I saw that letter too in the press reports that mention it that were out yesterday. I have, as General Counsel, no role whatever in the provision of ethics advice. The entire Federal Government, every agency in the Federal Government, by regulation in 5 CFR Part 2638.104 specifies that every agency has a designated agency ethics officer and we call them DEO. And the DEO reports to only one person and that is the head of the agency.

In our case, that would be the Chairman. The Office of General Counsel does not oversee any of the activities of the DEO. Nobody in my office, including myself, reviews his decisions and we aren't part of the discussions that happen between the DEO and the person in the agency that is receiving his ethics advice. So there is no role whatever for the Office of General Counsel in that process or in that program.

The CHAIRMAN. No role and you have not been involved in any way then?

Mr. DANLY. I am not involved in any of the advice that is given by the DEO to any of the people in our Agency.

The CHAIRMAN. Thank you. Let me turn to Senator Manchin.

Senator MANCHIN. Thank you, Madam Chairman.

I will start with my first question to Ms. MacGregor. On the public lands, the ownership of public lands, well it belongs to all of us. I have not had that much experience with BLM. I am trying to get up to speed as fast as I can, but I haven't spent enough time in the West as I should, and I would love to. But I am making it there. The thing I want to make sure I understand is getting a fair return for the taxpayers. And I guess a way you can see if it is a fair return is if it is market-driven, not politically-driven or policy-driven, but market-driven. What is your approach to that as far as royalties the taxpayers receive back? I will go right into the 1872 mining law, which has not been adjusted whatsoever for close to 150 years? Do you think that it is time that we should be moving in a direction to try to bring those royalties up to 21st century regulations?

Ms. MACGREGOR. Sir, first, let me invite you to any trip you would like to take viewing lands, especially to see mining in action. There is a lot of mining in the State of Nevada. As you know, we consider mining important at the Department of the Interior. It is estimated that it provides \$3 trillion in value add to the United States GDP and is an important source of jobs to many states. As for the Mining Law of 1872 and fair market value through our statutes, we look to our statutes for our guidance in ensuring fair market value is achieved.

Senator MANCHIN. Not on 1872's regulations, basically how they treat the land when they leave. There are no laws that prohibit

them from basically leaving open pits and drainages and everything else, and you cannot do that in coal mining.

Ms. MACGREGOR. Right. The Mining Law of 1872 set specific per acre fees. And on top of that there is an aspect of clean maintenance fees that we do collect from mining.

Senator MANCHIN. Would you not think that after 150 years we should reevaluate that?

Ms. MACGREGOR. Should the Congress choose to amend the Mining Law of 1872, we will certainly work with you.

Senator MANCHIN. Mr. Danly, can you just explain what you meant by the humble regulator approach?

Mr. DANLY. Sure. Thank you for the question Senator. Yes, that was a phrase that I used in a speech at one point and it boils down to the concept that officials and agencies should do honor to the statute that they are charged with administering. And that is basically the sum of it.

Senator MANCHIN. States—if you want to explain a little bit more about the reasonable wholesale markets?

Mr. DANLY. I am sorry?

Senator MANCHIN. Wholesale markets? FERC being involved in wholesale markets, if you can. PGM and oversight there, if you want to talk about that.

Mr. DANLY. Sure. So the wholesale markets are these regional markets that FERC has created and allowed to be created over the last few couple decades have seen a drastic change in the way that electricity services are provided to utilities in very large swaths of America. This has been an attempt to harness market forces in order to drive down prices and assure the most efficient possible dispatch of utilities. This is a system that ensures resource adequacy and the lowest possible cost, and it is contrasted to the old style of utility regulation in which the previous years' vertically integrated utilities acted on their own to simply plan and then have their returns based in the old days on cost of service rate making.

Senator MANCHIN. My main concern is basically reliability versus just the cheapest form of filling the grid system and how reliable it is. Baseload, things of that sort, you consider when you are making a determination of what comes on it.

Mr. DANLY. So, thank you. One of the basic requirements, or one of the basic objectives, that our capacity markets are designed for in the case of PGM is resource adequacy. We are using—across America the different RTOs are trying to employ market signals to incent the proper new entry to ensure that there is sufficient capacity to meet not just the predicted peak load days, but then a certain reserve margin beyond that. Those are successful programs so far, and the markets are always being refined both by the tariff owners and by FERC to ensure that those objectives of the capacity markets are met.

Senator MANCHIN. If I can ask one final question. Ms. MacGregor, what is the greatest threat you think that we face as citizens of this country protecting the public lands that we have?

Ms. MACGREGOR. Right now, sir, to be frank, wildfire and the risk to human life is on my mind.

Senator MANCHIN. From the private sector being involved, participating in economic resources, is that cause for any concern

whatsoever or do you think we are being good stewards there? Are we doing a good job of overseeing that?

Ms. MACGREGOR. I think we do quite well in the United States, and economic prosperity is really important to many of the rural communities we work with and our statutes direct us to utilize those resources but do so in a measured manner.

Senator MANCHIN. How about recreation?

Ms. MACGREGOR. Recreation is vital to many economies.

Senator MANCHIN. I know you and I had a passionate conversation on this, but we all believe very strongly, I think on both sides of the aisle, that is a game changer economically in all of our states and you support that wholeheartedly?

Ms. MACGREGOR. Absolutely. I wholeheartedly—

Senator MANCHIN. Recreation and development?

Ms. MACGREGOR. —enjoy recreation and have in your state.

Senator MANCHIN. Okay. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Alexander.

Senator ALEXANDER. Thank you, Madam Chairman. Welcome, Ms. MacGregor, Mr. Danly.

Ms. MacGregor, I want to talk about the nearly \$12 billion in long-delayed maintenance projects at our 419 national parks, and about a remarkable piece of legislation that has attracted an unusual amount of bipartisan support, and that is the Restore Our Parks Act which was introduced by Senator King and me and Senator Warner and Senator Portman earlier this year.

That bill has 43 co-sponsors—13 Republicans and 30 Democrats. It is in this Committee. It has had the strong support of the Administration, of the President. So my question to you is does the Administration still support the Restore Our Parks Act?

Ms. MACGREGOR. Senator, we absolutely support addressing our nation's backlog on national parks.

Senator ALEXANDER. And if I am not mistaken, I believe this is the first Administration that has allowed its Office of Management and Budget to support a method of funding of this deferred maintenance in the way that this legislation does, and you reflect that in the budget that the President submitted to Congress this year. Is that correct?

Ms. MACGREGOR. That is 100 percent accurate, and I would point out, as Senator Manchin said in his introductory remarks, finding consensus can be a struggle sometimes and this is one area where many brilliantly have found consensus.

Senator ALEXANDER. Well, it can especially be a difficult area and in the area of environmental matters, but here we have President Trump, virtually every environmental group, conservation group that I am aware of, and Republican and Democratic Senators in support of it. Now in the House of Representatives, there is also strong support, 330 co-sponsors—128 Republicans and 202 Democrats—and that moved out of the House Natural Resources Committee in June by a vote of 36 to 2. My hope, Madam Chairman and Senator Manchin, would be that we could do this year the same thing we did last year.

There is another bill that I support which Senator Manchin and Senator Gardner support which has to do with mandatory funding

for the Land and Water Conservation Fund. Ms. MacGregor, is that a part of the President's budget?

Ms. MACGREGOR. Sir, the Land and Water Conservation Fund is of great importance to many counties, and we work very closely with the Congress in implementing what funds we receive.

Senator ALEXANDER. Right. But at this point it would be accurate to say that funding for the Restore Our Parks Act is in the President's budget and mandatory funding for the Land and Water Conservation Fund is not in the President's budget?

Ms. MACGREGOR. That would be accurate.

Senator ALEXANDER. Okay. Well my hope, Madam Chairman and Senator Manchin, would be that this Committee could do this year what it did in the last Congress. I am a co-sponsor of Senator Manchin's bill on the Land and Water Conservation Fund. I have been strongly for it for a long time going back to the time of the President's Commission on Americans Outdoors in 1985 and '86. But I think the better way to have success with those bills is to do again what we did before and what the House did, which is moved them together but separately. The Restore Our Parks Act is in the President's budget.

We could move the Land and Water Conservation Fund bill out of this Committee I believe. I would certainly vote for it. I think there are enough votes to do that and do it first to make sure it comes out of Committee, then we could move the Restore Our Parks Act out of Committee. Then the Senate could consider both of them. The House has done the same and then we can go to work to see how much we can get done on the Floor of the Senate. So I do not want us to miss this opportunity.

Ms. MacGregor, can you think of another way, other than the Restore Our Parks Act, that Congress might be able to provide funds to reduce, cut in half the \$12 billion deferred maintenance backlog of the National Park System that exists today other than the Restore Our Parks Act?

Ms. MACGREGOR. Sir, I do not believe in 20 seconds I could contemplate new ideas on that front for \$12 billion.

Senator ALEXANDER. Well, I cannot think of any. I know for me to give you an example, the maintenance backlog in the Great Smokies is \$235 million. The annual appropriation for the Smokies is \$20 million. The Smokies has no entrance fee because of an agreement made at the time the park was created. So there is no possible way that the backlog in the Smokies could ever be addressed without something like the Restore Our Parks Act. And Madam Chairman and Senator Manchin, I hope that the Committee will do again this Congress what we did last Congress and move both bills separately, together out of Committee and let the full Senate consider them. Thank you very much.

The CHAIRMAN. Thank you, Senator Alexander, and I appreciate your continued focus on what we are going to do with our park maintenance backlog.

Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chair, and I want to say despite the fact that the Ranking Member is not here to hear it right now, I look forward to working with him to reform the 1872 Mining Act.

We have had our share of threats to water security in our state as a result of that antiquated legislation, and there is nothing more important to economic development in a Western area state than water. I am going to confine most of my comments to the first nomination today, and Madam Chair, I just want to say how deeply worried I am that we are on the precipice of the FERC becoming another political entity, another extension of the White House or DOE.

There is a lot of risk associated with that in the short-term that may work well for one side and their view, but it risks creating a back-and-forth that I think would be truly untenable for our energy grid overall. You could see a scenario playing out where in the short-term certain sources of energy are subsidized to the point of driving energy costs substantially. That might be good for some people regionally.

In a year, maybe the gentlewoman who is escorted out gets nominated and appointed to the FERC and we can no longer permit natural gas lines at all in this country. The FERC has worked much like this Committee, very effectively in a very bipartisan manner, and it pains me to say that I am frankly disappointed in the current Chairman. I am mostly disappointed not in his decisions but in how he has conducted himself. He has engaged in a war with the media. He has posted things like “come at me bro” online to his critics. When we do this and when we fail to pair nominees, we really risk tearing down the norms that have made this body so effective and so apolitical for so long.

I do not think that is the responsibility of Mr. Danly to speak to. I certainly would not ask him to criticize or comment on his potential colleagues should he be confirmed, but I do want to ask you—Mr. Danly, if confirmed, you are going to help determine whether FERC continues to be viewed as independent, as apolitical, and whether or not it will behave as a regulatory body as opposed to a political body. I think you have an awful lot of experience that says you understand the distinction between those two approaches. I want to ask you how you intend to meet that responsibility and, frankly, how should a FERC Commissioner conduct themselves in the public sphere?

Mr. DANLY. Thank you for the question Senator. As to the first point, I view the role of the FERC Commissioner as being primarily that of an adjudicator. And that, should I be fortunate enough to be confirmed, is exactly how I would comport myself. This is the role of a judge more than it is the role of a policy setter. Now I know under the Administrative Procedures Act we have the option of doing both adjudications and rulemakings, of course. That is part of what FERC does. But in the 1,200 or so orders per year that are issued, substantive orders, there are 5,000 or so of the kind of housekeeping ones. The vast majority of those are adjudicatory. I would conduct myself as an adjudicator and confine my decisions to the law on the record as it's developed. And, yes, that is my philosophy on what the proper role of a Commissioner is.

Senator HEINRICH. Last year, the Commissioners voted 5–0 to terminate Secretary Perry's proposed rulemaking that would have required ratepayers to subsidize what are currently uneconomic

generation sources. Did you agree with FERC's unanimous decision to reject those subsidies?

Mr. DANLY. Yes. I agreed with the decision on the 403.

Senator HEINRICH. Do you think that there is currently an urgent threat to the resilience and the reliability of the power grid that would justify an intervention in wholesale power markets?

Mr. DANLY. I am sorry, sir. You said a wholesale power markets what?

Senator HEINRICH. Do you believe that currently there is enough of an urgent threat to the resilience and the reliability of the grid for FERC to intervene in those wholesale markets and subsidize one source of generation over another?

Mr. DANLY. Thank you. So the purpose of these wholesale markets is to ensure just and reasonable rates, and I think that like any complicated and integrated wide-ranging regulatory regime, it is an iterative process of continuous refinement of how these markets function. I do not see a need for there to be a wholesale revision of the wholesale market, is how I think you put it, but there certainly is work continuously that has to be done by the Commission and by the utilities that file their terms with us, to try to get the most accurate pricing possible. And that is something that is a goal, that though elusive, is always something the Commission needs to strive for.

Senator HEINRICH. Thank you, Mr. Danly.

The CHAIRMAN. Senator Cassidy.

Senator CASSIDY. I just saw the letter that Senator Schumer sent, but just repute once more for the record you had nothing to do with the ethics, with the DEO.

Mr. DANLY. So, thank you, Senator. That is correct. The designated agency ethics officer, not just in FERC, understand, but in every agency across government according to the Code of Federal Regulations, is the legal obligation that the agencies have, is appointed by and reports to the agency head and the agency head alone. Now, of course, he has interactions with the Office of Government Ethics and so forth. But that is the chain of command for the purposes of the agencies.

Senator CASSIDY. I think also for the record I can point out from something I got from you, Madam Chair, is that 35 percent of the time people come before this Committee and they are not paired with someone from the other party. But in this case, actually I am told you mentioned that in your opening statement, but indeed the position that you are filling originally was paired with Mr. Glick. And so anyway just to say there has been a lot of objections to this, but I gather only 27 percent of the time were people formerly paired. So more often than not they are not. So there seems to be a little bit of, oh, I don't know, "bree" around this, but just to make that straight for the record.

Ms. MacGregor, great to see you. Congratulations to you both, but also I enjoyed working with you when I was with Doc Hastings way back when and thank you for your trips to Louisiana.

Of course, as you know, I am concerned about the eroding coast in Louisiana, and there is this kind of a relationship between offshore oil production and the revenue that we use to rebuild our coastline. Interior has a role in that. Would you comment on that

role and what you see could be done constructively to help Louisiana's resiliency?

Ms. MACGREGOR. Yes, sir. Oil and gas production off our coasts predominantly in the Central and Western Gulf of Mexico account for 16 percent of our nation's crude and roughly 3 percent of our natural gas. Under the Gulf of Mexico Energy Security Act, which is law, we adhere to the revenue-sharing provisions that are guaranteed by that law which include 37.5 percent of the revenues being shared with the four Gulf states at a cap of \$500 million on an annual basis. That law also includes a 12.5 percent set aside for mandatory Land and Water Conservation Fund funding, and I know that the State of Louisiana subsequent laws that utilize the revenue-sharing funds for coastal restoration.

Senator CASSIDY. Yes, so we do. Let me also point out that although Senator Alexander is all about using more Gulf of Mexico revenue for mandatory spending on Land and Water Conservation Fund, I would love it if everybody who believes in it would allow the onshore federal lands to contribute to that as well because right now about 80 percent of it comes from the Gulf of Mexico. At some point you begin to cannibalize dollars that could come to Louisiana and other Gulf Coast states for coastal restoration.

I also point out that there is a cap on that which is shared with the Gulf Coast states. I think it is 35 percent, a \$500 million overall cap, whereas there is no cap on the onshore and they are at 51 percent of the revenue share and we are 35 percent up to a \$500 million cap. I am confirming that. But just to say that the lack of equity is just kind of galling, particularly when we are using money for coastal restoration and theirs goes to kind of the general fund. So anyway, I hope my fellow Senators will ponder that as they enthusiastically support this bipartisan legislation as Senator Alexander refers to it. With that, I yield back. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator HIRONO.

Senator HIRONO. Thank you, Madam Chair. I ask the following two questions of every nominee who comes before any of the committees on which I sit. First question, since you became a legal adult have you ever made unwanted requests for sexual favors or committed any verbal or physical harassment or assault of a sexual nature, Ms. MacGregor?

Ms. MACGREGOR. No.

Senator HIRONO. Mr. Danly?

Mr. DANLY. No.

Senator HIRONO. Second question, have you ever faced discipline or entered into a settlement related to this kind of conduct?

Ms. MACGREGOR. I have not.

Mr. DANLY. No.

Senator HIRONO. Ms. MacGregor, just yesterday Reveal published an article that detailed your close relationship with the oil and gas industry. You are outspoken about your belief that environmental regulations are burdensome, and you strongly support expanding oil and gas development on public lands. The article noted that if issues arise for the fossil fuel industry, their response is, I quote the article, "We'll call Kate." You are close to the fossil

industry. I am not surprised that Donald Trump nominated you to serve as a second-in-command at the Department.

DOI is full of political appointees that, like you, are close to the fossil fuel industry starting at the top with Secretary Bernhardt who shares your perspective that environmental regulations are burdensome. We know that the fossil fuel industry opposes actions to address climate change. However, in a report submitted by the DOI IG last November that summarized the major management and performance challenges facing the Department for Fiscal Year 2018, it noted that many DOI coastal assets are threatened by climate effects. Does climate change pose a significant risk to DOI assets?

Ms. MACGREGOR. Thank you, Senator. I recognize that the climate is changing. Man does have an impact. That is what the science tells us. And the science indicates that there is great uncertainty in projections related to those impacts.

Senator HIRONO. So is your answer yes?

Ms. MACGREGOR. Yes.

Senator HIRONO. Sounds like yes. Okay. During your time at DOI have you been personally involved in or witnessed two instances of political interference with scientific research or communication?

Ms. MACGREGOR. I have not. In fact in my time at Interior, the Secretary has appointed a counselor, a senior advisor, a senior science advisor in the Secretary's hallway and we have noticed that scientific integrity complaints have gone down under our Administration.

Senator HIRONO. That is good to hear, although I am not so sure that this Administration is committed to science over political considerations.

Again for you Ms. MacGregor, several outside groups have conducted a number of DOI employee surveys over the past few years and in response to one recent survey, a DOI Senior Executive Service employee said, "the biggest problem or challenge now facing DOI is inexperience, lack of competence, and extreme political influence by the current group of appointees whether confirmed or acting." Another survey found that more than 39 percent of respondents from the National Park Service and U.S. Fish and Wildlife Service reported poor leadership. If confirmed, what will you do to improve staff morale?

Ms. MACGREGOR. Thank you for that question, Senator, and I think it is very important. And one of the—we have many surveys. One of our recent surveys, which was originally conducted in 2017 also found that there are increased instances of potential harassing behavior, which I think is important to you. And we have found in our most recent survey that harassing behavior has gone down. I think we need to work very closely with our professional career employees. I have had great experience in working with them, and we believe having a strong ethical culture is important at the Department.

Senator HIRONO. And in fact, there is another GAO report, September 2019, that said that there have been threats, including threats to kill people, to Federal Land Management employees and

so there are these safety risks. Are you committed to making sure that you address the safety risks of your employees?

Ms. MACGREGOR. Absolutely.

Senator HIRONO. Mr. Danly, in May 2018 FERC issued a policy as part of its consideration of Dominion Energy Transmissions Newmarket Gas Pipeline Project that attempted to eliminate consideration of most upstream and downstream greenhouse gas emissions as part of FERC's review of interstate gas pipelines. You defended that policy in court as General Counsel arguing that it would be "an exercise in futility" to ask project developers for more information about the origin or destination of the gas. Then in June 2019 the D.C. Circuit of Appeals affirmed FERC's obligation to consider these kinds of foreseeable gas emissions under NEPA.

If the Senate confirms you, what is your plan for how FERC will identify the information on the greenhouse gas emissions from gas pipelines necessary to fulfill its statutory responsibilities, having argued that it is "an exercise in futility" to get such information?

