TRANSITION TO GREEN

Leading the way to a healthy environment, a green economy and a sustainable future

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ENVIRONMENTAL TRANSITION RECOMMENDATIONS FOR THE OBAMA ADMINISTRATION

NOVEMBER 2008

INTRODUCTION

This report highlights priority environmental recommendations for the Obama administration transition team endorsed by a coalition of national environmental and conservation organizations listed below[1]. Many organizations assisted in the creation of this report and we recognize their contributions. The report describes how the administration can resume Federal leadership on critical energy and environmental challenges affecting our economy, health and well-being in order to put our nation on a sustainable path now and for future generations.

Over the past several months, a coalition of national environmental and conservation organizations has completed an internal process to develop a set of suggestions for the new administration. Sub-committees including representatives from throughout the environmental community have considered the full breadth of environmental issues we expect will be considered by the administration and developed the detailed recommendations included in this report. It contains key consensus recommendations and is meant to compliment, and not replace, other environmental transition reports developed by individual organizations with recommendations of their own.

Each set of agency recommendations highlights three major issues for the agency, followed by key administrative, legislative and budgetary policy actions and critical actions to take in the first 100 days. We urge the agency transition teams to use this document in the first crucial days of the Obama administration and look forward to working with the administration to develop policies that will both revitalize our economy and protect the planet.

AMERICAN RIVERS - CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW
CLEAN WATER ACTION- DEFENDERS OF WILDLIFE - EARTHJUSTICE -
ENVIRONMENT AMERICA - ENVIRONMENTAL DEFENSE FUND - FRIENDS OF THE EARTH
GREENPEACE - IZAAK WALTON LEAGUE - LEAGUE OF CONSERVATION VOTERS
NATIONAL AUDUBON SOCIETY - NATIONAL PARKS CONSERVATION ASSOCIATION
NATIONAL TRIBAL ENVIRONMENTAL COUNCIL - NATIONAL WILDLIFE FEDERATION
NATIVE AMERICAN RIGHTS FUND - NATURAL RESOURCES DEFENSE COUNCIL - OCEANA
OCEAN CONSERVANCY - PEW ENVIRONMENT GROUP
PHYSICIANS FOR SOCIAL RESPONSIBILITY - POPULATION CONNECTION
POPULATION ACTION INTERNATIONAL
RAILS-TO-TRAILS CONSERVANCY - SIERRA CLUB - THE WILDERNESS SOCIETY
THE TRUST FOR PUBLIC LAND - UNION OF CONCERNED SCIENTISTS
WORLD WILDLIFE FUND

[1] The organizations listed here and on the back cover do not necessarily endorse or have expertise on every recommendation in this report. Please refer to the list of transition project co-chairs in the appendix for more information on a particular agency or department recommendation. This endorsement list is current as of November 24, 2008.

EXECUTIVE SUMMARY

Overview of Presidential Actions

America is undergoing historic changes. In his victory speech, President-elect Barack Obama captured the paradox facing our nation: we are confronted with a long list of grave challenges, but out of them can also arise opportunity. We can meet these difficult times with boldness instead of timidity; with innovation instead of more-of-the-same.

We can ignite this transformation by repowering America with clean energy and placing our nation at the forefront of environmental leadership. Generating green collar jobs, making our offices and homes more efficient, rebuilding our water infrastructure, reducing our dependence on oil, reviving our ailing landscapes—these are the solutions that can lead directly to economic prosperity, greater social equity, and even enhanced national security.

The entire federal government has a critical role to play in unleashing these innovative solutions, but it is the president who will set the tone. President-elect Obama has an opportunity to galvanize the nation—to announce bold measures that will channel America's ingenuity into solving the entwined economic, climate, and environmental crises.

The steps outlined here offer a road map. These recommendations, respectfully submitted to the transition team for its consideration, were compiled by a broad coalition of the leading national environmental and conservation groups in the nation. It covers a wide range of issues that merit prompt presidential attention, but it underscores the urgent need to build a green energy economy to tackle global warming. Most importantly, the document reflects a fundamental consensus that serious action is needed right now in order to usher in a healthier, cleaner, more prosperous and more sustainable era for America.