Mr. DANLY. Thank you for the question, Senator. In the colloquy with, I believe it was Judge Garland, I was having a discussion about the jurisdictional power of the Commission to compel information from end-use customers. As to the answer to your question on how to deal with the greenhouse gas emissions, the black letter law of CQs implementing regulations for the National Environmental Policy Act require that all direct and indirect effects and cumulative impacts of every major federal action be reviewed and considered when making a decision. And I have every intention of following that unequivocal black letter law should I be lucky enough to be confirmed.

Senator HIRONO. Even if you say it is an exercise in futility? Well, I hope you do your best. Thank you.

The CHAIRMAN. Senator Barrasso.

Senator BARRASSO. Thank you, Madam Chairman. Madam Chairman, both of these positions are very important to the State of Wyoming. These are very important positions, and I appreciate this Administration's recommendations and nominations and I am delighted to have both of you here today. I would also say that I heard from a previous Senator that one of the nominees has been outspoken about the belief that oil and gas regulations are burdensome. Well let me tell you they are also expensive and they are also time-consuming. All of those things apply to some of these regulations. I have seen it every day in Wyoming.

Wyoming has been directly impacted by a series of unfavorable court decisions, including the WildEarth Guardians case, a case in which the court prohibited oil and gas activity permitting on over 300,000 acres of federal land in my state. The Bureau of Land Management acted quickly to address the court's concerns.

Ms. MacGregor, you know, these decisions cause considerable uncertainty for all the stakeholders. So there is an expense, there is a burden, there is uncertainty. Will you commit to communicate clearly with states and stakeholders about the next steps to reduce as much as possible the uncertainty that comes with such decisions?

Ms. MACGREGOR. Yes, sir.

Senator BARRASSO. The Department of the Interior announced last month that revenues generated from energy development on federal lands increased by almost \$500 million and \$750 million over the Fiscal Year 2018, totaling \$11.6 billion. In addition, the Office of Natural Resources Revenue distributed more than \$2.4 billion of the Fiscal Year 2019 energy revenues to 35 states. My home State of Wyoming got \$641 million in revenue.

And several of the Democratic Presidential candidates have stated that they are going to ban—we see this in the debates, see it on television, they are not hiding this—banning hydraulic fracking on the federal lands if elected. Some have gone further to say they will end all federal oil and gas leasing. So what impact would such a policy have on the Federal Treasury and the states that receive such significant funding from federal leasing and production?

Ms. MACGREGOR. Thank you for the question, Senator. Hydraulic fracking when paired with directional drilling and other innovations that have been created in this country since 2006 have led to our decreased dependence on foreign oil and have played a role in, I believe, energy prices for this nation. A complete ban would significantly impact energy production.

Senator BARRASSO. So it would increase prices for users and it would decrease revenues to the states that have been benefiting by this?

Ms. MACGREGOR. That is likely, I believe, yes.

Senator BARRASSO. So last month the Bureau of Land Management issued a proposed rule to streamline the process for reducing the royalty rate on trona, known as soda ash. Wyoming soda ash producers are up against severe international competition. In the global marketplace, countries like China flood the markets with synthetic low-quality soda ash. Former Secretary Zinke made a commitment to me and several others including the House Republican Leader, Kevin McCarthy, to take steps to lower the royalty rate on soda ash. Secretary Bernhardt understands the importance of this rulemaking. Will you support the Secretary lowering the royalty rate on soda ash from 6 percent to 2 percent?

Ms. MACGREGOR. Sir, the law provides the Secretary with that authority to lower royalty rates based upon a variety of issues. And yes, we will work with you on that through the rulemaking process.

Senator BARRASSO. Across the country invasive species damage ecosystems, cause billions of dollars in economic damage each year. There was a story today in the New York Times about invasive species and wildfires in California.

So in 1999, the National Invasive Species Council was created to bring together resources and improve coordination among the secretaries and a number of different secretaries. A committee was created to advise the Council in best practices and emerging threats. Earlier this year the committee was placed on an inactive administrative status.

So given the threat of a variety of invasive species that they pose to our communities and to natural resources and economies, what steps do you think we should take to ensure the coordination among the various secretaries continues even in the absence of the advisory committee?

Ms. MACGREGOR. Sir, we do quite a bit of analysis and studies on the impacts of invasive species on a variety of the different needs in different states. I believe we need to work with states and find the most effective ways to address these invasive species and reduce their impacts significantly.

Senator BARRASSO. Thank you. Madam Chairman, I am out of time so I am going to submit in writing a question to Mr. Danly related to the legislation that I have introduced updating purchase obligations to deploy affordable resources to energy markets. It is called Update PURPA, and I am working along with Senators Risch, Cramer, and Daines. So thank you, Madam Chairman.

The CHAIRMAN. Very good. Thank you, Senator Barrasso.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Madam Chair. Welcome to both of you. Congratulations on your nominations. It is okay to smile at this point. You are almost done. Welcome to your families. It is great to see everybody here. Let me ask a couple questions.

Ms. MacGregor, you highlighted—I am from Nevada. Over 80 percent of the lands are owned by the Federal Government, the majority of that is the BLM. So first of all, have you been to Nevada yet in your current position?

Ms. MACGREGOR. Quite a few times.

Senator CORTEZ MASTO. Wonderful. We will welcome you back. Let me ask you about a couple of things that are happening right now. Next week the BLM is expected to offer more than 550,000 acres in White Pine Lincoln and Nye counties for auction as part of one of the Bureau's quarterly Nevada oil and gas lease sales. The surrounding cities of Mesquite and Henderson and local stakeholders have expressed concerns about the potential impact that the oil and gas production could have on the Hydrographic Basin 222, which is the primary source of culinary water for Mesquite, and I share their concerns.

I guess my question to you is, should you be confirmed, can you please identify the concrete steps you will take as Deputy Secretary to ensure that these oil and gas leases take into consideration and are not on lands where we have concerns about drinking water along with use of recreation, wildlife, and wilderness areas?

Ms. MACGREGOR. If I am confirmed, I will absolutely work with you on those issues. And I would point out in the leasing process we do quite a bit of environmental analysis, but we also do subsequent analysis prior to the issuance of any permit. And we will communicate with you through the entirety of that process.

Senator CORTEZ MASTO. And listen to the key stakeholders in the area as well.

Ms. MACGREGOR. Yes.

Senator CORTEZ MASTO. Great. So let me ask you with respect to oil and gas leasing because this has been an issue for us. I think I have seen more oil and gas leasing happening or at least going up for auction in the State of Nevada under this current Administration unfortunately. Ruby Mountain seems to be the area that there seems to be a lot of interest in even though there is low impact or no oil and gas potential there.

So I guess my question to you is, can you identify the steps you would take to limit the availability of low and no oil and gas poten-

tial lands included in lease sales? Because I think it is a waste of time. If it has already been identified as low or no potential for oil and gas, why do you keep auctioning these areas off?

Ms. MACGREGOR. I think that is a fair question and a fair point. Under FLPMA and the Mineral Leasing Act, we are required to conduct quarterly sales. I know the Bureau of Land Management has been aiming to meet that given that it is subject to a Secretarial Order. Generally when we issue the lease sales and do a call, ultimately, it is very market-driven and generally leases that do not have any prospective oil and gas development do not receive bids. However, we can work with you. I have not worked specifically on that issue. I have been focused more in Nevada on mining, grazing, and the Fallon expansion, but I would be more than happy to work with you in the future on that.

Senator CORTEZ MASTO. Thank you, and I look forward to working with you on those other areas as well.

Mr. DANLY, let me ask you a couple of questions. Do you agree that renewable energy should and will continue to be an important part of our nation's electric mix?

Mr. DANLY. Undoubtedly.

Senator CORTEZ MASTO. Do you agree that renewables like wind and solar power can be reliably integrated into the power grid?

Mr. DANLY. Yes, they can be under the right circumstances. Yes.

Senator CORTEZ MASTO. Do you agree that states have the authority to establish the resource mix that best serves their customers?

Mr. DANLY. I am sorry. I didn't quite hear that.

Senator CORTEZ MASTO. Sure. Do you agree that the states have the best authority to establish the resource mix that best serves their customers?

Mr. DANLY. Yes. That is built into the Federal Power Act.

Senator CORTEZ MASTO. Okay. And do you support the FERC's final rule on energy storage?

Mr. DANLY. I would be reluctant to express support or not supporting it because should I be confirmed, I could be asked to pass upon it in later proceedings.

Senator CORTEZ MASTO. Alright. Let me ask you this, do you commit to working with the other four Commissioners to ensure that this rule is properly implemented by RTOs and ISOs?

Mr. DANLY. Absolutely.

Senator CORTEZ MASTO. Okay. Let me ask you this, when it comes to climate and environmental impacts of infrastructure projects, where do you see FERC's role? Does the Commission have the authority and or the ability to consider the impacts of projects on the climate when making permitting decisions?

Mr. DANLY. Thank you. The obligations of the Commission are to look at the infrastructure question and make a public interest determination based on the record in front of it, and that includes by the National Environmental Policy Act, consideration of, as I have said before, direct and indirect effects and cumulative impacts. So the Commission is obligated to take those into consideration when deciding whether or not something is in the public interest.

Senator CORTEZ MASTO. So you would agree with the Sierra Club case?

Mr. DANLY. The Sabal Trail?

Senator CORTEZ MASTO. Yes.

Mr. DANLY. I agree with the D.C. Circuit with a hands-down binding ruling, yes.

Senator CORTEZ MASTO. Thank you. I appreciate that. Thank you. Congratulations again.

The CHAIRMAN. Thank you, Senator.

Senator Lee.

Senator LEE. Thank you very much, Madam Chair. Thanks to both of you for being here. I have appreciated my conversations with both of you in the past, and I am grateful to you for being willing to be considered for these positions.

Ms. MacGregor, let us start with you. I want to talk about wildfires for a minute. I live in a state where two thirds of the land is owned by the Federal Government. The Federal Government is good at many things. It is not as good as some others are at managing large wooded properties, and at times it has allowed for an excessive accumulation of growth to build up that provides fuel for wildfires. When left untamed, those wildfires can become deadly. They can also become toxic for the environment in a way that takes decades if not centuries to recover from. What do you think are the biggest hurdles to effectively and actively managing our nation's federal lands so as to prevent these massive wildfires from destroying habitats and watersheds, destroying air quality and water quality, and even lives and livelihoods across the West?

Ms. MACGREGOR. Thank you, Senator, for that very important question. Wildfire, as I said earlier, is on my mind quite a bit and my trip to Paradise, California, last year is still with me. Like you said, different states have different analyses on the dead and dying timber that is in their forests.

And also depending on a wet or dry year, it could be the grasslands. For instance, California, I think the Forest Service with the state estimated that there are 129 million dead and dying trees. I know it's a big deal in Colorado with the pine bark beetle. So I think addressing invasive species actually comes to play but also getting in and being able to conduct salvage sales. Clearing out the dying timber, especially in proximity to homes is important.

Senator LEE. Collaboration with states seems to go a long way toward addressing the wildfire risk. States in the past, including and especially in my own state, have done a lot to identify—sometimes years, sometimes decades in advance—wildfire risk that could be nascent, inchoate at the time and building into something that is much more clear and present. And so when the federal counterparts to these state agencies issue warnings and encourage the federal agencies involved to take action, that can be helpful.

This is also important just with land use planning, generally with the resource management planning process, collaboration is an important thing. The Department of the Interior has had a mixed record over the years in terms of its collaboration with state officials. At times—I mean, it always at least pays lip service to the idea that state collaboration is a good thing. Fortunately in this Administration, this Interior Department under President Trump has been very good about collaborating with state officials and local officials. I hope and expect that if you were confirmed, you would

be an important part of making sure that that trend continues within the Department.

Ms. MACGREGOR. Absolutely, sir. And to your point on wildfire, we have worked very closely with states to implement Good Neighbor Authority in our Rural Fire Readiness program. We give away excess equipment to states. We all fight fire together. That is really important. On resource management plans, I think one of the big frustrations is how long it takes. And you could see different employees come and go in a state before you actually finish a Resource Management Plan, which often travels along with NEPA analysis. So we are trying to do our best to not only incorporate the views of local communities, work with the Governors, but also do so in a more prompt manner.

Senator LEE. Thank you. Under the Antiquities Act, the President of the United States has tremendous discretion to designate federal land as a National Monument. Previous administrations have made a commitment. Sometimes that commitment has been honored, sometimes it hasn't, that they would not designate a monument within a state without previous consultation with state and local officials and getting their buy-in to the greatest extent they can and not making the monument in the event of widespread local opposition. I assume you share that view?

Ms. MACGREGOR. We would work to implement that, sir.

Senator LEE. Madam Chair, I have got a few seconds left. May I ask one question of Mr. Danly?

The CHAIRMAN. Yes.

Senator LEE. Mr. Danly, can you just describe for us briefly what your view is the limitations on FERC's jurisdiction and what your vision would be as a Commissioner for FERC's relationship with Congress and FERC's relationship with policy in this area relative to Congress?

Mr. DANLY. That is a big question, Senator, so thank you.

Senator LEE. It was either going to be that or why do bad things happen to good people but that was easier.

[Laughter.]

Mr. DANLY. The Supreme Court has said that agencies are creatures of statute, they have no common law existence outside the powers delegated by Congress. So I think the single most important thing to say is that the Commission is a body and individual Commissioners are bound to honor the terms of the statute. Of course, the ones that we implement are the Federal Power Act and Natural Gas Policy Act and the Interstate Commerce Act for oil pipeline rates. And that is the sine qua non of the proper role of FERC. It is the statutory ambit and restricting its actions to those specifically delegated powers.

Senator LEE. Thank you very much. Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Lee. Senator Cantwell, you are up. Senator King has been very patient, but he likes to ask the last question. I know that.

Senator CANTWELL. Thank you. Thank you, Madam Chair. Ms. MacGregor, again, congratulations on your nomination. You can imagine I have a lot of concerns about all the news related to ANWR. Do you know anything about the objections to Arctic drilling by Fish and Wildlife scientists?

Ms. MACGREGOR. Our role in creating a leasing program for the Coastal Plain is directed by law, and we are doing our level best to implement that law.

Senator CANTWELL. So are you saying you do not know anything about what Fish and Wildlife scientists are saying?

Ms. MACGREGOR. I know that the Bureau of Land Management and the Fish and Wildlife Service are working closely to ensure a—and have recently published an environmental impact statement on that particular program.

Senator CANTWELL. Will Arctic drilling harm or kill endangered polar bears?

Ms. MACGREGOR. That biological opinion is not yet final, and we are waiting to review that.

Senator CANTWELL. So you dispute what scientists are saying in that regard?

Ms. MACGREGOR. I believe that ultimately the law speaks to our conduct in the Coastal Plain. It has directed us to conduct an oil and gas program.

Senator CANTWELL. Can the Interior Department still offer Arctic drilling leases in 2019?

Ms. MACGREGOR. How do you mean?

Senator CANTWELL. Well yesterday there was a report saying they were not going to offer any more leases in 2019. So I am just trying to clarify, can the Interior Department still offer those?

Ms. MACGREGOR. So thank you for the question. We have currently published the final Environmental Impact Analysis. The next steps in that process are to finalize the biological opinion from the Fish and Wildlife Service and then to sign a record of decision prior to any leasing. And we are still working on that.

Senator CANTWELL. So it should not be a surprise to anybody in this whole process, we have been clear, we did not think that a wildlife refuge and oil drilling were consistent with each other and we were clear that we thought that would not hold up. But we are very concerned about your nomination if you are not going to consider the information from scientists about the harm to that wildlife. So we are going to continue to be persistent on that. And if there is anything else that you can clarify for the record, but we want to know that you are recognizing what scientists have already said.

Mr. Danly, I know my colleague, Senator Heinrich, has already asked you about this issue of is coal a reliable source of electricity that has to be forced onto the grid which would raise prices for a lot of Midwest consumers and others. And I understand that you told him that you agreed with the previous decision. Is that correct?

Mr. DANLY. Thank you for the question, Senator. The FERC is not in the business of picking winners and losers and never has been. The objective that we have in regulating our markets is trying to get the most accurate possible price signals to ensure just and reasonable rates.

Senator CANTWELL. So one thing is really clear. Obviously, you have great familiarity with the law being the General Counsel there. Do you see some scenario in which that 5-0 decision language could be revised in which somehow someone could make the

case that yes, this particular source should be mandated in the mix?

Mr. DANLY. I suppose it is theoretically possible to come up with a hypo where that would be the case, but you have to remember that there are any number of emergency authorities. We have, I don't think there are very many, maybe two or three RMRs—those are our reliability must-run agreements—for plants to keep reliability in a couple of the RTOs. I think one in MISO and CAISO right now. There are powers the Secretary has in cases of dire emergencies under 202(c). If there were something like that that was acute, that would be a way to handle an emergent issue. But for the stability of the system generally, the wisest policy is to achieve the most accurate possible set of prices and to have the market forces follow their ineluctable process of ensuring the best resources.

Senator CANTWELL. So the emergency clause is the only thing you can think of that would be an issue?

Mr. DANLY. Yeah, I can't really think of anything off the top of my head right now that would be—FERC's commitment to market-based solutions has been, I think, pretty obvious for the last two decades, regardless of who has been in the Majority. The markets have been the centerpiece of our—

Senator CANTWELL. I only have 30 seconds—

Mr. DANLY. Oh, I'm sorry.

Senator CANTWELL. —but I just wanted to get you on the record on in enforcing that market authority, one of the things I think has been key is having a strong bright line on anti-manipulation. Do you believe in FERC's fraud and market manipulation provisions?

Mr. DANLY. Policing the markets and insuring against market manipulation is absolutely critical to ensure that market participants have faith in the markets such that the incentives that the markets create can actually be responded to. In the absence of that certainty, we can't incent the activity that we want.

Senator CANTWELL. Thank you. Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator.

Senator Hyde-Smith.

Senator HYDE-SMITH. Thank you, Chairwoman Murkowski, for convening this nomination hearing and I certainly want to congratulate Ms. MacGregor and Mr. Danly on your nominations to these very important positions for both of you. I have had the pleasure of meeting with both of them and found them to be extremely smart, energetic, and so ready for the positions and prepared for the positions they are about to embark upon.

Mr. Danly, I certainly want to thank you again for the military service that you have provided to our country. The Federal Energy Regulatory Commission and the Department of the Interior have important responsibilities in Mississippi. For instance, energy production is an important economic driver for my state, particularly the tremendous amount of oil and gas production in the Gulf of Mexico. We are proud of the 8 national parks and 15 wildlife refuges in Mississippi. The refuges draw hundreds of thousands of visitors each year, and it certainly helps our tourism in Mississippi bringing these people in with such a wonderful experience.

In addition, I want to recognize the important work that is done by the Department of the Interior's U.S. Geological Survey, particularly the hydrologic instrumentation facility at Stennis Space on the Mississippi Gulf Coast that I toured just recently. Ms. MacGregor, one issue that has drawn a considerable amount of attention in recent months is the catastrophic flooding in the Mississippi Delta. Hundreds of thousands of acres of land were underwater for more than six months, affecting so much of our farming operation, agricultural land, timberland, wildlife habitat, and of course, our homes and our communities, and churches and schools. Included in the flooded area were a number of national wildlife refuges with more than 100,000 acres of prime wildlife habitat. I want you to be aware of the significant damages that have occurred as a result of almost annual flooding events over the past decade and the historic flood disaster that we certainly suffered this year. I recognize flood reduction is not Interior Department's primary mission, but I hope you will recognize the impact of those damages and the need for an environmentally sustainable flood reduction solution.

Also, I am eager to continue the progress we have made on finding solutions to address the bird predation losses for aquaculture and our livestock. We raise a lot of catfish in Mississippi. We are the number one catfish state in production.

In addition, I am very interested in continuing the work with your Agency to allow agriculture producers to use all federal registered seeding and crop protection products and farming operations on the lands that you do oversee.

Again, thank you both for your willingness to serve, and I look forward to working with both of you as you develop policies to protect and strengthen our nation's energy and natural resources. I think you both would do a fantastic job.

Mr. DANLY. Thank you.

Ms. MACGREGOR. Thank you, Senator.

The CHAIRMAN. Thank you, Senator.

Senator King.

Senator KING. Thank you, Madam Chair. Ms. MacGregor, in your answers to Senator Alexander at the beginning, I was a little concerned. He asked you, do you support the Restore Our Parks Act and you said we support helping the parks. Do you support the Restore Our Parks Act?

Ms. MACGREGOR. We support those bills, yes.

Senator KING. Thank you. I just wanted to be clear. We are not—there is no retrenchment of the Administration's support for this bill?

Ms. MACGREGOR. Sir, no. I believe there are some variations between the House and Senate bill and we want to work with you as you separately move those pieces of legislation forward.

Senator KING. Thank you.

On offshore drilling I was delighted to hear your answer to Senator Lee's question about collaboration and cooperation with state officials. In the State of Maine, our legislature, our governor, and our entire Congressional delegation are adamantly opposed to offshore drilling off our coast. Will you take the same view of the importance of collaboration with state officials in that situation?

Ms. MACGREGOR. Absolutely, sir. 43 U.S.C. 1344 is where we get direction on the administration of the leasing program, and it requires our work with the governors in the state and local governments.

Senator KING. And you will absolutely respect that provision?

Ms. MACGREGOR. We will absolutely work every step of the way. We shall work as directed in the law.

Senator KING. Are there any plans for drilling or exploration off the New England coast today?

Ms. MACGREGOR. I think the Secretary's statement that a five-year plan is not imminent right now is correct. We are evaluating the impact of separate litigation on that program.

Senator KING. In government time, I suspect not imminent maybe means we are okay for the rest of this century. I appreciate that. On the question of fossil fuels and there is some discussion with you, with several Senators. I was at a scientific briefing yesterday that presented a graph that really shocked me. I had not really thought about it before. We always talk about fossil fuels in terms of climate change and the effect of CO₂ in the atmosphere, but the other thing is in the space between our grandparents' birth and our grandchildren's death we are going to use up essentially all the fossil fuel but it took hundreds of millions of years on this planet to create.

I just offer that as a thought forgetting about the environmental effects, which are severe, but the very fact that in a sense our generation, our memory of generation is using up something that is a finite resource on the planet, I find disturbing. As we go into Thanksgiving, I think of dad sitting at the end of the table, the turkey comes, all the kids are sitting there, and dad says I am going to eat all of it. And that is what we are doing. I think that is unconscionable from the point of view of simply stewardship of a resource let alone environmental stewardship. There is not a question there, but that was something I thought was important.

Budget changes. In your budget of your Department, the Bureau of Ocean Energy Management (BOEM), there is a \$1 million reduction in renewable science and technology research and an \$8 million increase in what is called conventional energy budget. Why in the world at a time of concern about extra utilization and over utilization of fossil fuels are you cutting research on ocean energy development?

Ms. MACGREGOR. Sir, in formulating the budget we worked with the Bureau of Ocean Energy Management. I would point out that renewable energy is still an important part of the mission of BOEM. I have personally been working on a potential offshore California wind sale. We are working within the confines of our budget as it is provided.

Senator KING. Well, I understand that but budgets—a wise man once said budgets are policy and when a budget cuts in one area increases in another area, that is almost a billion dollars of offshore energy research. It seems to me that is a statement of policy that this is not a high priority for this Administration.

Ms. MACGREGOR. This remains a priority in our statutes as well for BOEM, and we are working closely on all permitting and leasing that we can achieve for offshore wind energy.

Senator KING. Mr. Danly, FERC has taken steps in the past to reduce barriers for distributed energy resources (DERs), storage, and the like. You have taken a rather, I do not know what to call it, balls and strikes position, a conservative “we don’t have the jurisdiction to be making policy” kind of position. How do you feel about those efforts to, I believe, recognize the value of DERs and storage to the security and the efficiency of the grid?

Mr. DANLY. Thank you for the question, Senator. So without getting into the specifics of either of those two possible resources—

Senator KING. I am really looking for your feelings about the concept of incorporating these kinds of resources into the grid.

Mr. DANLY. So as I mentioned in my opening statement, I think one of the most amazing things about FERC is that it is administering a century old statute and in the process is overseeing dramatic transformations of the electricity system. And I would certainly hope to see FERC continue to do that sort of work. Things like—technologies like storage provide a tantalizing glimpse into what the future of the electric system could be and I think it is incumbent upon FERC—in our discharging of its duties to ensure just and reasonable rates, it is incumbent upon FERC to try to allow as many of those technologies as possible as much access to the system as we can.

Senator KING. I appreciate that and I appreciate your work, but I think the important thing is that the values have to be in the equation, the intangible values, and I think that is an important part. Thank you very much for your testimony.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator.

Senator Hoeven.

Senator HOEVEN. Thank you, Madam Chairman. Ms. MacGregor, if confirmed, will you work with us to fill BIA law enforcement officers in the Great Plains area? We have a real need for law enforcement officers particularly throughout the upper Great Plains on the reservation. Will you help us work to fill those?

Ms. MACGREGOR. Sir, absolutely. We will work with you on BIA law enforcement writ large.

Senator HOEVEN. And I want to thank you for visiting with me earlier. I appreciate it. We also talked about the Red River Valley water supply project. Are you willing to help us in that regard?

Ms. MACGREGOR. Yes, sir. We will work with you.

Senator HOEVEN. Also, you are committed to producing more energy on federal lands and tribal lands. I mean, you know tribes are sovereign but a lot of them want to produce more energy, some traditional, some renewable. Are you committed to do both?

Ms. MACGREGOR. We are and that has been a highlight, I believe, of our Fiscal Year. Even on tribal energy, we have increased revenues and production.

Senator HOEVEN. Talk for a minute about how we can expedite the permitting process on BLM lands or federal lands and also working with tribes. How do we make sure that, you know, we do it right, we do it well, but we get through it? I mean this is about encouraging entrepreneurship and investment, creating jobs and economic opportunity, willing to do it with good environmental

stewardship. We do not want red tape, we want a good process. How do we do that?

Ms. MACGREGOR. Sir, that I know is important to your state, to Wyoming, to New Mexico, and many states, and it isn't just for permitting oil and gas. Permitting writ large, for instance, if you wanted to permit rural communications towers for broadband, it has to go through a permitting process. And I think we are learning efficiencies through every branch and many ways through the Bureau of Land Management. When we started at Interior, the average permitting timeframe for an APD was roughly 257 days, and through simply using accountability, working with state offices, filling vacancies in some cases, we have been able to bring that permitting timeframe down to right now 108 days, and it varies in different offices. The statute requires us to do it in 30 days. That is pretty difficult. But we are going to work to make and utilize ways to make permitting more efficient.

Senator HOEVEN. Good, thank you. Again, I know Senator King asked you about the Restore Our Parks Act and you are committed to that, I think, as we have discussed. I think you responded to him.

Ms. MACGREGOR. Yes.

Senator HOEVEN. And also in Theodore Roosevelt National Park, you and I talked and this is again more parochial, our issue but, you know, we have a road failure out there, mission critical, and we need your help with that. We have discussed that.

Ms. MACGREGOR. We want to absolutely help you and work on that road. Of the backlog, most of our backlog for National Park Service is our roads. And I think it is 100,000 miles of roads. So we have a lot of work cut out for us, and we appreciate the bipartisan support we have been getting on dealing with that backlog.

Senator HOEVEN. Thank you. I appreciate it.

Mr. Danly, we need to do something in regard to baseload generation as far as transmission. You have baseload that is there. I am thinking that the Ranking Member probably brought it up because he has a lot of coal in his state just as we do, and we have to have something that addresses the fact that coal is there, you know, 24/7 on the coldest day, the hottest day, when the wind blows, when it does not blow.

In a lot of cases, they built that transmission and other types of energy have a preference on the transmission that they have built. What do we do to make sure that we are treating baseload fairly and that we have that energy available when we need it in terms of the transmission, the grid and, you know, the ability to use it and so forth?

Mr. DANLY. Thank you, Senator. So as you are aware, FERC's jurisdiction extends to the transmission rates. Of course, not the actual siting or construction—

Senator HOEVEN. Right. And that is what I am getting at.

Mr. DANLY. Yeah. And so the proper—not the proper tool, in fact, the only tool available to the Commission to encourage build-out of transmission infrastructure is in the rates scheme.

And I take your point very seriously that there could be assets that are effectively stranded on the transmission system that have plenty of power that they could produce. They could be in the blank

otherwise and because of the constraints on the transmission system, they are simply out of luck and nobody is able to benefit from the dispatch of those units. This is one of the considerations that is always taken into account when new transmission projects are either being proposed or planned. And so it comes down to FERC's oversight of the transmission rates.

Senator HOEVEN. I am not sure though if that was a yes or no.

Mr. DANLY. I am not sure what the yes or no question was.

Senator HOEVEN. We need something that takes into account the fact that the baseload is there all the time and right now some of the variable systems have preference in terms of the rates and access on transmission lines. And we have to do something to address that. Do you agree with that?

Mr. DANLY. I agree that the transmission system has to be designed and operated for the purpose of ensuring the best possible dispatch of the most efficient units. And those units are in many cases what you are terming baseload.

Senator HOEVEN. Do you think, based on your experience, you have the ability to help us solve this issue with baseload? That we can come up with some good solutions and that you can be part of that?

Mr. DANLY. I would be delighted to assist in working on any of this—

Senator HOEVEN. You are committed to working on it. And you recognize there is a challenge that has to be dealt with?

Mr. DANLY. Absolutely. The transition from the old dinosaur era of vertically integrated utilities to these to the rightist cacophony of the current market system has been a challenge and there are many problems that have arisen along the way. But I would argue that the electric system is better for it, and I am happy to work on any of the subjects with you.

Senator HOEVEN. Yes, and one other question. Are you willing to ensure that states and local shareholders maintain the ability to make decisions over distribution and that you would be responsive to them in that regard?

Mr. DANLY. Distribution is firmly placed within the hands of the states under the FPA, and I support that.

Senator HOEVEN. Okay. Thank you. Thank you, Madam Chair—

The CHAIRMAN. Thank you, sir.

Senator HOEVEN. —and to the Ranking Member too. I certainly would not want to leave him out.

The CHAIRMAN. Yes, do not leave him out. Do not leave him out. I just have a few, perhaps a little more parochial, questions. Ms. MacGregor, you and I spoke about some of this earlier, but we have a very unique relationship between Alaska tribes and the Federal Government following the Alaska Native Claims Settlement Act (ANCSA). Because of ANCSA, as you know, there is almost no Indian country or reservation land in the state. We are now approaching the 50th anniversary of ANCSA's enactment, but many of the commitments that were made by that law are yet to see fruition. So I just need to know that you will continue to work with us to ensure that the Federal Government's commitments to Alaska Natives under ANCSA are met.

Ms. MACGREGOR. Absolutely, Senator. And we have a consultation process in place at the Department when it comes to ANCSA corporations, and we are implementing them.

The CHAIRMAN. Well I appreciate that because as we hear far too often, there are many back home who feel that consultation is seemingly a check the box exercise and it needs to be meaningful consultation. Some agencies are better than others but, again, I am seeking your commitment to ensure that it is true and meaningful consultation.

I mentioned the Public Land Orders, section 17(d) of ANCSA, gave the Secretary of the Interior the authority to withdraw lands for further study and reclassify them for use in the public interest. It was smart at the time when the selections were being made. The problem is that now, some 50 years later, much of this land remains withdrawn and has yet to be reclassified. There have been some PLOs that have been lifted in this year. We appreciate that. We know that there is more work to be done. Again, I am just seeking your commitment to that and that we continue in that vein and work to complete some of these PLOs.

Ms. MACGREGOR. Yes. We will work with you on those.

The CHAIRMAN. Last one, and this should be a no-brainer. It just stuns me that we are still arguing, going back and forth, regarding the Gustavus Hydro Intertie-Connection project with National Park Service at Glacier Bay National Park. This is something that is so easy. It should have been such a win-win. It gives clean affordable energy to Glacier Bay National Park, it helps the community of Gustavus out. It is something that should have been done years ago and I am told we are always getting closer, but I need to know that we are going to keep this project on track and get this contract awarded. So if you can just make sure that that is being bird-dogged appropriately.

Ms. MACGREGOR. Senator, strong renewable hydropower is important to the Department, and we will work with you on that. That is the first I am hearing of this project, so I will look into it.

The CHAIRMAN. It won't be your last. Lucky you. Thank you for that. I had really hoped I would never have to raise it again to anybody within Department of the Interior because, again, it is something that we have been working on for a decade plus and it really is——

Ms. MACGREGOR. I wrote it down.

The CHAIRMAN. Very good. Thank you. We appreciate that. We invite you out to Glacier Bay National Park.

Mr. Danly, in the Southeastern part of the state, Alaska hydropower is everything for us. It is about half of our power generation, and we are proud of what we do and how we do it. As I look through and as we have conversations about the role that hydropower plays, it continues to amaze me that we are in this process that approvals for issuing either new licenses or relicensing existing dams can take over a decade, can cost tens of millions of dollars. We received testimony here in the Committee that obtaining a license renewal routinely exceeds \$20 million per license with some proceedings topping \$50 million. Again, these are renewals.

And so we hear in the Committee that some of the costs and the delays are due to lack of coordination among FERC and the re-

source agencies—sometimes redundant reviews at the federal and state levels. So this is a matter that we are looking at critically here in the Committee. And as an add-on to that, we have also had an opportunity to focus on hydropower pump storage and recognition that 95 percent of energy storage in the U.S. and globally with 44,000 megawatts of proposed projects are before the FERC right now in the preliminary stage. So you are looking at a double of U.S. pump storage capacity.

As we are looking to what we can be doing to make this process a better process and FERC's role in it, I would ask that you consider and perhaps you have some impressions you would like to share with me right now about how the hydropower licensing process can be improved and whether or not you think the hydropower and the pump storage projects are being properly valued and fairly compensated for the grid reliability services that they provide?

Mr. DANLY. Thank you for the question, Senator. One of the most important functions we have is permitting infrastructure of various types, this includes the section 1 responsibilities for hydro. And it is absolutely essential that the Commission do everything it can to expeditiously review all of the applications that it has in front of it. It has been an ongoing issue that has been raised many times, how long it takes for hydro to be approved. And part of that is that there have been historical frictions in getting coordination.

Also, these are very significant projects that have their dire consequences for bad oversight and so the i's are dotted and t's are crossed, and that is just part of what is going to have to happen in any hydro licensing regime. But I am absolutely dedicated to the most expedient possible review of every application in front of us, and I would be delighted to work with you on that should I be lucky enough to be confirmed.

The CHAIRMAN. Well, I would like to explore it a little bit more in detail because as you mentioned that yes, some of these projects are really significant projects within their region. I am taking it back to where I am from where we have smaller hydro projects that really should not be as challenging as they are, should not be as complicated and expensive. And so how we can work to address that I think is a challenge for all of us. Coordination with the agencies is something that—it just makes good common sense to do it. So note that that is an area of keen interest of mine, that and what we are doing to help facilitate the hydro pump storage as well.

Senator Manchin.

Senator MANCHIN. Thank you, Madam Chairman. And thank you all. It has been a very good hearing. I think you had a good exchange. You had a little lively audience participation.

[Laughter.]

So it has all worked out well. With that, I just have two final questions.

Ms. MacGregor to you. I introduced a bill to extend the Abandoned Mine Land (AML) Reclamation Act for another 15 years, and I think you are familiar with AML. Basically \$11 billion has been collected in its life over the last 15 years, and we have about \$10 billion of identified reclamation that needs to be done and that comes from the fee on extraction of fossil, of coal, and we are ask-

ing for that. I do not know what your position would be on that. Do you support us?

Ms. MACGREGOR. Sir, I am from the Commonwealth of Pennsylvania. We have some Appalachia too. It is really important. A lot of the AML projects are also funded in the State of Pennsylvania. So I know that Congress is working on reauthorizing that program, and we will work with you on that.

Senator MANCHIN. So you support extending the fee for another 15 years, if possible?

Ms. MACGREGOR. We will work with you on AML.

Senator MANCHIN. I understand. Well, we need your help. We really do. If you can just basically identify the good it has done and why the fee is needed. If not, the money will be replaced somewhere, and now it comes from the extraction so the industry is paying for itself. It makes a lot of sense not to put the burden on the average taxpayer.

Ms. MACGREGOR. We absolutely think AML is an important program, and we want to work with you on that.

Senator MANCHIN. Thank you.

Mr. Danly, security of the electric grid has a great importance to me. I have sat on the Intel Committee before, so I know the threats that we receive minute-by-minute to our country. I had the privilege of going out and seeing the attack on the Saudi Aramco oil refineries and seeing how it could have disrupted the whole oil and energy industry for our whole globe.

With that, I am a proud co-sponsor on the PROTECT Act with Senator Murkowski. The PROTECT Act, as you know, would require FERC to issue rulemaking establishing rate incentives to encourage cybersecurity. So rate incentives, we are all paying basically, but we understand that the security and the cyber threat that we face could be very damaging to all of us. What do you see FERC's role to be with respect to protecting the grid from cyber? Do you think it is a real threat, a concerted threat that we could be alleviating or minimizing?

Mr. DANLY. Thank you for the question, Senator. Yes, cybersecurity threats are truly, truly important, and the scope of the threats faced are sobering. We have, as you are aware, limited processes to make mandatory standards and when it comes to a field like cyber, the rate at which the NERC process, which is the liability process, the rate at which a NERC standard comes out, you know, 18 months to 2 years for anything when it comes to the world of cyber, it's already ancient history. And so what FERC does to try to bridge that gap is we have an Office of Energy Infrastructure Security which does best practices and architectural reviews and the like in order to enhance the awareness of the jurisdictional utilities to the threats. As to the question of ratemaking, I am all for Congress having specific subjects that it wants to direct ratemaking on and, in fact, sometimes in the past FERC itself has done single-issue ratemaking—immediately after 9/11. I do not remember the exact date of the issuance, but single-issue ratemaking was explicitly contemplated by the Commission for the purpose of physical security. So as far as that goes as a ratemaking regime, I have no objection to it whatever.

Senator MANCHIN. Well on this, the thing that amazed me is the attack on Aramco. Have you all seen the news reports on that? There is no doubt where the attacks came from. Every missile hit from the North and then hit from the South. With that being said, I asked Aramco officials, I said, are you all concerned about espionage and how someone would have this pertinent information and the coordinates to do the damage they have done? He looked at me and he said, "That is a consideration. We do a very extensive job as far as reviewing any of our employees and we understand that, but we cannot compensate for Google Maps." And I said, what? And he said "Google Maps." He says Google Maps are so precise that they were able to get all their information off those. I kept thinking about our cyber vulnerability, because I can assure you it does not take much to take us down.

If that can be done, can you imagine what could be done to this great country? So I am concerned about that very much, and I would hope that you would be supportive of the PROTECT Act. When it comes to the importance of cyber, because of the challenges we are facing, and what we are facing every day from terrorist threats, something as vulnerable as that, it could be catastrophic to our country. I would hope that you all will consider that protection, as well as we talked about Ms. MacGregor on yours. Those are very, very critical. AML, cyber, two big things.

Mr. DANLY. Absolutely. I think it is very important.

Senator MANCHIN. Thank you all for being here today.

The CHAIRMAN. Thank you, Senator Manchin. Before we wrap up, I want to say a few words about somebody who is going to be leaving my team here on Energy. We have had a gentleman who has been with the Committee now for about eight years, Chester Carson. Chester is not here. He probably knew that we were going to say something about him, but Chester comes from Juneau, Alaska. I am not quite sure how we were able to lure him here to Washington, DC, but he came not only to the Committee but he was one who started out as an Executive Assistant before he moved into the comms shop and then he went from comms to full-time policy advisor.

So when you think about those who really rise through the ranks, Chester is one of those. He has been my lead on so many of the issues that we have actually been talking about here today—renewables, efficiency, climate, tribal energy. He has made some significant contributions to the Committee, and he has done so with enthusiasm and a smile on his face. I am not quite sure what has struck him, but this young man from Alaska has decided that Hawaii is now calling to him. So he moved from Alaska to DC to now Maui. We wish him all of the aloha and mahalo for the work that he has done. But I wanted to be able to acknowledge him here before the Committee.