Guiding Principles

Economic Vitality, Clean Energy, and Climate Solutions Go Hand-in-Hand
Many Americans are struggling to make ends meet, but we can lift ourselves out of this economic crisis through investing in clean energy solutions that solve global warming. Done right, this approach will revitalize our economy by generating millions of well-paying jobs that use the skills workers already have to manufacture and install clean energy and green infrastructure right here in the United States—such as wind farms, solar panels, hybrid cars, mass transit and efficient buildings connected to a smart electricity grid.

Social Justice Requires Environmental Justice
Too often the worst impacts of ecological degradation hit the poor and people of color "first and worst." Their neighborhoods rise to the top of siting lists for waste dumps, dirty power plants and transportation hubs. Meanwhile, these same communities benefit "last and least" from available solutions such as hybrid cars, solar panels, and organic food. We believe that an economic plan built around green-collar job training and strengthened environmental safeguards will not only alleviate the pollution afflicting these communities, but also provide a path out of poverty and a more just society.

EXECUTIVE SUMMARY

Science Should Have a Primary Role in Safeguarding Our Environment
At the base of the best environmental regulations rests not politics but science. Yet science has been under siege at federal agencies for the last eight years. For example, agency review boards have been stacked with industry-funded scientists, while cozy relationships between regulators and the companies they regulate have more influence over decisions than unbiased science. This situation needs to be reformed across federal agencies now. Public-servant scientists should be seen as the nation's brain-trust and their independence and influence must be reestablished.

Integrity Must Be Returned to Environmental Governance
President-elect Obama and his administration have an opportunity to restore the fundamental American tradition of fairness: the principle that no one, not even the government, is above the law. When equity prevails, polluters and agencies alike follow the rules, and the government embraces its responsibility to enforce environmental statutes. To fully hold itself accountable, government must become more transparent and citizens must be invited back into decisions about their own air, water, and lands. Above all, agencies must be allowed to use their regulatory tools to advance the public interest, not serve special interests. With the right kind of leadership, the Obama administration can return a sense of decency and purpose to the role of government.

Top Areas for Priority Action

This report specifies numerous recommendations across a wide range of federal agencies. Contained herein are many opportunities between Inauguration Day and the first Earth Day address of the next administration for President Obama to begin to make progress on energy and the environment by setting an agenda and taking action. However, we believe there are four broad areas that deserve special attention during this period.

Clean Energy and Climate Change
The top priority of the environmental community remains addressing climate change and creating the new clean energy economy, key to America's economic revitalization. A document detailing the principal actions deserving the immediate attention of the new administration has previously been transmitted to the transition team and has been incorporated into this report. Successfully tackling this issue will require: (a) using existing executive authority; (b) working with Congress to pass legislation; (c) and showing real leadership internationally on the issue. In addition, government agencies must incorporate climate science, impacts, and adaptation strategies into their operational plans and ongoing work.

The Federal Budget and Stimulus Legislation
This is now a critical time for the nation to reinvest in the budgets of federal agencies with responsibilities for clean energy, human health, and environmental protection while redirecting those resources to the best possible use. The federal budget provides the means for achieving some of the nation's most important goals, whether it is ensuring there is clean water to drink, mass transit to ride, national parks to visit, or a new generation of clean technology being developed. Yet the resources available for these purposes have been shrinking, putting the public's needs at risk. Stimulus legislation is an especially time sensitive

opportunity, where carefully directed investments in green infrastructure and clean energy can quickly create jobs and produce economic activity.

The White House as a Leader on Clean Energy and the Environment
The job of restoring environmental protection in the federal government needs to start at the top in the White House. This includes having the President's advisors focus on energy and climate as a top priority. The Council on Environmental Quality needs to have its resources rebuilt so that it can take a lead role on environmental policy, including energy and climate. Science must play a central role in all policy making, with the Office of Science and Technology Policy leading the charge. Furthermore the broken regulatory process should be fixed, with the Office of Management and Budget's role properly defined so that the mission of the federal government becomes again protecting the public's health, safety and environmental assets.