I want to thank both of you this morning. This has been a good hearing. I think you have seen very personally the level of interest from so many of the members on the Committee. We had really strong attendance here this morning, a morning when quite honestly, we are not set to have votes for a little bit. Usually you have a lot of people that are still traveling on a morning like this, but I think they made a special effort to be here.

I think both of you provided good strong information to the Committee on important issues that we care about, that you care about. You have clearly demonstrated your competence in your fields, the depth of knowledge, and really, your willingness, your desire to serve at the Department of the Interior and at the Federal Energy Regulatory Commission.

So I thank you for not only being here this morning, but I thank you for your respective leadership. I thank you for bringing your friends and family here to support you. We know the jobs that we all have are tough jobs, and they are made a little bit easier when we have those that are loyal always.

We thank you for joining us, and we thank you all again for your commitment. With that, the Committee stands adjourned.

[Whereupon, at 11:57 a.m., the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Ranking Member Joe Manchin III

Question 1: In 2015, the State of West Virginia formally requested that the Secretary of the Interior partner with the National Academy of Sciences to undertake a study looking at the health impacts caused by mountaintop removal coal mining. In 2016, the Secretary of the Interior, then Sally Jewell, agreed and the Office of Surface Mining Reclamation and Enforcement partnered with the Academy. The Study was called "Potential Human Health Effects of Surface Coal Mining Operations in Central Appalachia." However, in 2017, Glenda Owens, the Acting Director of OSM sent a letter to the Academy to cease all work on the study. I think trying to get a better understanding of the health issues in coal country seems like a worthy undertaking to me, and when the study was cancelled, we are left with nothing.

What was your involvement in the study being cancelled?

Question 2: Do you believe the study was unnecessary? If so, why?

Response to Questions 1 and 2: The Department takes seriously the health and safety of the public, and harnesses the expertise of other federal agencies such as the Department of Health and Human Services, the Environmental Protection Agency, and the Mining Safety and Health Administration, as well as state agencies, to ensure that the impacts of coal mining are taken into consideration when implementing the Surface Mining Control and Reclamation Act's cooperative federalism approach.

In 2017, the Department distributed roughly \$5.5 billion in grants and agreements. Then- Secretary Zinke issued a memorandum in April 2017, with subsequent guidance in December 2017 with regard to evaluation of grants and cooperative agreements. As stated by the acting OSMRE Director in a letter dated May 31, 2019, this grant was reconsidered for reasons that ranged from imprudent use of resources to duplicative research efforts and cited two other studies conducted by other federal agencies. My role in that early process was to ensure that OSMRE staff was complying with the review process as established. I fully support ensuring the Department has a positive role to play in coal country.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Question from Senator John Barrasso

Question: On October 9, 2019, President Trump issued Executive Order 13891, entitled "Promoting the Rule of Law through improved Agency Guidance Documents." This Executive Order highlights the importance of an "open and fair regulatory process" for those subject to federal regulation.

Unfortunately, we have heard reports of the Office of Natural Resource Revenue (ONRR) issuing inconsistent guidance covering its audit process. This has created uncertainty and confusion among the regulated community, especially when those stakeholders are faced with civil penalties.

Ms. MacGregor, how will you ensure that ONRR operates in an "open and fair" manner when issuing and enforcing audit guidance, in order to ensure reliability and consistency for regulated stakeholders?

Response: The President issued Executive Order 13891 to ensure an open and fair regulatory process that imposes new obligations on the public only when consistent with applicable law and after an agency follows appropriate procedures. It is important to the regulated community, states, and stakeholders that rules and guidance are consistent with the authorities that Congress provides in law, that guidance is clearly and consistently articulated, and that all relevant information, including guidance documents, be readily available and easily accessible. If confirmed, I will ensure that ONRR, and all Department of the Interior bureaus and offices, comply with the procedures that will be established by the Office of Management and Budget under E.O. 13891, in order to achieve the President's clear direction.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Ron Wyden

Question 1: Public lands are truly one of America's shining features -- they provide multiple uses for the American public and are economic engines -- particularly in the rural west. The Department of the Interior is the nation's largest land management agency, and is a critical agency for timber towns and ranching communities in every corner of Oregon. Despite the popularity of public lands, there continues to be talk of privatizing these public lands.

Should you be confirmed as Deputy Secretary of the Interior, will you commit to not randomly selling off public lands in the United States, and to work to expand recreational access to lands managed by the Department of the Interior.

Response: I agree with Secretary Bernhardt, who has made clear to this Committee his opposition to the wide scale sale or transfer of federal lands. I also support the Secretary's belief that access to public lands for hunting, fishing, and recreation is important. The Department's bureaus manage a wide variety of activities on federal lands, including recreation, conventional and renewable energy, irrigation, and conservation, that support nearly two million jobs and generate \$315 billion in economic impact across the country. These activities benefit local and state economies. The Department's Economic Report for FY2018 highlighting these activities may be found at <https://doi.sciencebase.gov/doidv>. Specifically in Oregon, the Economic Report shows that the Department's bureaus supported nearly 26,000 jobs and \$2.9 billion in economic output. As I said at the hearing, I frequently recreate on our nation's vast public lands and I will work hard to expand access to the lands we manage in accordance with our laws.

Question 2: Despite Secretary Bernhardt referring to the Trump Administration's sage grouse plans as "sanding of rough edges," a U.S. district court judge recently suspended Interior's attempts to rewrite federal sage grouse plans because these new plans are likely to result in a decline in the species.

As we consider your nomination, how can we be assured that the BLM will comprehensively monitor impacts of federal-lands oil and gas activity on the sage-grouse and the sagebrush ecosystem, and that we will be kept informed of those impacts?

Response: The Department worked closely with each of the governors of the western states in formulating revisions to the sage-grouse resource management plans. Protecting sage-grouse habitat remains a priority for the Department of the Interior and we will continue cooperation with western states on greater sage-grouse conservation. In each sage-grouse state, governors are committed to the goals that are reflected in our land use plans and states continue to invest significant resources for sage-grouse conservation. The Department's FY 2020 budget request included \$55.5 million to implement sage-grouse management plans and conservation efforts. While I recognize that the litigation is ongoing, our goal has been to maintain a healthy, working landscape for people and for wildlife. We look forward to continuing our work in cooperation with western governors and state wildlife agencies to achieve the conservation goals set out in our thoughtful planning effort.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Question 3: Can you assure us that the Fish and Wildlife Service will complete a full and unbiased sage-grouse status review in 2020, on time and with all the resources the Service requires, so we can know whether listing becomes necessary as the BLM's revised land-use plans are implemented?

Response: Our state fish and wildlife agency partners are taking the lead in assessing the range-wide status of greater sage-grouse. We are assisting them in their efforts and remain committed to the success of the species. The Service is committed to use the best available science and working with partners on this effort.

Question 4: Through FOIA productions, it became clear that, as Deputy Secretary, David Bernhardt set-up a separate calendar with meetings not disclosed through FOIA responses. When calendar entries were eventually released, the information Interior provided was vague or seemingly incomplete — identifying entries only as “external meeting” and not listing attendees. One can only assume that he did so to hide from the public and Congress information about who he is meeting with and about what topics.

- a) Do you have a similar calendar set-up as acting Deputy Secretary?
- b) Do you commit to disclosing all meetings and attendees to Congress and through FOIA when queried?

Response: While I am not aware of the specific details you reference in your question, I understand that the Department works hard to fulfill its responsibilities under the Federal Records Act. If I am confirmed, I commit to following all applicable laws.

Question 5: Given your testimony during your confirmation hearing, it is clear we have a difference of opinion about corruption at Interior. Should you be confirmed, what steps will you take as Deputy Secretary to prioritize efforts to limit unethical behavior at the Interior Department. Please outline specific steps that you would take to do so.

Response: I disagree with your characterization of corruption at the Department of the Interior. Coming from Capitol Hill, I understand that ethics is an important aspect of any publicly-held position. The House Ethics Manual provided a strong foundation for my commitment to ethical conduct. I take my ethical responsibilities seriously. The first training that I received upon joining the Department was regarding compliance with the federal ethics requirements. I have fully complied with the ethics laws, my ethics agreement, and my ethics pledge and have actively sought and consulted with the Department's designated ethics officials for advice. I will continue to do so in the future.

Secretary Bernhardt has taken significant steps to transform the Department's ethics program, including increasing the number of career ethics officials in the Department by 162 percent and hiring both a new Designated Agency Ethics Official (DAEO) and a deputy director of the Departmental Ethics Office; elevating the DAEO position so that it has full access to the Secretary; and unifying 13 disparate bureau programs into a restructured, centrally-managed office to ensure the DAEO has responsibility and authority for the Department's entire ethics program. If I am confirmed, I will continue to support efforts like these that increase accountability and compliance within the Department.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Question 6: The Indian Forest Management Assessment Team report (IFMAT) is an independent scientific assessment of tribal trust forest management that is mandated by the National Indian Forest Resources Management Act (Public Law 101-630). Every 10 years, a group of forest managers and scientists are selected by the Intertribal Timber Council to evaluate Indian forest management and the health of the forests under their care. The next IFMAT report is due in 2023 and the Intertribal Timber Council will soon be submitting a funding proposal for this critical project.

Will you commit to working with the ITC to ensure that the next IFMAT report is successfully funded and implemented?

Response: The United States has a trust responsibility to Indian tribes and I recognize the importance of forest management activities to support tribal economic development and cultural traditions in Indian country. If confirmed, I commit to learning more about this important issue and the requirements of the statute.

Question 7: For 100 years, Oregon and the federal government have coordinated fire protection for federal, tribal, state, and private forests lands in Western Oregon. However, BLM has expressed concerns with their firefighting agreement with the Oregon Department of Forestry, and has expressed an interest in pursuing its own firefighting force, rather than continue coordinating with state of Oregon firefighters. In the Senate-passed Interior appropriations bill, the Senate included report language discouraging the BLM from deviating from the existing agreement.

If confirmed, how will you resolve BLM's ongoing concerns with firefighting in Western Oregon, and ensure a continuity of fire protection on the checkerboard of federal, tribal, state, and private lands western Oregon.

Response: The Department is committed to reducing wildfire risk and to working closely with rural communities to combat wildfire and protect human life and property. From FY 2015-FY 2019, BLM has more than doubled the number of acres treated on public lands. In addition, Secretary's Order 3372, issued in January 2019 to implement President Trump's Executive Order "Promoting Active Management of America's Forests, Rangelands, and other Federal Lands to Improve Conditions and Reduce Wildfire Risk," sets forth an aggressive forest management policy for all Departmental agencies. The order directed the Department and other agencies to work with states, tribes, and localities to better incorporate active land, vegetation and wildfire management techniques to reduce the risk of catastrophic wildfire and to promote the sustainable recovery of damaged lands. We are committed to effectively deploying resources to combat wildfire and protect human life and property, in Oregon and throughout the Nation.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Maria Cantwell

Question 1: Oil and Gas Drilling in the Arctic National Wildlife Refuge

Ms. MacGregor, there have been reports that the views of career scientists at the Fish and Wildlife Service were not considered and incorporated into the final environmental impact statement (EIS) for the Arctic National Wildlife Refuge Coastal Plain oil and gas leasing program, can you please confirm those reports are accurate?

I understand that the scientists at the Fish and Wildlife Service submitted a lengthy comment letter on the draft EIS that was deeply critical of the proposal. Please submit for the record that letter and any additional relevant findings and recommendations provided by the Fish and Wildlife Service regarding this EIS.

Will arctic drilling, or related seismic exploration activities, harm or kill any endangered polar bears living in the Arctic National Wildlife Refuge?

Do you believe the BLM should issue a Finding of No Significant Impact for a project with potentially lethal effects on polar bears?

Can you confirm media reports that the Department will no longer be able to meet its stated goal of holding an Area 1002 lease sale in 2019?

When the Arctic Drilling was included into the Tax Cuts and Jobs Act of 2017, it was touted as generating close to one billion dollars to the Federal government. Will you commit to setting minimum bids at the value necessary to generate the revenues promised in the Tax Act?

Response: The Tax Cuts and Jobs Act of 2017 (P.L. 115-97) mandated that the Department of the Interior establish an oil and gas program on the Coastal Plain. Specifically, this law requires that the Bureau of Land Management hold at least two lease sales by December 22, 2024, with the first sale to take place by December 22, 2021; that each sale offer at least 400,000 acres of the 1.6 million acre Coastal Plain; and that the Secretary shall authorize up to 2,000 acres of surface acreage for production and support facilities. Under the Act, BLM was identified as the agency responsible for establishing and administering the program. As such, BLM is the lead agency for the environmental review, which has been carried out in accordance with the National Environmental Policy Act and other applicable laws and policies. The Notice of Intent for the Leasing EIS was published on April 26, 2018; nearly a year and a half later, the Final Leasing EIS was published on September 20, 2019, and it addresses the potential impacts associated with the Bureau's implementation of an oil and gas leasing program in the Coastal Plain.

Congress was clear in its directive in P.L. 115-97, requiring the Secretary, and BLM specifically, to implement this oil and gas program. The law also directs the Secretary to manage this Congressionally-directed oil and gas leasing program in a manner similar to the administration of lease sales under the Naval Petroleum Reserves Production Act of 1976, including regulations. Existing regulations for oil and gas leasing in the NPR-A do not explicitly set or state a minimum bid per acre. While the statute is clear in the

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor**

responsibilities of the BLM, the Department is committed to ensuring that expertise from all bureaus is harnessed and that the utmost attention is given to ensure the integrity of the process, the science upon which our decisions are based, that our environmental review and analysis is thorough, and that the Department fully adheres to the law.

The FWS plays an important role in this process, working with the BLM to faithfully execute all directives in P.L. 115-97 as it has done since the early stages of implementing the law. FWS has been a cooperating agency on the Leasing EIS. While a seismic program may be conducted as a separate and distinct program from the leasing program, the FWS will be involved in any seismic program in the Coastal Plain. FWS has experience in permitting seismic activities on certain federal lands in Alaska, having cooperated with BLM in approving seismic programs in NPR-A during the last Administration. It is also important to note that FWS has consistently concluded that oil and gas activities in Alaska pose no threat to the health and well-being of polar bears. All seismic activities and any resulting drilling program will be in full compliance with the Endangered Species Act and the Marine Mammal Protection Act.

Question 2: Federal Funding for Wildland Fires

Ms. MacGregor, this past week President Trump threatened to pull federal funding directed to the State of California for fighting the devastating wildfires. Do you agree with President Trump that California Governor Newsom is to blame for his state's devastating wildfires?

Has anyone at the White House asked anyone at the Interior Department to in any way to pull federal wildfire aid to California?

Do you agree with the conclusions of the Fourth National Climate Assessment that climate change will lead to more wildfires nationwide?

Please provide any ideas you may have for legislation that may help reduce wildland fire risks.

Response: As I said at the hearing, I recognize that the climate is changing, that man has an impact, and the science, including the science summarized in the Fourth National Climate Assessment, indicates that there is considerable uncertainty in projecting future climate conditions. Like Secretary Bernhardt, I believe that active forest management is critical to reducing the intensity and number of wildfires, to supporting healthy forests and rangelands, and to protecting human life, property, and infrastructure. At the Department, I have worked hard to implement President Trump's Executive Order 13855 "Promoting Active Management of America's Forests, Rangelands, and other Federal Lands to Improve Conditions and Reduce Wildfire Risk" and Secretary's Order 3372, "Reducing Wildfire Risks on Department of the Interior Lands Through Active Management." The Administration submitted targeted forest management reform proposals with its FY 2020 Budget Request, and I believe that these proposals would provide additional measures and increase agency flexibility to reduce wildland fire risk.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Question 3: Responding to Freedom of Information Act Requests

Ms. MacGregor, what is the Department doing to reduce the backlog of unanswered FOIA requests?

Do you believe there are there enough career staff to compile and process documents to respond to FOIA requests in a timely and legally compliant manner?

Is the Department ending the practice of allowing political appointees to withhold documents from the public that were included in FOIA releases by career officials?

How do you think this change will impact of the quantity, quality, and timeliness of Freedom of Information Act requests being fulfilled?

Response: Last year, the Secretary issued Secretary's Order 3371 underscoring the Department's commitment to an equitable FOIA program that ensures compliance with statutory requirements of transparency, accountability, and prompt production. The SO also established a career SES position of Deputy Chief FOIA Officer to help manage the Department's FOIA program and take meaningful steps to improve the quality, efficiency, and consistency of the work performed by the FOIA offices. Recently, the Department finalized FOIA regulations that aim to streamline and modernize FOIA processing procedures to enable the Department to comply with the FOIA as efficiently, equitably, and completely as possible. Congressional offices, on a bipartisan basis, have expressed support for these regulatory changes. Awareness reviews are conducted in accordance with the Department's February 28, 2019, Updated Awareness Process for Freedom of Information Act Productions, which is publicly available and can be accessed on the Department's website:
https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_2.0.pdf

Question 4: Fourth National Climate Assessment

Ms. MacGregor, a little less than a year ago, thirteen federal agencies including the Department of Interior, with input from hundreds of government and non-governmental experts, jointly issued the Congressionally-mandated quadrennial Fourth National Climate Assessment, have you read this report?

Do you agree with the report's finding that "There are no credible alternative human or natural explanations supported by the observational evidence?"

Do you agree with the report's finding that "Climate change is transforming where and how we live and presents growing challenges to human health and quality of life, the economy, and the natural systems that support us?"

Do you agree with the report's finding that "Future impacts and risks from climate change are directly tied to decisions made in the present?"

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

As the Senate Energy and Natural Resources Committee grapples with how to best undertake our responsibility to respond to this pending crisis, please share with us how do you think the Interior Department can help us craft these urgently needed policies?

As Deputy Secretary how would you ensure the Department incorporates the impacts of climate change into the decisions it makes about our public lands and waters?

As someone who has reportedly long advocated for the fossil fuel industry and its interests, how soon do you think we need to wean ourselves from fossil fuels in order to prevent the worst impacts of climate change?

Response: As I indicated in the hearing, I recognize the climate is changing, that man has an impact, and the science, including the science summarized in the Fourth National Climate Assessment, indicates that there is considerable uncertainty in projecting future climate conditions. The Department's role is to follow the law in carrying out our responsibilities using the best available science. Congress has not directed us to regulate carbon emissions. The laws governing the Department - such as the Federal Land Policy and Management Act - require us to manage our onshore federal resources on the basis of multiple use and sustained yield, which includes energy development. We are carrying out that statutory mission and will do so until Congress directs us differently.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Bernard Sanders

Climate Change

Question 1: During this hearing, you stated that you recognize that the climate is changing and that human activity does have an impact on that change. President Trump has suggested in the past that climate change is a hoax. Do you agree with the President that climate change is a hoax?

Response: As I indicated at my hearing, I recognize that the climate is changing, man has an impact, and that the science indicates there is uncertainty in projecting future climate conditions.

Question 2: Do you agree with the vast majority of scientists that human activity is the primary driver of climate change?

Response: I agree that the climate is changing and that man has an impact, and that the Department's role is to follow the law in carrying out our responsibilities using the best available science.

Question 3: Despite the threat climate change poses to our nation's natural resources, which you acknowledged during this hearing, you failed to mention climate change a single time during your written testimony. Why did your written testimony fail to address, or even mention, this grave threat to our nation?

Response: My personal statement was intended to introduce myself generally to the Committee and was not intended to be an overarching policy statement.

Question 4: In a March 20, 2019 CBS interview, EPA Administrator Andrew Wheeler stated that "most of the threats from climate change are 50 to 75 years out." This statement flies in the face of established science, which tells us that climate change is already causing rising sea levels, increasing hunger and illness, extinction of species, and more severe extreme weather events all around the world.

Do you agree with Administrator Wheeler's statement that "most of the threats from climate change are 50 to 75 years out"?

Response: I am not familiar with Administrator Wheeler's comments. My views on the climate were stated at the hearing and in my responses to your previous questions.

Offshore Drilling

Question 5: In May 2019, DOI proposed eliminating safety rules for offshore oil and gas drilling that were adopted following the Deepwater Horizon accident, which killed 11 people and spilled 134 million gallons of oil into the Gulf of Mexico. This spilled oil decimated local economies and ecosystems. DOI now says that less rigid inspection and equipment requirements would save drilling companies hundreds of millions of dollars with "negligible" safety and environmental risks.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Do you consider 134 million gallons of spilled oil to be a “negligible” safety risk? If not, please outline your plan, including a timeline, for withdrawing DOI’s proposal to modify these safety rules.

Response: The Bureau of Safety and Environmental Enforcement revised rule reflects the Administration’s focus on smarter regulations that provide regulatory certainty, signal American competitiveness, advance energy security, and sustain economic prosperity while promoting clean and safe development of our natural resources. The final revised rule leaves 274 out of 342 original Well Control Rule provisions – approximately 80 percent – unchanged. Sixty-eight provisions were identified as appropriate for revision, and 33 provisions were added to improve operations on the OCS. Following the direction of both Executive Order 13795 and Secretary’s Order 3350, the final rule addresses offshore oil and gas drilling, completions, workovers, and decommissioning activities.

Furthermore, BSEE considered all 424 recommendations arising from 26 separate reports from 14 different organizations developed in the wake of and in response to the Deepwater Horizon spill and found that none of the revisions contravened any of these recommendations. Ultimately, the safe and responsible exploration and development of our nation’s offshore energy resources is a priority of the Department.

Question 6: The Gulf of Mexico and Gulf Coast communities are on the front lines of climate disruption and fossil fuel extraction. Many communities, primarily low-income and communities of color, suffer daily from environmental injustices related to the fossil fuel industry. If confirmed, would you support action to extend or make permanent the drilling moratorium in the Eastern Gulf of Mexico? If confirmed, will you commit to further action to phase out fossil fuel development and promote a just transition to a clean, renewable energy-based economy along the Gulf Coast?

Response: Offshore energy development is conducted in accordance with the Outer Continental Shelf Lands Act. This Act states that it is the policy of the United States that the “Outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards...” OCSLA also requires the Secretary, through the Bureau of Ocean Energy Management, to formulate an Outer Continental Shelf leasing program, which includes setting a schedule of proposed lease sales that indicates the size, timing, and location of leasing activity that “best meets national energy needs.” The OCSLA also specifically requires the Secretary to invite and consider comments from the Governors of any affected state. Comments from the public, governors, Members of Congress, tribes, and stakeholders are an integral part of Program development. The governing statute provides multiple opportunities for participation through public meetings, scoping meetings, and open houses. If confirmed, I will work to carry out the Department’s statutory mission in accordance with OCSLA and other applicable laws.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Steve Daines

Question 1: If confirmed as the Deputy Secretary for the Department of the Interior, you will have broad authority over many critical issue to the west and Montana. Do I have your commitment to work with me to help advance responsible energy and mineral development, increase access to our public lands, protect and help revitalize our National Parks, and safeguard the federal government's trust responsibility to Indian tribes?

Response: Yes. I know that these are important issues for states, tribes, our stakeholders, and the public throughout the west. I take seriously the responsibilities that Congress has placed on the Department, including to protect our natural environment and to foster economic growth through the multiple use and sustained yield of our public lands. I recognize the importance of our government-to-government relationship with tribes. If I am confirmed, I will work hard to achieve the Department's priorities consistent with those responsibilities.

Question 2: Under your leadership in an acting capacity, the Department of the Interior has already begun taking steps on combatting Missing and Murdered Indigenous Women. If confirmed, will you commit to continuing your fight against this very important issue?

Response: Yes. As I stated in the hearing, I believe we must work together to confront the crisis of missing and murdered American Indian and Alaskan native women. According to the National Institutes of Justice, roughly 84 percent of American Indian and Alaskan Native Women have experienced physical, sexual, or psychological violence in their lifetime. President Trump designated May 5, 2019 as Missing and Murdered American Indians and Alaskan Natives Awareness Day to draw further attention to this important issue. If confirmed, I commit to working with you on this important issue.

Question 3: The Keystone XL pipeline will bring major economic benefits to eastern Montana and the nation as a whole. Unfortunately, this process has languished for years and our rural counties have suffered because of it. If confirmed, will you commit to me to continue your work to see this project to completion?

Response: Yes. While I recognize that this matter is currently in litigation, the Department will take all steps necessary and appropriate, consistent with applicable law, to review and properly consider requests for approvals related to the pipeline. If confirmed, I will work with other federal agencies, as appropriate, in order to meet the President's directives, consistent with all applicable laws.

Question 4: If confirmed will you commit to work with me to expand outdoor recreation on our public lands including hunting, fishing, backpacking, and motorized and mechanized recreation?

Response: Yes. I support Secretary Bernhardt's belief in the importance of ensuring access to public lands for hunting, fishing, and other recreational activities. As I said at my confirmation hearing, I frequently recreate on our public lands and will continue to work hard to expand access to the lands we manage to ensure their use and enjoyment by the American people.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Martin Heinrich

Questions: What action is the Department taking to bring BLM's rents, fees, and conditions for wind and solar projects in line with fair market value? Do you believe a rulemaking is necessary to make changes in this area? If so, why?

Response: The President's America First Energy Agenda seeks to harness all resources to reduce our dependence on foreign sources, create jobs, and provide affordable energy for American families, businesses and manufacturers. This includes oil and gas, coal, strategic minerals, and renewable sources such as hydropower, wind, solar, and geothermal. The BLM has a major role in facilitating the development of wind and solar energy projects on public lands through rights-of-way issued under the Federal Land Policy and Management Act. The BLM's current regulations governing rights-of-way for solar and wind energy development on BLM-managed public lands are designed to ensure that the American taxpayer receives fair market value for such development. If I am confirmed, I will continue to look at ways that programs like this can be improved to better serve the American public.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Mazie Hirono

Question 1: In response to my question about political interference in science at the Department, you said that you have not been a part of, or witness to, any such action. In 2017, the Department abruptly halted a \$1 million study conducted by the National Academies of Sciences, Engineering, and Medicine to look into the health impacts of mountaintop removal coal mining in Appalachia. According to records acquired through FOIA, you were involved in cancelling this study following several meetings with industry officials that were opposed to the study.

The Department cited the agency-wide review of grants and cooperative agreements in excess of \$100,000, largely due to the Department's changing budget situation, as the rationale for halting the study. The Department later confirmed that the study was closed out after the review concluded that it was found to be "redundant." However, according to the National Academies statement, they believe that this is an important study. Indeed, it appears that this study could provide crucial information, as a review by the National Institute of Environmental and Health Sciences within the National Institutes of Health, published in 2017 noted that "Improved characterization of exposures by future community health studies and further study of the effects of MTR [mountaintop removal] mining chemical mixtures in experimental models will be critical to determining health risks of MTR mining to communities. Without such work, uncertainty will remain regarding the impact of these practices on the health of the people who breathe the air and drink the water affected by MTR mining."

From the time you started at the Department in January 2017 until August 18, 2017, when the Department submitted the letter to the National Academies of Sciences, Engineering, and Medicine to halt the study, how many times did you meet with industry officials that were opposed to the study?

Did you play a role in halting the National Academies of Sciences, Engineering, and Medicine study on the public health impacts of mountaintop removal? If so, what role did you play?

Was the decision to halt the study made by career scientists or political appointees?

Were public health experts at the National Institute of Health consulted on the decision made by the Department to cancel the study? If so, were the consultations done by career scientists or political appointees?

What changes occurred at the Department between 2016, when the study was requested, and 2017, when the study was halted, to justify ending the study?

Do you agree with the National Academies of Sciences, Engineering, and Medicine and the National Institute of Health on the importance of this research?

Response: The Department takes seriously the health and safety of the public, and harnesses the expertise of other federal agencies such as the Department of Health and Human Services, the Environmental Protection Agency, and the Mining Safety and Health and Safety Administration, the Department of Health and Human Services, and the Environmental Protection Agency, as well as state agencies, to ensure that the impacts of

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

coal mining are taken into consideration when implementing the Surface Mining Control and Reclamation Act's cooperative federalism approach.

In 2017, the Department distributed roughly \$5.5 billion in grants and agreements. Then- Secretary Zinke issued a memorandum in April 2017, with subsequent guidance in December 2017 with regard to evaluation of grants and cooperative agreements. As stated by the acting OSMRE Director in a letter dated May 31, 2019, this grant was reconsidered for reasons that ranged from imprudent use of resources to duplicative research efforts and cited two other studies conducted by other federal agencies. My role in that early process was to ensure that OSMRE staff was complying with the review process as established. I fully support ensuring the Department has a positive role to play in coal country.

Question 2: In my questioning, I mentioned a September 2019 GAO analysis that showed a “range of threats and assaults against [DOI] employees in fiscal years 2013 through 2017...incidents ranged from telephone threats to attempted murder against federal land management employees.” GAO’s report stated that one way for agencies to address these safety risks is to ensure that DOI conducts their required security assessments, but agency officials stated that the Bureau of Land Management, the Forest Service, and the Park Service are having difficulty doing so due – among other things – to “decentralized organizational structures.”

Was the ongoing safety of employees considered in the planning process leading up to the decision to further decentralize the Bureau of Land Management?

You responded that the safety of these federal workers was important. How do you plan to ensure the safety of employees at these agencies moving forward?

Do you commit to taking the recommendations made in the GAO report, and ensuring that the security assessment is completed in a timely fashion?

Response: It is unacceptable to me that Department of the Interior employees should be the subject of threats for doing their work on behalf of the American people. I take this issue very seriously. Departmental bureaus are moving ahead to implement many of the GAO recommendations. Also, we have upgraded security at DOI’s Main Interior Building by moving to a single point of entry for visitors and requiring PIV cards for employee access. As I indicated at the confirmation hearing, I am absolutely committed to reducing safety risks for the Department’s employees.

Question 3: You mentioned in your opening statement that you have worked hard “to address the outrage of Missing and Murdered Native American women.” You further recognized how important is for Native Americans to have access to justice. You said that “I will never again take for granted that access to justice sometimes relies upon a navigable road.”

Do you think the reauthorization of the Violence Against Women Act (VAWA), which passed the House in April 2019 on a bipartisan basis, would help address this epidemic of Missing and Murdered Indigenous Women?

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Do you think the Senate should pass this VAWA reauthorization?

Response: As I stated in the hearing, I believe we must work together to confront the crisis of Missing and Murdered American Indian and Alaskan Native Women. According to the National Institutes of Justice, roughly 84 percent of American Indian and Alaskan Native Women have experienced physical, sexual, or psychological violence in their lifetime. President Trump designated May 5, 2019 as Missing and Murdered American Indians and Alaskan Natives Awareness Day to draw further attention to this important issue. I commit to continuing to work whole-heartedly on this important issue and if confirmed, I will work with Congress and the White House on all relevant legislative proposals that will have a measurable impact for those who are still seeking justice on behalf of their loved ones.

Question 4: You mentioned during the hearing that the Department estimates that mining leases provide a \$3 trillion value-add to the U.S. GDP. Does that figure take into account the environmental and public health impacts of mining operations? How does the Department evaluate the impacts of mining on public health, environmental protection, foregone economic benefits from recreation, or alternative uses of the land versus economic development in the mining sector?

Response: The figure that I mentioned at the hearing was taken from the U.S. Geological Survey's Mineral Commodity Summary for 2019, which is available online at <https://www.usgs.gov/centers/nmic/mineral-commodity-summaries>. It shows that, in 2018, mining and mineral materials were consumed by downstream industries with an estimated value added to the U.S. GDP of \$3.02 trillion. Notably, this report also notes that our nation is net import dependent for 18 minerals of which 14 are critical minerals. Minerals are fundamental to the U.S. economy, particularly critical minerals that are used for cell phones, computers, defense systems, automobiles, airplanes, ships, and other products critical to our economy and security. The Department is committed to the safe and responsible development of these resources, and will continue to comply with all applicable laws and regulations governing mining on federal land.

Question 5: In December 2017, the Department, in an unprecedented move, issued a Solicitor's opinion that entities could not be prosecuted for incidental take under the Migratory Bird Treaty Act. Meanwhile, a recent report found that climate change could cause nearly two-thirds of birds in North America to go extinct if temperatures warm by 3 degrees Celsius. Another recent report concluded that the U.S. and Canada have lost almost 3 billion birds in the past 50 years.

What science was utilized to inform the December 2017 Opinion regarding incidental take under the Migratory Bird Treaty Act?

How many bird deaths were avoided as a result of the Department's prior interpretation that entities could be prosecuted for incidental take under the Migratory Bird Treaty Act?

Will the December 2017 Opinion exacerbate harm to birds at a time when there are alarming new reports about the significant loss of birds in recent decades and serious anticipated threats in the future?

Response: I understand that M-opinions are based on the law and that this opinion, specifically, takes into account the positions of various federal courts of appeals. I agree with the Secretary that a broad and diverse

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor**

set of stakeholders have strong concerns about the scope of authority and application of the Migratory Bird Treaty Act. If confirmed, I will work to carry out the Department's statutory mission.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Martha McSally

Questions: The La Paz County Land Conveyance Act, which was included in S.47 passed by Congress earlier this year, directed the conveyance of federal land for fair market value to La Paz County for renewable energy development. This rural area now has significant economic development opportunities and benefits that could be realized immediately upon conveyance of the property. Time is of the essence. We are now six months beyond the enactment of the Dingell Act and we have become discouraged to find the process has become unnecessarily slow and difficult. This is after all a Congressionally directed conveyance. Can you provide me with a schedule for the conveyance process required by the Act and how the Department plans to ensure the review process is not overly lengthy, costly, and burdensome to this rural county? Can I have your commitment that this issue will remain a priority under your leadership?

Response: Implementation of the provisions of the John. D. Dingell, Jr. Conservation, Management and Recreation Act (S. 47) is a Departmental priority. Secretary Bernhardt issued Secretary's Order 3374, establishing a task force to facilitate this implementation. I understand that BLM has completed cadastral surveys and legal description for this conveyance. If confirmed, you have my commitment to ensure that this issue remains a priority and that the BLM complies with the law and, consistent with the Act and other applicable law, completes the conveyance in a timely fashion.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

Questions from Senator Catherine Cortez Masto

Question 1: The Interior Department has made a point of talking about the importance of wildlife corridors. Secretary Bernhardt has said wildlife corridors are a priority, and former-Secretary Zinke issued Secretarial Order 3362 in support of big game migration corridors that are especially important for species like elk and mule deer.

Nevada's Ruby Mountains are an incredibly important wildlife corridor. I've heard from hunters and anglers in the state about just how important this area is for wildlife. In fact, Interior agreed, and recognized the corridor's importance earlier this year when it gave a grant to protect elk habitat near the Ruby Mountains.

Despite the recognition of the corridor's importance, Interior has tried and is currently trying to lease for oil and gas in the same area.

I am puzzled as to why Interior is willing to spend taxpayer dollars to protect key habitat in the Rubies, say wildlife corridors are a priority, solicit a report from my state's wildlife agency on key wildlife habitat, and then throw it all out the window in favor of oil and gas leasing.

The very first line of Secretarial Order 3362 directed Interior to work with states to "enhance and improve the quality of big-game winter range and migration corridor habitat on Federal lands."

How is the leasing of this area for oil and gas not a direct contradiction of Secretarial Order 3362?

Response: As you may know, U.S. Forest Service is the surface management agency that manages the Humbolt-Toiyabe National Forest. While the BLM does manage subsurface mineral development where applicable, the BLM relies upon surface consent from the relevant surface management agency in circumstances where the BLM does not manage the surface. SO 3362 applies to lands managed by the U. S. Department of the Interior and promotes collaboration with states to conserve important habitat for big game species. If confirmed, I will work closely with you on priorities that are important to you and the State of Nevada.

Question 2: Land protection has become much more of a bipartisan mission of the Nevada delegation in the past several years. Coordination and stakeholder conversations have resulted in good policy for the state and enacted into law.

Currently, we are working on several efforts to strengthen local economies and meet the conservation needs within several of Nevada's counties. Proposals, like these, are instrumental to our local economies, protecting our natural resources, and conserving important habitat for our native species.

Will you and the Agency work with the Nevada delegation and support the proposals that result from these collaborative stakeholder efforts?

Response: Yes. As we discussed at the hearing, I believe part of being a good neighbor includes working together with counties on the issues that are important to them - especially as we work to foster economic

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Questions for the Record Submitted to Ms. Katharine MacGregor

prosperity in rural communities. DOI's recent economic report for 2019 shows that DOI activities contributed nearly 40,000 jobs and \$8.1 billion to Nevada's economy with energy and mineral development, recreation, and timber and grazing as the three largest contributors.

Question 3: During Tuesday's hearing (November 5, 2019), you mentioned that you had been engaging on the Fallon military land withdrawal. What is the position of the Department of the Interior on the military's request to take over administrative control of one of the largest expanses of protected wildlife habitat in the lower 48 states with its proposed land withdrawals surrounding the Naval Air Station in Fallon, Nevada, and Nellis Air Force Base in Las Vegas, Nevada? Are you concerned about such a large amount of land being repurposed from under the Interior's purview?

Response: DOI manages over 50 million acres of land in Nevada. By statute, DOI is limited in the number of acres that can be administratively withdrawn without Congressional approval. The Department is currently involved in ongoing coordination with the Department of Defense on the Fallon Range Training Complex expansion proposal and the renewal of the Nevada Test and Training Range withdrawal, which expires in 2021. Ultimately, the decision on whether to expand the footprint of these Ranges rests with Congress.

Question 4: Payment in Lieu of Taxes (PILT) is an important program for rural states across the country, including Nevada, yet that hasn't stopped this Administration from attacking the vital program that helps communities pay for road maintenance, law enforcement, healthcare, emergency response, and education.

In the President's FY2020 Budget Request, the Department proposed a \$35 million cut to PILT. The cut was fortunately rejected by Congress, and the program received full funding in the Senate-passed Interior appropriations bill.

Can you explain why the Department proposed such a significant cut to such a vital rural program? Why would the Department target the very communities with which it so closely works?

Response: The Department calculates payments according to the formulas established by law and distributes the funds made available by Congress. Should I be confirmed, I will work to ensure we fulfill our role of being a good neighbor to local communities and support Payment in Lieu of Taxes payments, which help local governments carry out such vital services as firefighting and police protection, construction of public schools and roads, and search-and-rescue operations.

Question 5: In your role as Deputy Chief of Staff, have you thought it acceptable for the Department of the Interior to have so many of its leaders performing their duties without Senate confirmation? What kind of message does it send agency-wide and to the career staff of the bureaus, like the BLM, that are operating under an acting Director that the President has not even bothered to formally nominate? Is this something you hope to address if confirmed as Deputy Secretary? If so, how?

Response: The Vacancies Reform Act provides the process for how a position requiring confirmation can be filled in the absence of a Senate-confirmed official, according to the Reorganization Plan No. 3 of 1950. The Department hopes for speedy confirmation of all nominees.

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Questions from Chairman Lisa Murkowski

Question 1: Please explain your precise role in administering FERC's ethics program.

Answer: I was asked two questions during the hearing regarding whether I have any role in administering the Commission's ethics program, first by Senator Murkowski, then by Senator Cassidy. As I explained at the hearing, pursuant to 5 C.F.R. § 2638.104, every agency in the federal government must have a Designated Agency Ethics Official (DAEO). The DAEO is a position that is appointed by, and answers to, the agency head alone. While the DAEO may and does informally consult with other experts in the agency (including lawyers), when arriving at his determinations, every decision of the DAEO is, both in practice and by law, solely the decision of the DAEO. The DAEO is charged with the responsibility of overseeing the agency's ethics program and, when called upon to do so, evaluating when recusals are required and whether to grant authorizations under 5 C.F.R. § 2635.502(d). Only the DAEO (or his staff) can provide official and dispositive ethics guidance.

At the Commission, the Associate General Counsel for General and Administrative Law is also appointed the DAEO. This has been the practice at the Commission for at least thirty years. When acting in his capacity as DAEO, he reports to the Chairman and when acting in his capacity as Associate General Counsel for General and Administrative Law (the department that handles, among other things, employment disputes and procurement questions), he reports to the general counsel. However, as required by law, the DAEO, when acting as DAEO, is subject only to the authority of the agency head and the Office of Government Ethics. Accordingly, I have no authority over the DAEO's ethics advice or the implementation of the ethics program and I do not approve the ethics advice provided by the DAEO.

I do not administer the Commission's ethics program. I comply with the ethics rules as they apply to me. Further, I am occasionally called upon (as are other members of the senior staff) by the DAEO to informally offer my insight as general counsel on such matters as the institutional significance of a particular matter or speak to issues of timing or procedure.

Question 2: At its September meeting, FERC proposed a number of reforms to its implementation of the Public Utility Regulatory Policies Act of 1978, known as PURPA. PURPA was enacted 40 years ago to reduce our dependence on foreign oil for power generation by encouraging the development of renewable energy technologies. Today, renewable energy is widespread and oil is used for less than one percent of electricity generation, but PURPA's outdated rules can add unnecessary costs to customer utility bills.

a) Please explain some of the changes FERC has proposed to its PURPA regulations.

Answer: Among the changes that the Commission proposed, states would be given more explicit flexibility in setting prices paid to owners of PURPA qualifying facilities (QFs) in four distinct ways. First, states would be able to require that energy prices in contracts and other legally enforceable obligations (LEOs) may vary over the life of the contract or LEO to reflect

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly

the purchasing electric utility's avoided costs at the time of delivery (currently, QF energy rates may be fixed at the time the LEO is established). Second, in organized wholesale electric markets such as regional transmission organization/independent system operator (RTO/ISO) markets, states would be able to rely upon the RTO/ISO market's locational marginal price as the price for as-available QF energy. Third, outside of RTO/ISO markets, states would be able to rely on competitive energy prices to set the price for as-available QF energy, such as the prices at a liquid market hub to which a state determines a purchasing electric utility has reasonable access, or prices based on published natural gas price indices and a proxy heat rate for an efficient natural gas combined-cycle generating facility. Fourth, states would be able to use a price determined pursuant to a competitive solicitation process that is transparent and non-discriminatory as the price for QF energy and capacity. The proposed rule would allow states the explicit flexibility to adopt any one or more of the above pricing options, but it would not mandate that the states make any changes to their current approaches to setting QF rates. The proposed rule would also, among other things, make changes to the so-called "one-mile rule" for determining whether a small power producer QF meets the statutory 80 megawatt capacity ceiling and reduces the threshold for presuming that a small power producer QF has nondiscriminatory access to markets defined in section 210(m) of PURPA for the purpose of determining whether to terminate the mandatory purchase obligation.

- b) Does FERC's order seek to ensure that all power plants, including PURPA plants, are paid competitive, market-based rates for power?

Answer: The Commission's proposals, as described above, envision that states would have the explicit flexibility to provide that prices for QF energy be reflective of market conditions, just as non-QF energy prices are now often reflective of market conditions.

- c) How will FERC's PURPA modernization be pro-consumer?

Answer: Granting states the explicit flexibility to set QF prices to reflect current market conditions would, I believe, be pro-consumer because such an approach would better ensure that QF prices, over time, would not exceed the price that electric utilities would otherwise pay if they were to instead either generate that energy themselves or buy that energy from another source.

Questions from Ranking Member Joe Manchin III

Question 1: Given aging electricity infrastructure and risks from natural disasters such as wildfires and hurricanes, what steps can FERC take to ensure that utilities are prioritizing capital spending according to safety and reliability risks and exercising reasonable cost controls?

Answer: The Commission's ratemaking mechanisms provide the means for utilities to recover the full cost of prudently-incurred capital costs in their rates charged to customers. The Commission evaluates rates for public utilities to ensure that they are just and reasonable and not unduly discriminatory or preferential.

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Question 2: In your view, is there adequate review by all stakeholders and oversight by FERC and system operators for all types of transmission projects, whether for reliability or for other purposes?

Answer: Under Commission Order Nos. 888, 890, and 1000, the Commission established processes for coordinated and transparent transmission planning. Transmission planning regions have proposed and the Commission has approved transmission planning processes to comply with the requirements of these rules. These planning processes adequately incorporate the input of stakeholders, and the Commission reviews the rates that result from these processes.

Question 3: FERC's main job is to oversee just and reasonable wholesale markets. State policies like subsidies for renewable generation, or nuclear or coal plants at risk of retirement, create market signals that impact wholesale rates and, therefore, FERC's work. Regional Transmission Organizations like PJM are grappling with this in a number of ways. Can you shed some light your views regarding how FERC should be approaching this issue of state subsidies in wholesale markets? In your view, how is FERC most effective in sorting out these questions of reliability from the local level to the state and regional level?

Answer: The Federal Power Act tasks the Commission with ensuring that wholesale electric rates are just and reasonable and not unduly discriminatory or preferential. It also leaves authority with the states regarding choice of generation. The Commission must account for these state decisions in fulfilling its statutory responsibilities.

Questions from Senator John Barrasso

Question 1: Earlier this year, I introduced a bill called "Updating Purchase Obligations to Deploy Affordable Resources to Energy Markets Under PURPA" Act, or "UPDATE PURPA" for short. Senators Risch, Cramer, and Daines are cosponsors. The purpose of my bill is to modernize PURPA, the "Public Utility Regulatory Policies Act" of 1978, a four decade old federal statute and to protect American electricity consumers from inflated utility costs.

FERC recently issued a Notice of Proposed Rulemaking to address specific PURPA issues, including the one-mile rule, and 20 megawatt threshold for qualifying facilities.

Does FERC have the legal authority to address all of these issues?

Answer: Yes, I believe that the Commission has the legal authority to adopt the proposals the Commission made in its Notice of Proposed Rulemaking issued in September 2019.

Question 2: Can you commit to working with other Commissioners to issue a final rule as soon as possible?

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Answer: Yes.

Questions from Senator Ron Wyden

Question 1: On March 29, 2019, FERC filed its Draft Environmental Impact Statement for the Jordan Cove Liquefied Natural Gas Project. This document is not a final determination of the project, which FERC is expected to act on in early 2020. Given that FERC continues to evaluate the project, it is critical that FERC's review is conducted independently and without influence from the White House. However, after an April 2017 meeting with Jordan Cove officials, a Trump official commented that approving a pipeline in the Northwest is one of the Administration's priorities.

- a) Do you think it is appropriate for the White House to throw its support behind a project that FERC has yet to make a formal determination about, and meddle, or even to give the appearance of meddling, in the process of an independent regulatory body?

Answer: The Commission is an independent regulatory agency. If confirmed, I will base my decisions solely on the record in each proceeding.

- b) Do you commit to ensuring that neither your decision nor that of the Commission in matters related to Jordan Cove is influenced in any way by the White House or any other *ex parte* communication?

Answer: If confirmed, I commit that my decisions in all matters related to Jordan Cove will be based solely on the record of the proceeding and will not be influenced by *ex parte* communication.

Question 2: Energy storage is one of the most rapid growing energy technologies, and it can provide multiple benefits to increasing grid resiliency. As you know, FERC has recently taken action to break down market barriers to energy storage. I would like to see you commit to continuing efforts at FERC's to remove unfair barriers to energy storage--and other emerging technologies, like distributed energy resources (DERs) --in the wholesale electricity markets.

- a) Do you agree FERC should be promoting technology-neutral competitive markets?
- b) More specifically, do you think energy storage assets--and DERs--should be able to compete in wholesale electricity markets?

Answer: I agree that, consistent with the Commission's statutory authority, the Commission should seek to allow all types of technologies, including storage resources and distributed energy resources, access to the wholesale electric markets to be able to compete to provide services that the technologies are capable of providing.

Questions from Senator Maria Cantwell

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Question 1: Preventing Fraud and Market Manipulation

Mr. Danly, do you believe FERC has a role to play in preventing market manipulation and penalizing bad behavior?

Answer: Yes. Following the passage of EPAct 2005 which enhanced the Commission's enforcement authority, the Commission has had the power to oversee and police the Commission's jurisdictional electric markets to detect and bring civil enforcement actions against market manipulators. Employing that authority is essential. The Commission's jurisdictional markets require a robust and vigorous enforcement program to ensure that market participants have confidence in the integrity of those markets. That confidence is necessary to ensure that market participants believe that the price signals to which they are responding are legitimate. Absent the Commission's active oversight and enforcement of market rules, its markets will be unable to properly encourage the behavior they are designed to incentivize.

Can energy markets be competitive and produce just and reasonable rates if they are not free from market manipulation and other forms of fraud?

Answer: Market manipulation and fraudulent conduct threaten the integrity of energy markets. These actions harm consumers, threaten price-setting mechanisms, interfere with market operations, and adversely affect market participants who obey the rules.

If the Commission determines that an energy market participant made financial gains based on fraud or manipulating markets, do you believe those misbegotten gains should be promptly returned to injured parties or consumers?

Answer: As discussed in the Commission's 2005 Policy Statement on Enforcement, and reaffirmed in the 2008 Revised Policy Statement on Enforcement, market participants will be required to disgorge unjust profits whenever the profits can be determined or reasonably estimated to deprive the market manipulator of the value of gains acquired through misconduct. Requiring disgorgement of unjust profits is consistent with long-standing Commission practice.

Please share what you believe are the enduring lessons from the 2001 Western Electricity Crisis that you would rely on as a FERC Commissioner?

Answer: The 2001 Western Energy Crisis made evident the importance of rigorously policing the Commission's jurisdictional markets and of periodically evaluating the Commission's enforcement authority and market oversight programs to ensure it is able to effectively detect and penalize market manipulation.

Do you believe that the FERC Chair should have the authority to unilaterally close an investigation that has been authorized by a commission order without notifying other Commissioners or the public?

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Answer: Pursuant to § 401(c) of the Department of Energy Organization Act, the Chairman is responsible for the executive and administrative operation of the Commission, including “the supervision of personnel employed by or assigned to the Commission [and] . . . the distribution of business among personnel and among administrative units of the Commission.” In fulfilling these responsibilities, the Chairman allocates resources among, and establishes priorities for, Commission staff. These responsibilities and corresponding authority of the Chairman apply to non-public investigations conducted by the Office of Enforcement, including those that the Commission converts from preliminary investigations into formal investigations with subpoena authority. If confirmed, I would prefer to be consulted, along with the other Commissioners, on all matters before the Commission, however, I believe the law entitles the Chairman to make this decision.

Do you believe that under FERC’s current market enforcement rules the Commission can decline to open a case against a market participant that manipulates a market even if it is not technically violating a tariff provision?

Answer: Market manipulation may occur in the absence of a tariff violation. The Commission has consistently stated that fraud is determined by all the circumstances of a case. In evaluating the circumstances of a case, the Commission has considerable discretion as to whether to open an investigation.

The Commission recently declined to finalize the “Connected Entities” rulemaking, do you agree with that decision?

Answer: The Connected Entities Final Rule (Data Collection for Analytics and Surveillance and Market-Based Rate Purposes (2019)) is pending before the Commission on rehearing and, therefore, I am prohibited from commenting on the merits of that issuance.

Do you think the Commission should impose a “duty of candor” on all market participants, including financial traders participating in FERC-jurisdictional markets?

Answer: Please see my answer to your question directly above.

Some of your past statements and associations seem to indicate you have a very narrow view of both the authority and responsibility of independent commissions like FERC. Is that assessment of your views accurate and does that mean you believe FERC has only a limited role to play in preventing market transactions between two willing stakeholders?

Answer: The Commission is an agency governed by its authorizing statutes. Its authorities extend no further than those specifically granted by Congress. Congress amended the Commission’s authorizing statutes in 2005 to include greater authority to pursue market manipulation and the Commission has a responsibility to do so in pursuit of its fundamental mandate to ensure just and reasonable rates.

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Do you believe Congress should grant the Commission explicit authority to prohibit energy market participants who repeatedly violate the Commission's rules and regulations from continuing to participate in Commission-jurisdictional markets?

Answer: If Congress sees fit to amend the Commission's statutes, the Commission will implement the terms of that legislation. At the moment there is no such explicit authority, but the Commission's enforcement program scrutinizes the markets' operations and partners with the Independent Market Monitors and the RTOs to detect market manipulation and bring enforcement actions when such manipulation is discovered.

What additional authorities, if any, would you like Congress to grant FERC to further augment their ability to prevent fraud and market manipulation?

Answer: While I believe that no further authorities are necessary, should Congress choose to supplement the authority already granted to the Commission, the Commission will make full use of that authority to prevent market manipulation and ensure the integrity of its jurisdictional markets.

Question 2: Accounting for Greenhouse Gases in the Permitting Process

Mr. Danly, do you agree with Commission's May 2018 decision to no longer consider the upstream and downstream greenhouse gas emissions when considering interstate gas pipeline permits?

Answer: The Commission did not decide not to consider upstream and downstream greenhouse gas emissions when considering proposed natural gas projects, but rather has said, consistent with the Council on Environmental Quality's (CEQ) regulations and case law, that it will examine effects when they meet the legal requirements of reasonable foreseeability and proximate causation. I agree with the Commission that it is necessary to follow case law and CEQ's implementing regulations.

What laws or regulations govern whether FERC has the legal obligation to assess upstream and downstream emissions when considering permits for interstate natural gas pipelines? How about for interstate electric transmission lines? Do you believe FERC can deny a permit project due to its environmental impacts?

Answer: The Natural Gas Act, Natural Environmental Policy Act, and the Commission's and CEQ's regulations (along with other laws such as the Endangered Species Act and the National Historic Preservation Act) establish the parameters for the Commission's environmental review of proposed natural gas pipeline projects. Currently, interstate electric transmission lines are sited by the states. Although the Commission has backstop transmission siting authority, it has never been exercised. Finally, I believe that under the law the Commission can deny a proposed project based on its environmental impacts.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly

A report published in September 2019 by New York University School of Law's State Energy and Environmental Impact Center found that FERC jurisdictional capacity markets fail to consider the contribution different energy resources have to climate change as part of their valuation. And that Regional Transmission Organizations have developed capacity market rules that effectively penalize state efforts to promote renewable energy use. Do you agree with the findings of this report and what would you do as FERC Commissioner to address these issues?

Answer: I have not had an opportunity to read the report. If confirmed, I look forward to discussing these issues with my colleagues.

Question 3: Recusals or Waivers as General Counsel

Mr. Danly, I understand that before joining FERC as general counsel in early 2017 you represented the firm Illinova (now Vistra), which has been involved in 492 FERC "issuances" or "submittals" over the last two years. As FERC general counsel, did you recuse yourself, or asked and received a waiver, for any cases involving Illinova/Vistra?

Answer: Yes. At the time of my representation of Illinova, it had ceased operations and had been acquired by Dynegy. While serving as general counsel, I recused myself from all matters before the Commission that involved Dynegy and its subsidiaries and successors in interest during the periods covered by 5 C.F.R. § 2635.502 and the Trump Ethics Pledge or, on exceptionally rare occasions, was granted authorizations under section 502 by the Designated Agency Ethics Official. If confirmed, I commit to continuing all recusals on particular matters in which I participated personally and substantially and also commit to consulting with the Designated Agency Ethics Official for all matters involving recusals.

As FERC general counsel, did you recuse yourself, or asked and receive a waiver, for any cases involving former clients with business before FERC?

Answer: Yes. While serving as general counsel, I recused myself from all matters before the Commission that involved former clients or my former law firm during the periods covered by 5 C.F.R. § 2635.502 and the Trump Ethics Pledge or, on exceptionally rare occasions, was granted authorizations under section 502 by the Designated Agency Ethics Official. If confirmed, I commit to continuing all recusals on particular matters in which I participated personally and substantially and also commit to consulting with the Designated Agency Ethics Official for all matters involving recusals.

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Questions from Senator Bernard Sanders

State Renewable Energy Policy

Question 1: New England states are making significant progress in expanding the share of energy they obtain from renewable sources through policies like Vermont's 2016 Comprehensive Energy Plan, which sets a roadmap for Vermont to obtain 90 percent of its energy from renewable sources by 2050, and regional plans like the Regional Greenhouse Gas Initiative. FERC has explored, through technical conferences, how to better incorporate states' environmental policy objectives into the wholesale energy markets. Stakeholders are working to address how to incorporate state renewables policy goals. More active leadership from FERC, however, is necessary to direct Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) to develop solutions to address these price formation challenges.

- a. Do you think FERC should make any changes to the existing capacity market framework in any of the organized wholesale markets to more easily accommodate state preferences?

Answer: The Commission has been considering, and continues to consider, the interplay between state policy decisions and wholesale capacity markets in multiple, ongoing proceedings. The Commission is currently considering related issues in two pending proceedings involving PJM Interconnection, L.L.C. and ISO New England Inc., respectively, and, therefore, I am prohibited from commenting on these issues at this time. If confirmed, I look forward to engaging further with my colleagues on this topic.

- b. In the tension between states' climate policy goals and the organized markets, where do you think the responsibility for resource adequacy lies?

Answer: Different regions of the country with organized wholesale markets have different approaches to resource adequacy. In collaboration with states, each RTO and ISO addresses the reliability need for there to be sufficient generating capacity available to meet peak load requirements plus a planning reserve margin for its region.

- c. Do you believe ISO New England's Competitive Auctions with Sponsored Policy Resources program is adequate to accommodate state public policy interests in the long term? If so, why? If not, why not?

Answer: On March 9, 2018, the Commission accepted ISO New England's (ISO-NE) proposal to modify its Forward Capacity Market to better accommodate actions taken by New England states to procure certain resources outside of ISO-NE's wholesale markets while maintaining competitive capacity pricing. That matter is pending before the Commission on rehearing and, therefore, I am prohibited from commenting on ISO-NE's program at this time. If confirmed, I will work with my colleagues to consider this issue.

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly

- d. Should FERC play a more direct role in ensuring that wholesale market rules enable state renewable energy policies and regional agreements?

Answer: Please see my answer to your question 1.a. above.

Stakeholder Input

Question 2: As the public demand increases for the federal government to take action to address climate change and ensure that rates remain just and reasonable, stakeholders are similarly requesting that FERC be more transparent and responsive to public input. As necessary, FERC should adopt policies and practices to ensure that ratepayer and stakeholder concerns are addressed.

- a. Do you feel that consumer interests are adequately represented in the regional transmission organization decision-making processes?

Answer: The Commission has addressed this topic in Order No. 719, where the Commission amended its regulations to require RTOs and ISOs to adopt procedures and/or structural reforms, as necessary, to ensure that their boards of directors are responsive to the needs of their customers and other stakeholders. To this end, the Commission adopted four responsiveness criteria for RTOs/ISOs: inclusiveness, fairness in balancing diverse interests, representation of minority interests to the boards of directors, and ongoing responsiveness.

- b. Are you aware of any governance structure enhancements that could make the ISO's more directly responsive to stakeholder concerns?

Answer: I am not aware of any additional governance structure enhancements that could make the RTOs/ISOs more directly responsive to stakeholder concerns at this time. However, if confirmed, I will be open to considering proposals on this matter.

- c. A 2015 GAO study indicated FERC lacks metrics for critically evaluating the functionality of the organized markets for capacity. Recently, FERC proposed a new set of metrics that eliminates the customer satisfaction metric. What metrics do you think are necessary to critically evaluate the markets' ability to respond to customer concerns?

Answer: The Commission proposed metrics that measure the economic and operational efficiency of the organized markets, and will continue to investigate whether additional metrics are needed to more directly address other customer concerns.

- d. Under federal law, a private party is not allowed to legally challenge FERC approval of a pipeline project until they have first submitted a rehearing request to FERC, and FERC has affirmatively granted or denied that request. Rather than do one or the other, FERC's practice has been to issue a tolling order in response to such requests, which puts the request under further consideration. The result is that communities are put into legal

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

limbo, unable to challenge the FERC decision until a final grant or denial is issued from the agency. Routinely FERC leaves people in that legal limbo for months, and sometimes over a year, while it allows the applicant to exercise the power of eminent domain and advance construction.

Given the potential for tolling orders to be used as an abuse of power, will you, if confirmed, commit to either affirmatively granting or denying a rehearing request?

Answer: I agree that the Commission should not delay the perfection of a litigant's appeal. If confirmed, I commit to working with my colleagues to act on rehearing requests as quickly as possible. Whether a tolling order is issued in a given proceeding is a matter for case-by-case consideration.

Pending Rules

Question 3: The Federal Power Act (FPA) requires FERC to judge rates in a way that is "just and reasonable" and not "unduly discriminatory or preferential". In other words, FERC commissioners cannot pick winners and losers. This is the reason the original coal-bailout proposal by President Trump and the Department of Energy was dismissed by FERC. Furthermore, 42 U.S. Code § 7171 says that FERC is an independent agency, so it cannot take direction or be improperly influenced by private parties.

- a. Do you commit to following the FPA and 42 U.S. Code § 7171, if you are confirmed as a FERC Commissioner?

Answer: Yes.

- b. In terms of proposals like the coal-bailout proposal, do you agree that the proposed rule was properly rejected by FERC?

Answer: I agree with the holding of the Commission that the petition for rulemaking submitted under § 403 of the Department of Energy Organization Act and the submitted comments failed to establish record evidence that the rates in question were unjust and unreasonable.

Question 4: In February of 2018, FERC improved energy market competition and innovation by finalizing a multi-year rulemaking process on energy storage. A Brattle report predicted the rule could spur 50 gigawatts of additional energy storage across the United States.¹

- a. Do you support the FERC final order on energy storage?

¹ <http://www.brattle.com/news-and-knowledge/publications/getting-to-50-gw-the-role-of-ferc-order-841-rtos-states-and-utilities-in-unlocking-storages-potential>

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Answer: I believe that energy storage promises to enhance the efficiency and the reliability of the bulk electric system and, if confirmed, I intend to make it a priority of mine to work with my fellow Commissioners on the development of market rules regarding the integration of storage consistent with the Commission's authorities.

- b. Do you commit to working with the other FERC commissioners and staff to ensure that this rule is properly implemented by regional grid operators?

Answer: Yes.

Question 5: After FERC finalized the energy storage rulemaking, the agency decided that its proposed rule for distributed renewable aggregation should have a technical conference and further deliberation before being finalized. The distributed energy resources (DER) generation rule explores how micro grids that include rooftop solar and other renewables can be better integrated onto the grid.

- a. What experience do you have with regulatory issues related to DER?

Answer: As general counsel, I have repeatedly provided legal counsel to the Chairman and Commissioners regarding DER and the DER rulemaking.

- b. Do you agree that federal rules should be modernized to better accommodate distributed renewables as they are added to the grid?

Answer: I agree that, consistent with the Commission's statutory authority, the Commission should seek to allow all types of technologies, including storage resources and distributed energy resources, access to the wholesale electric markets to be able to compete to provide services that the technologies are capable of providing.

- c. What role do you see DER playing in wholesale energy markets over the next 20 years?

Answer: The capabilities and opportunities for DER participation in wholesale electric markets is something the Commission is actively considering. The Commission held a technical conference in April 2018 and has been gathering further information regarding the interconnection of distributed energy resources that participate in aggregations. If confirmed, I look forward to reviewing that information and, with my colleagues, determining the best path forward.

- d. Do you commit to working with the other commissioners to move forward and finalize the DER rule?

Answer: Yes.

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Conflicts of Interest

Question 6: Given your background as an attorney representing energy companies at Skadden, Arps, Slate, Meagher, and Flom LLP, will you commit to recusing yourself from any FERC rulings involving your past clients? If you will not make this commitment, why not?

Answer: If confirmed, I commit to recuse myself from any matters in which I participated personally and substantially as an attorney prior to coming to the Commission, as required by law. I have served as general counsel for two years and am therefore beyond my one-year recusal period under 5 C.F.R. § 2635.502 and the two-year recusal period under the Trump Ethics Pledge. If confirmed, I further commit to consulting with the Designated Agency Ethics Official on all matters related to recusals.

Question 7: Federal law requires any judge, justice, or magistrate judge who has “expressed an opinion concerning the merits of a particular case or controversy,” to recuse themselves from matters before the commission. This, as you know, applies to FERC commissioners. Will you commit to recusing yourself according to the law? If you will not make this commitment, why not?

Answer: If confirmed, I commit to recuse myself from proceedings before the Commission when required by law. I further commit to consult with the Commission’s Designated Agency Ethics Official on all matters related to recusals.

Greenhouse Gas Emissions

Question 8: Do you agree with the vast majority of scientists that climate change is real, it is caused by human activity, and that we must aggressively transition away from fossil fuels to energy efficiency and sustainable energy like wind, solar, and geothermal?

Answer: I agree that the climate is changing and that the change is driven, in part, by human activity. The Commission, consistent with its obligation to ensure that rates are just and reasonable and not unduly discriminatory or preferential, does not pick winners and losers.

Question 9: In May 2018, FERC issued its *New Market Expansion* policy that eliminated most upstream and downstream greenhouse gas emissions as part of its review of interstate liquid natural gas pipelines. You were General Counsel when that policy was announced, and you personally defended that policy in court. Although the U.S. Court of Appeals for the D.C. Circuit rejected a challenge to this policy on jurisdictional grounds this past summer, the court went out of its way to flatly reject your core legal arguments. In particular, the court stated that you were “wrong to suggest that downstream emissions are not reasonably foreseeable simply because the gas transported ... may displace existing natural gas supplies or high-emitting fuels,” that it was “troubled,” “skeptical,” and had “misgivings” about your “dubious” claim that efforts that any efforts to consider upstream and downstream greenhouse gas emissions was an “exercise in futility.”

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

- a. Do you agree that natural gas infrastructure contributes to climate change?

Answer: Yes, the increases and decreases in national and worldwide greenhouse gas emissions that may result from natural gas infrastructure can affect the climate.

- b. In light of the court's statements on this matter, do you still support your arguments regarding natural gas infrastructure and greenhouse gas emissions?

Answer: I believe that, consistent with the National Environmental Policy Act, the Council on Environmental Quality's implementing regulations and case law, the Commission is obligated to examine the direct effects, indirect effects and cumulative impacts of all major federal actions. Such effects and impacts include greenhouse gas emissions.

- c. Do you accept that FERC can deny a pipeline project due to its environment impacts, as stated directly by the court? If not, why not?

Answer: Yes.

Question from Senator Steve Daines

Question: If confirmed as Commissioner to the Federal Energy Regulatory Commission, will you commit to me to upholding the rule of law; justly and expeditiously evaluating pipeline, hydropower and energy infrastructure approvals; and maintaining a secure and balanced electricity system?

Answer: Yes.

Questions from Senator Martin Heinrich

Question 1: Last year the commission completed order 841 on energy storage participation in wholesale markets. However, the parallel rule on distributed energy resources is still pending. Distributed resources benefit consumers, add security and resilience to the grid and, in some cases, reduce the need for new transmission.

What is the current status of the DER rule and will you make it a priority to complete it?

Answer: The Commission held a technical conference in April 2018 and has been gathering information regarding the interconnection of distributed energy resources that participate in wholesale electric markets in aggregations. If confirmed, I look forward to reviewing that information and, with my colleagues, determining the best path forward.

Do you support the full participation of new energy technologies, such as DER, in competitive wholesale markets?

U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly

Answer: I agree that, consistent with the Commission's statutory authority, the Commission should seek to allow all types of technologies, including storage resources and distributed energy resources, access to the wholesale electric markets to be able to compete to provide services that the technologies are capable of providing.

Question 2: The electric utility sector is the only critical infrastructure that has mandatory and enforceable standards for physical and cybersecurity. Given the current role of natural gas in power generation, what are your thoughts on the adequacy of current measures to protect interstate gas pipelines used for power generation?

Answer: There should be no aspect of our nation's critical energy infrastructure that is left unprotected from physical or cyber security threats. Congress and the Transportation Security Administration are in the best position to assess current natural gas pipeline security authority and determine if natural gas pipelines should be subject to additional or mandatory security standards.

Question 3: Though Order 1000 was a landmark in transmission planning, it gets mixed reviews with respect to improving the integration of the grid between individual markets and regions. Additional regionally significant transmission capacity will be critical to future deployment of clean energy technologies. Is there more FERC can do to help unlock the potential for additional interstate transmission capacity?

Answer: I agree that further investment in transmission is an important issue. Order No. 1000 builds on the Commission's efforts to improve transmission planning. This issue warrants further consideration and, if confirmed, I look forward to working with my colleague on these issues.

Will you commit to looking into the issue of interregional transmission planning and determining what FERC can do to improve it?

Answer: Yes.

Question 4: Investment in new power transmission lines can also help improve grid reliability and resilience. What are your thoughts on the commission's role to encourage investment in transmission capacity to improve reliability in bulk-power markets?

Answer: Consistent with its statutory responsibilities, the Commission currently is considering issues related to electric transmission rates and incentivizing transmission development in multiple proceedings. On March 21, 2019 in Docket No. PL19-3-000, the Commission issued a Notice of Inquiry seeking information on possible changes to the Commission's electric transmission incentives policy. If confirmed, I look forward to working with my colleagues to consider how best to proceed.

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Do you think the commission's Order 1000 has been effective in encouraging investment in new transmission?

Answer: Order No. 1000 included several reforms to establish requirements to encourage investment in more efficient or cost-effective transmission facilities. If confirmed, I look forward to working with my colleagues to consider whether further enhancements to transmission planning requirements are appropriate.

Is there more FERC can do to provide incentives for investment in new transmission capacity?

Answer: As mentioned above, the Commission is currently considering this issue in Docket No. PL19-3-000. If confirmed, I look forward to working with my colleagues to consider how best to proceed.

Question 5: Order 841 is FERC's rule on aggregated energy storage participation in wholesale markets. Do you support the commission's approach in the rule to reduce barriers and allow storage to compete on a level playing field in competitive wholesale markets?

Answer: Please see my answer to the second part of your first question above.

Question 6: In recent years, many states, as well as Congress, have taken actions to promote the use of certain power generation technologies that reflect consumers' policy choices, such as promoting clean energy or addressing climate change. How do you view FERC's role to accommodate these state actions or policy choices in regulating wholesale capacity markets?

Answer: The Commission, consistent with its obligation to ensure that rates are just and reasonable and not unduly discriminatory or preferential, does not pick winners and losers. The Commission's role when state public policy decisions effect Commission-jurisdictional wholesale markets is the subject of several open proceedings before the Commission. If confirmed, I look forward to considering these complex issues with my colleagues.

Questions from Senator Mazie Hirono

Question 1: Mr. Danly, you were a practicing attorney before becoming FERC's general counsel. Did you recuse yourself in each instance when your former legal clients had business before FERC? Can you provide a list of your former clients who had business before FERC during your time as general counsel and the corresponding recusals or waivers from ethics rules?

Answer: I cannot provide a list of the clients I represented while in private practice because a portion of my representations were of targets of non-public investigations and that information must remain confidential. While serving as general counsel, I recused myself from all matters before the Commission that involved former clients or my former law firm during the periods covered by 5 C.F.R. § 2635.502 and the Trump Ethics Pledge or, on exceptionally rare occasions, was granted authorizations under section 502 by the Designated Agency Ethics

**U.S. Senate Committee on Energy and Natural Resources
November 5, 2019 Hearing: *Pending Nominations*
Answers to Questions for the Record Submitted to Mr. James P. Danly**

Official. If confirmed, I commit to continuing all recusals on particular matters in which I participated personally and substantially and also commit to consulting with the Designated Agency Ethics Official for all matters involving recusals.

Question 2: Under a 1979 case, *American General Insurance v. Federal Trade Commission* (589 F.2d 462), the Ninth Circuit Court of Appeals invalidated an FTC order because a Commissioner had been general counsel of the FTC when the case was first argued in federal appeals court. Are you planning to recuse yourself from cases on which you served as FERC's general counsel? If so, which proceedings would be affected by your need to recuse yourself, and how will you ensure you consistently recuse yourself and comply with FERC's ethics rules? If you are not planning to recuse yourself, why doesn't the *American General Insurance v. FTC* precedent apply to you?

Answer: *American General* involved an enforcement action in which a general counsel of the Federal Trade Commission acted as counsel before then being called upon to vote on the same matter as a member of the Federal Trade Commission. If confirmed, I commit to recuse myself, to the extent required by law, from all enforcement matters for which I acted as counsel, or others acted as counsel under my supervisory authority. I further commit to consult with the Designated Agency Ethics Official regarding this and all other matters regarding recusals.



November 19, 2019

The Honorable Lisa Murkowski
United States Senate
Washington DC 20510

The Honorable Joe Manchin
United States Senate
Washington DC 20510

Dear Chairwoman Murkowski and Ranking Member Manchin:

On behalf of the 1,800 members of the American Exploration & Mining Association (AEMA), we urge your support for the appointment of Katharine MacGregor as Deputy Secretary of the Department of the Interior (DOI). Ms. MacGregor is highly qualified for this position and already understands the complexities of the position. Her demonstrated experience with DOI and work on Capitol Hill proves her effectiveness as a leader and has uniquely prepared her for this critical position.

With Ms. MacGregor's leadership in natural resources policy, she understands the unique balance and the value of responsible multiple uses on public lands. Her dedication to ensuring a clean environment and respect for cultural resources while allowing responsible economic activity has been clearly demonstrated throughout her tenure, including her time as Principal Deputy Assistant Secretary and Deputy Chief of Staff for Land and Minerals Management. We urge you and your colleagues to support her nomination.

AEMA is a 124-year old, 1,800-member national association representing the minerals industry with members residing in 44 U.S. states. AEMA is the recognized national voice for exploration, the junior mining sector, and maintaining access to public lands, and represents the entire mining life cycle, from exploration to reclamation and closure. Our members work closely with DOI to responsibly develop the mineral resources our society requires.

Thank you for your time and consideration.

Yours truly,

A handwritten signature in black ink that reads 'Mark O Compton'.

Mark Compton
Executive Director



Thomas C. Kiernan
CEO
202.383.2557
tkiernan@awea.org
www.awea.org

November 18, 2019

The Honorable Lisa Murkowski
Chairman
Energy & Natural Resources Committee
United States Senate
304 Dirksen Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
Energy & Natural Resources Committee
United States Senate
304 Dirksen Building
Washington, DC 20510

RE: Nomination of Kate MacGregor to be Deputy Secretary of the Interior

Dear Chairman Murkowski and Ranking Member Manchin:

The American Wind Energy Association¹ (AWEA) endorses Kate MacGregor's nomination to be Deputy Secretary of the Interior. Ms. MacGregor has a strong record of supporting responsible renewable energy development, which is critical to an all-of-the-above energy approach that moves our nation toward energy independence and vital for the leadership role for which she has been nominated. She has deep expertise in the statutes, regulations and commercial realities of developing renewable energy on our federal lands and federal waters. She understands the need for timely, transparent and predictable regulatory processes, including for offshore and onshore wind energy projects being considered under the One Federal Decision policy. We have every expectation that Ms. MacGregor will make progress in improving the permitting process when confirmed. Ms. MacGregor has also demonstrated a commitment to managing our federal lands and waters consistent with the principle of multiple-use, where appropriate, to ensure that renewable energy production, conservation, recreation, military readiness, economic development and other activities can exist in concert – and not in conflict – with one another.

AWEA and our member companies work closely with the Department of the Interior. We believe Ms. MacGregor will enhance that partnership and contribute to the wind energy industry building on its current successes. Already, the 100 gigawatts of installed wind energy capacity powers 32 million American homes, supports 114,000 U.S. jobs and 500 factories across our country, and contributes more than \$1 billion each year in payments to landowners and in taxes to states and localities.

This is just the beginning. For example, offshore wind is poised for explosive growth in the U.S. The first eight gigawatts of offshore wind is expected to create 36,000 jobs over the next 10 years. The anticipated development of 18.6 gigawatts of offshore wind by 2030 will create a nearly \$70 billion opportunity for U.S. supply chain businesses.

AWEA supports her confirmation and looks forward to continuing to work with her to advance our priorities.

¹ AWEA is the national trade association for the U.S. wind energy industry. We represent 1,000 member companies and over 100,000 jobs in the U.S. economy, serving as a powerful voice for how wind works for America. Members include global leaders in wind power and energy, turbine manufacturing, and component and service suppliers.



Thomas C. Kiernan
CEO
202.383.2557
tkiernan@awea.org
www.awea.org

Best Regards,

A handwritten signature in blue ink, which appears to read 'Thomas C. Kiernan', is written over a horizontal line.

Thomas C. Kiernan



AMERICANS FOR LIMITED GOVERNMENT

10332 MAIN STREET, BOX 326 • FAIRFAX, VA 22030 • PHONE: 703.383.0880 • FAX: 703.383.5288 • WWW.GETLIBERTY.ORG

November 22, 2019

The Hon. Lisa Murkowski
Chairman
Committee on Energy and Natural
Resources
U.S. Senate
304 Dirksen Senate Office Building
Washington, DC 20510

The Hon. Joe Manchin
Ranking Member
Committee on Energy and Natural
Resources
U.S. Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

Americans for Limited Government strongly urges your support for the nomination of Katharine MacGregor to be Deputy Secretary of the Interior.

Americans for Limited Government is dedicated to limiting the size and scope of government, and given that the Interior Department oversees about one-fifth of the land in the United States, we take a very strong interest in the activities and operations in the Department.

That is why we are so enthusiastic about Ms. MacGregor's nomination. Her career has been dedicated to sound and balanced resource management policies, and she will be an incredible asset to meeting the vision of the Interior Department to:

- *Promote energy security and critical minerals development* to create jobs for Americans, insulate our nation from volatile political developments overseas, provide additional energy security to allies via surplus domestic supply, and generate revenue for all levels of government so they in turn have the resources to better serve the American people.
- *Increase access to outdoor recreation opportunities for all Americans* so that our people can be healthier, more fully enjoy the wonderful features of their federal lands, and take advantage of hunting, fishing, and other outdoor recreation pursuits that are the roots of the conservation movement.
- *Enhance conservation stewardship* whereby all levels of government and private landowners work cooperatively together in an atmosphere of mutual respect to achieve shared natural resource management goals across landscapes.

- *Improve management of species and their habitats* by focusing our financial and staff resources on improving the status of our nation's fish and wildlife and the healthy habitats that support them, and by streamlining bureaucracy to help us spend relatively more of our funding productively on the ground to better meet societal needs and our own natural resource management responsibilities.
- *Uphold trust and related responsibilities*, recognizing the importance of government-to-government relationships with Indian tribes, Alaska Natives, and insular areas, and respecting self-determination and sovereignty.

Ms. MacGregor's Capitol Hill experience working on resource and land issues will be a tremendous asset in this new role, and her proven administrative capacity demonstrated through her current successful tenure at Interior has given her a breadth of understanding of the inner workings of the Department which lay the foundation for success.

America will benefit from Katharine MacGregor's leadership as she assists Secretary David Bernhardt and President Trump in carrying out the important mission entrusted to them at the Department of Interior.

We urge your support for Katharine MacGregor's confirmation.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Manning". The signature is stylized with a large, looped "R" and a long, sweeping underline.

Richard Manning
President
Americans for Limited Government



November 4, 2019

Via electronic mail

Chairman Lisa Murkowski
 Ranking Member Joe Manchin
 U.S. Senate Committee on Energy and Natural Resources
 304 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin,

I do not write today to request members of the Committee take a particular position on any nominee for Commissioner on the Federal Energy and Regulatory Commission (Commission or FERC) who may be pending confirmation. Instead, I write in hope that as Senators consider nominees for the Commission, they evaluate nominees' commitment to natural resource management, public participation, and improving the internal processes of the Commission. The Natural Gas Act requires that FERC determine whether a gas pipeline is in the public interest. Too often, FERC seems to favor expeditious approval rather than the comprehensive review Congress has charged it to pursue. Working closely with tribal, state and sibling federal agencies is essential to obtain the best outcome in the siting, permitting, and licensing of energy infrastructure, as is ensuring applicants act in good faith to provide all requested information. In particular, as the Commission continues to review its 1999 Natural Gas Policy Statement, I hope that any final decision will reflect the broad needs of producers and consumers, as well as a hard look at the long-term impacts of energy infrastructure decisions on the natural environment and the conservation of our natural, cultural, historical, and scenic resources.

I submit these comments on behalf of the Appalachian Trail Conservancy (ATC or the Conservancy), a §501(c)(3) nonprofit organization. The Conservancy works closely with the 31 Appalachian Trail Maintaining Clubs, the National Park Service, the United States Forest Service, and public and private partners to ensure the protection and stewardship of the natural, cultural, and experiential resources of the Appalachian National Scenic Trail (known as ANST, the A.T., or "the Trail") and its surrounding landscape. The Trail is 2,192 horizontal miles and is surrounded by approximately 250,000 acres of federally protected land. I appreciate the opportunity to share our perspective as a manager of a National Scenic Trail, as an organization committed to the protection of Congressionally designated places, specifically the Appalachian National Scenic Trail, and as a representative of the broader outdoor recreation and conservation communities.

The Appalachian National Scenic Trail (ANST) is a unique unit of NPS, requiring special attention considering energy infrastructure development. The Trail was first conceived by regional planner Benton MacKaye in 1921 to preserve the crestline of the Appalachian Mountains and provide a wilderness retreat from life in the increasingly urbanized eastern United States. It was later designated one of the first national scenic trails under the 1968 National Trails System Act and has since become a world premier recreational and hiking resource attracting more than three million visitors each year. The

same Act acknowledges the important role of non-profit organizations such as ATC, along with affiliated volunteers, to manage and protect Trail interests.

Today the Trail extends 2,190 miles through 14 states from Maine to Georgia. Approximately 250,000 acres have been acquired or designated through management agreements as a protective corridor for the Trail. This corridor of protected land is home to a wealth of natural, cultural and scenic resources. The Trail is eligible for the National Historic Register. Given the ANST's north-south orientation in the eastern United States, ANST lands very often are a component of environmental reviews for major new pipeline proposals emanating from Marcellus and Utica shale plays.

ATC has worked with pipeline companies, and has commented on, several pipeline proposals across the ANST including PennEast, Atlantic Sunrise, Atlantic Coast, and Mountain Valley Pipeline (MVP). We have only formally opposed MVP due to poor planning and inadequate environmental review processes. Our comments and recommendations below draw from our recent experience with the FERC siting and review processes.

Recommendations

Our recommendations include the following with justification outlined below:

- The Commission should reform its pipeline review process to ensure that the public interest is protected in a way that recognizes and protects the interests of non-energy related industries that support local economies, as well as energy related industries.
- The Commission should review all necessary and relevant factors to determine public need for a pipeline, as required by the current Policy Statement.
- To determine "necessity," the Commission should adopt a regionally-focused review of pipeline development(s).
- The Commission should commit to full and fair implementation of the National Environmental Policy Act.
- The Commission should improve the FERC process for rehearing requests

Justification

Evaluate public interest and project need.

The outdoor recreation industry's economic reach is massive and its influence continues to grow as more people engage in the outdoors. Increased participation in the outdoors is evident at many national parks, in crowded trailhead parking lots, and in the increasing up-tick of the Appalachian Trail's long-distance hikers. A 2019 report from the U.S. Bureau of Economic Analysis reflects that the outdoor recreation economy generates \$778 billion in consumer spending annually and directly supports 5.2 million American jobs. Outdoor recreation provides 2.2% of U.S. Gross Domestic Product (GDP), a greater share than mining, utilities, farming and ranching, and chemical products manufacturing. Indeed, according to an Outdoor Industry 2017 report, more Americans are directly employed in hunting and fishing industries (483,000) than oil and gas extraction (180,000).

FERC needs to evaluate impact on outdoor recreation and associated economies. One of the most notable outdoor recreation destinations in the eastern United States is the ANST, a day's drive to more than half the U.S. population.

As the nation continues to increase demand for recreation on public lands, gas production and pipeline construction have also increased dramatically since 1999. The United States is now a net exporter of natural gas. The increased production of gas and associated pipeline development raise concerns about the impacts of the gas industry on public and private recreation lands, as well as on the health, safety, and impact on communities:

ATC recognizes that society's demand for energy resources is increasing. The Conservancy believes that, where technically and economically feasible, demand should first be addressed with increased energy conservation strategies and demand-side management, followed by increasing our renewable energy supply.

The 1999 FERC Policy Statement is meant to create a balance between the enhancement of competitive alternatives and the possibility of over building pipelines. The Natural Gas Act requires FERC to determine whether a pipeline project is in the public interest. However, much has changed since 1999 that warrants a more comprehensive analysis of need and an examination of the unintended consequences of over development on other industries, such as outdoor recreation.

The 1999 Policy Statement directs FERC to first determine whether the proposed pipeline can be paid for without subsidization by existing customers, followed by an evaluation of the project's economic interests. The Policy Statement also outlines some factors, but not all factors, to be considered when determining whether a project is needed. However, in practice, FERC typically relies exclusively on precedent agreements—contracts between pipeline developers and prospective shippers—to determine project need. This starting point, rather than a review of the current state of the market and condition and use of potentially impacted resources and communities, is convenient, but not consistent with Congressional directives.

In addition to contradicting the language and intent of the Policy Statement, FERC's reliance on precedent agreements fails to consider that precedent agreements are not necessarily a good proxy for market need. Environmental and other considerations—including the lasting ability to rural communities to make use of intact forest land and clean rivers to attract outdoor recreation visitors—may override private contractual interests in determining public need. There may also be alternatives to proposed capacity to meet demand, such as using underutilized existing pipeline capacity or alternative, cleaner energy resources. Establishing new rights of way for development that could use existing rights of way should also be avoided as possible; chipping away at conserved lands for convenience's sake rather than in order to preserve trust resources is unnecessary and damaging to the public good.

The Commission's heavy reliance on precedent agreements to allow pipeline siting is problematic. When these agreements are between pipeline affiliates, there are obvious conflicts that should be rigorously avoided. When a pipeline developer contracts with itself, the actual market need for the pipeline is never legitimately determined.

Conduct regional planning and assessments.

Recent rapid expansion of natural gas production has led pipeline developers to propose competing projects to satisfy identical markets. For example, numerous pipeline projects that potentially have significant impacts on ANST recreation lands have been approved or are under review (i.e. Mountain Valley Pipeline, Atlantic Coast Pipeline, WB XPress Project, Appalachian Connector, PennEast Pipeline, Atlantic Sunrise Pipeline). Each of these projects is designed to transport shale gas from the Marcellus and Utica plays to customers in the eastern and southeastern U.S. and each must, in some manner, cross the rugged and ecologically sensitive terrain of the Appalachian Mountains.

When proposed projects have similarities in purpose, similar nature of environmental concerns, and a common timeline among the projects, it makes economic and ecological sense for the FERC to consider pipeline projects under a Programmatic Environmental Impact Statement (PEIS), or some reasonable regional review. This approach would simultaneously consider the purpose and need of each project, the cumulative impacts of these projects in a discrete geographic region, and the optimal combination and alignment of pipelines to deliver gas from the Marcellus and Utica shale gas plays to eastern and southeastern markets.

This approach is consistent with the Council on Environmental Quality (CEQ) Guidance on “Effective use of Programmatic NEPA Reviews” issued on December 18, 2014, which states that a programmatic NEPA review may be appropriate when an agency is approving multiple actions as “...several similar actions or projects in a region.”

A Programmatic EIS and tiered NEPA review is clearly the most efficient means by which to conduct cumulative assessments of impacts from a suite of recently proposed projects and from additional pipelines that are a reasonably foreseeable result of the presence of a large reservoir of natural gas in the Marcellus and Utica formations.

As stated in the CEQ Guidance: “One advantage of preparing a programmatic NEPA review for repetitive agency activities is that the programmatic NEPA review can provide a starting point for analyzing direct, indirect, and cumulative impacts. Using programmatic NEPA reviews allows an agency to better analyze proposal specific issues and avoid repetitive broad level analyses. Better analyses of proposal specific issues would provide a more comprehensive picture of the consequences of proposed actions.”

Better analysis of pipeline alignments would also better support other NEPA evaluations such as those conducted by the U.S. Forest Service, whose National Forest land and resource management plan for special use authorizations and utility corridors directs that projects be located “where they minimize the need for *additional* designated sites and best serve their intended purpose.” Policy requires joint use on land when feasible.

Of significant note, the 1999 Policy Statement’s intent in preventing overbuilding is inadequately addressed by FERC’s lack of regionally focused reviews. This lack of regionally focused review also results in a wasteful duplication of agency reviews and infrastructure projects that are poorly balanced with regional needs and other planning initiatives. Considering each pipeline proposal in isolation also prevents the Commission from understanding how similar proposals cumulatively affect climate change, natural resources, and consumer prices. A more integrated, comprehensive review process would better assess the need for new pipelines based on the energy needs of the region(s) directly affected by the

project by examining factors such as existing and proposed pipeline capacity, long-term energy needs, and state energy policies.

Consider cumulative impacts of foreseeable actions.

As stated in 40 C.F.R. §1508.7, “cumulative impacts result from the incremental effect of the action when considered in light of other past, present, and reasonably foreseeable actions.” Consideration of cumulative impacts is necessary for the avoidance, minimization, and fair compensation for impacts that individually may appear to be minor but, over time and in concert with other activities, become significant. Accordingly, FERC should cumulatively assess all proposed pipeline projects within the same region when determining the need for any one specific project in that region.

Scientifically tested tools (such as the Social Cost of Carbon and the Social Cost of Methane) exist today that allow the Commission to monetize environmental impacts and incorporate them into a review analysis. FERC can satisfy its requirements under the National Environmental Policy Act (NEPA) by using modern analytical tools to consider all direct, indirect, and cumulative environmental impacts, including downstream effects.

Commit to full and fair implementation of the National Environmental Policy Act (NEPA).

FERC must improve its transparency in the NEPA review process by ensuring *meaningful* opportunities for public participation and by presenting complete and accurate draft environmental impact statements for public review. It is unacceptable to have reams of information presented after public comment periods have ended and to expect to legitimately factor into the public’s ability to fully review and comment on proposed actions. Unfortunately, this was the case with FERC’s public review process for the Mountain Valley Pipeline (MVP).

ATC, and many local stakeholders, were shocked and dismayed by the enormous number of disorganized filings that the developer, MVP, was permitted to add after the public review process. Thousands of pages from MVP were added to FERC’s website, without title and without indexing in a haphazard way beyond the deadline for public comment, making it all but impossible to fully understand the project. Moreover, MVP was allowed to continue to file documents after the Final Environmental Impact Statement (FEIS) was issued.

It is imperative that FERC adhere to NEPA processes. It is also imperative that filings are available to the public and agencies in a way that fully represents the project to assure meaningful commentary in the Draft Environmental Impact Statement (DEIS) process. An orderly labeling of filings is necessary so that affected agencies, organizations and individuals can review, monitor and track changes.

In addition to grievances outlined above, FERC must be mindful – and guard against – the suppression of public discourse. In the case of MVP hearings, a hearing November 3, 2016 in Roanoke, Virginia required citizens to go into a room alone with a FERC representative and a transcriber – which, in itself, is a practice to be discouraged. Public hearings typically allow the public to participate in public process – and provide assurance that comments are not manipulated. In the case of the Roanoke hearing, the public was not only disallowed opportunity to comment before their neighbors, the transcripts were not released for several weeks, questioning the validity of comments.

Additionally, because the public participation provisions of NEPA include public comment on all federal and federally directed state actions (i.e. permits), a FERC Certificate of Public Convenience or

Necessity Notice to Proceed regarding any aspect of construction, (including tree felling, approval for exercise of eminent domain, etc.) should only be issued after all federal, state, local and other permits are obtained. This recommendation should apply to conditional FERC certificates as well.

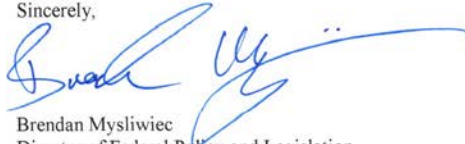
Improve process for rehearing requests.

FERC must end its practice of failing to affirmatively grant or deny rehearing requests, but instead issue responses that provide FERC more time for consideration. Although the federal Natural Gas Act requires the agency to issue a decision on appeals within 30 days, FERC can extend the deadline to ensure for the submission and consideration of critical information by issuing a tolling order. Tolling orders are officially an order granting rehearing for further consideration. In some recent cases, FERC issued its decision after the pipes were already in the ground with the gas flowing. The current process grants the pipeline company the power of eminent domain and approval for construction while valid lawsuits are being considered by the courts. There should be a limit on how much time FERC takes to resolve pipeline cases.

Conclusion

The Appalachian Trail Conservancy thank the Committee for considering its perspective regarding FERC's review of the 1999 Policy and strongly recommends that processes for siting natural gas pipelines be vastly improved to assure that decision-making is open, fair and transparent. As the Committee considers nominees for FERC, it is important that it weighs heavily the ability of nominees to follow Congressional direction and pursue holistic approach to evaluating pipeline applications. If you have any questions or would like further information, I welcome the opportunity to meet to discuss our comments, especially given unique considerations for the Appalachian National Scenic Trail and the high demand for new pipeline construction in the Central Appalachians.

Sincerely,



Brendan Mysliwiec
Director of Federal Policy and Legislation
Appalachian Trail Conservancy

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

NEIL L. BRADLEY
EXECUTIVE VICE PRESIDENT &
CHIEF POLICY OFFICER

1615 H STREET, NW
WASHINGTON, DC 20062
(202) 463-5310

November 4, 2019

The Honorable Lisa Murkowski
Committee on Energy
and Natural Resources
United States Senate
Washington, DC 20510

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

Dear Chairman Murkowski and Ranking Member Manchin:

The U.S. Chamber of Commerce supports the nomination of James P. Danly to be a Member of the Federal Energy Regulatory Commission (FERC) and Katharine MacGregor to be Deputy Secretary of the Interior.

Mr. Danly has amassed considerable experience serving as the current General Counsel at FERC and previously in private law practice, as well as a law clerk at the U.S. Court of Appeals for the Sixth Circuit. Danly also served as an infantry officer in the U.S. Army, and received a Bronze Star and a Purple Heart. Mr. Danly's diverse and substantive experience have prepared him to serve as a FERC commissioner.

Ms. MacGregor's extensive experience in public service make her an outstanding choice to serve as the Deputy Secretary of the Department of Interior. Ms. MacGregor is an unquestionable expert on federal lands policy having served in a variety of senior roles at the Department after a decade as a Congressional staffer, including at the House Committee on Natural Resources.

Sincerely,



Neil L. Bradley

cc: Members of the Committee on Energy and Natural Resources

GILA RIVER INDIAN COMMUNITY

Executive Office of the Governor & Lieutenant Governor

"Putting Our People First"

Stephen Roe Lewis
Governor



Robert Stone
Lieutenant Governor

November 4, 2019

The Honorable Lisa Murkowski
Chairwoman
Committee on Energy & Natural Resources
United States Senate
Washington, DC 20510-6150

The Honorable Joe Manchin III
Ranking Member
Committee on Energy & Natural Resources
United States Senate
Washington, DC 20510-6150

RE: Support for Nomination of Ms. Katharine MacGregor to be Deputy Secretary of the Interior

Dear Chairwoman Murkowski and Ranking Member Manchin:

On behalf of the Gila River Indian Community, I write in support of the nomination of Ms. Katharine MacGregor to serve as Deputy Secretary of the Department of the Interior.

Our support is based on our experience with Ms. MacGregor during the "Reclaiming our Native Communities" roundtable held on the Gila River Indian Reservation this past June and her continued involvement and interest in furthering policies related to missing and murdered Native Americans, addressing domestic violence in Native communities, and highlighting the cold cases that plague tribal communities across the Country.

Prior to attending the roundtable, Ms. MacGregor took the time to visit the Community's domestic violence shelter and committed to creating programs that break down silos across federal agencies and offer tribal governments the tools they need to provide local solutions to a national problems.

Following the roundtable the Gila River Indian Community was encouraged to start a dialogue about data and resource-sharing at the tribal level and committed to bringing local and regional solutions to these issues in a way that reinforces the tribal-federal partnership that must exist to make tribal communities safer – a goal that was shared at the roundtable. The Gila River Indian Community looks forward to continuing that dialogue with Ms. MacGregor in her capacity as Deputy Secretary once confirmed.

Ms. MacGregor's decade of experience on the Natural Resources Committee will also be beneficial to the Gila River Indian Community and tribes across the Country as we work on

525 West Gu u Ki • P.O. Box 97 • Sacaton, Arizona 85147

Telephone: 520-562-9841 • Fax: 520-562-9849 • Email: executivemail@gric.nsn.us

complex initiatives to protect our natural resources and advance water and energy policy with federal, state and local partners.

Based on our experience with Ms. MacGregor, we support her confirmation for Deputy Secretary of the Department of the Interior and believe she will make decisions in a way that advances tribal sovereignty and the trust responsibility between the United States, including the Gila River Indian Community.

Sincerely,



Stephen Roe Lewis
Governor





La Paz County Board of Supervisors

Holly Irwin, Supervisor District #3

1108 Joshua Avenue

Parker, Arizona 85344

(928) 669-6115 TDD (928) 669-8400 Fax (928) 669-9709

hirwin@lapazcountyaz.org

www.co.la-paz.az.us

November 20, 2019

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

RE: Conformation of Department of Interior Deputy Secretary Nomination

Dear Chairman Murkowski and Ranking member Manchin:

As Chairman of the La Paz County Board of Supervisors, I am writing this letter today to express my support of the nomination of Kathrine MacGregor to be Deputy Secretary of the Interior. I am currently serving my 3rd term as one of three La Paz County Supervisors. During my time as Supervisor, there has been issues brought before me, at times challenging when dealing with Federal and State agencies. Finding the need to contact our Elected Representatives and their staff in Washington to help intervene to facilitate solutions to my issues.

A few weeks ago, I found myself in this situation once again. This involved a voting location in Cibola, AZ where I reside and represent my constituents. Over the past 15+ years the residents of Cibola had been utilizing the Cibola Wildlife Refuge as a place used for National, State and Local elections, only to learn after a change in management this service had been revoked. After reaching out to the Department of the Interior on this matter, I was assured this would be investigated.

With my past experiences, follow up phone calls would need to be had to try and resolve issues. Instead I received only one phone call, it was from Kathrine MacGregor explaining in a very professional manner that she had been working on this issue for me and La Paz County. She went on to say this issue had been resolved and that voting privileges would be reinstated and by the end of the week the Cibola

Wildlife Refuge would be notified. I was extremely impressed with how Kathrine jumped right in on our voting issues and found a solution so quickly due to my past experiences.

It is for the reasons mentioned above that I would encourage and support a swift conformation of Kathrine MacGregor as Deputy Secretary of the Interior. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Holly Irwin". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Holly Irwin



November 26, 2019

The Honorable Lisa Murkowski
Chairman
Committee on Energy & Natural Resources
U.S. Senate
Washington, D.C. 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy & Natural Resources
U.S. Senate
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Manchin:

Western Energy Alliance strongly supports Katharine MacGregor's confirmation as the next Deputy Secretary of the Interior. We appreciate your leadership as the committee considers her nomination, and urge swift confirmation of Ms. MacGregor, whose qualifications, experience and thoughtful disposition make her an excellent choice for the role.

The Alliance represents 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independents, the majority of which are small businesses with an average of fifteen employees. Because our members operate in the western United States, where the vast majority of federal lands and mineral estate are located, we are particularly affected by decisions the Department of the Interior makes.

We have found Ms. MacGregor to be very effective at implementing the president's energy dominance agenda while at the Department. But her deep knowledge and experience of natural resources, environmental, energy, public lands and wildlife issues mean she also understands how to strike the balance between conservation and productive uses of public lands. She understands, and we agree, that there are many lands the Interior Department manages, national parks being the most obvious, that are appropriate for preservation only.

But there are also vast working landscapes across the West that are appropriate for multiple uses like ranching, mining, and energy development, but which must include proper protection of other resource values like wildlife, air, water, cultural artifacts and scenic vistas. We agree with her that there is a balance to be achieved on public lands, and that oil and natural gas development is part of that picture, including our outsized role in conservation and stewardship of the land.

We appreciate your leadership of the committee and Senate to ensure the confirmation of Katharine MacGregor as Deputy Secretary. Thank you for considering our voice.

Sincerely,

Kathleen M. Sgamma
President

1775 Sherman St., Ste 2700 Denver, CO 80203
P 303.623.0987 F 303.893.0709 W WesternEnergyAlliance.org