Putting the Right People in the Right Jobs
One of the most important decisions in government is who should be put into the key decision making positions. In this document we have tried to identify some of the most important government policy posts. Filling these positions with individuals who have integrity, are highly qualified, and have an appreciation of the value of environmental protection is essential to the success of these agencies.

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CROSSCUTTING ISSUES

CLIMATE CHANGE AND ENERGY

CROSSCUTTING ISSUES
CLIMATE AND ENERGY

To revitalize our faltering economy and meet the immense challenges of global warming, we must transform the ways America and the rest of the world produce and use energy. At the cornerstone of the President's economic recovery strategy should be three closely-related goals: cutting the pollution that causes global warming, repowering America with clean energy, and ending our dependence on oil. Investments in the energy efficiency and clean energy technology needed to meet these goals, and investments in protecting our health, our vulnerable communities and our natural resources from climate impacts, will rebuild our economy, create millions of green American jobs, and make a more just society.

We must start cutting global warming pollution now. There is broad scientific agreement that keeping global average temperatures from increasing more than another 2° Fahrenheit from today's levels is necessary if we are to avoid the worst impacts of climate change. According to the Nobel Prize-winning Intergovernmental Panel on Climate Change, we have a reasonable chance of meeting this objective if developed countries as a whole cut their emissions 25-40% from 1990 levels by 2020 and at least 80% by 2050; within this time frame, major developing countries as a whole must also act promptly to slow their emissions growth and then substantially reduce their emissions. To be within this range in 2020, the U.S. would have to reduce its emissions by 35% from current levels.

To meet these goals, the President should:

1. ***WORK WITH CONGRESS TO PASS LEGISLATION IN 2009 THAT REVITALIZES OUR ECONOMY AND DELIVERS ENERGY AND CLIMATE SECURITY***

- Set mandatory limits that reduce US global warming pollution consistent with keeping further warming below 2° F, including ambitious domestic reductions targets for 2020 and 2050, a cap and auction program and other policies to make additional reductions at home and abroad, and a prompt science-based review to accelerate reductions if necessary.

- Auction the carbon permits and use the revenue for investing in a massive clean energy transition, creating green jobs, protecting vulnerable communities and natural resources, and providing consumer relief, especially to those most in need.

- Move America towards a 100% clean electricity future by maximizing energy efficiency, modernizing the grid, and greatly expanding power generation from renewable energy resources.

- Get America moving by investing in clean transportation infrastructure that cuts global warming pollution.

2. TACKLE GLOBAL WARMING USING THE EXECUTIVE BRANCH'S POWERS UNDER EXISTING LAWS

- Grant the California waiver, allowing California and 13 other states to enforce their standards for global warming pollution from vehicles.
- Use the Clean Air Act to declare that global warming pollution endangers public health and welfare and to set standards for power plants, vehicles, and fuels.
- Use our energy laws to strengthen fuel economy and appliance efficiency standards.
- Order every agency to consider global warming in its actions affecting energy use and managing natural resources and to develop a coordinated, interagency natural resources adaptation strategy.

3. RESTORE AMERICA'S GLOBAL LEADERSHIP ON GLOBAL WARMING

- Demonstrate US action by setting mandatory limits on our own global warming pollution through new legislation and implementation of existing laws.
- Work with other nations to reach a new climate treaty that keeps further warming below 2˚ F at the Copenhagen climate summit at the end of 2009.
- Lead a worldwide effort to finance clean energy deployment, forest conservation, and adaptation to unavoidable climate impacts.

CROSSCUTTING ISSUES

AMERICA'S ARCTIC AND THE CIRCUMPOLAR ARCTIC

AMERICA'S ARCTIC AND THE CIRCUMPOLAR ARCTIC

Cross-cutting Issue Involving: Department of the Interior (MMS, FWS, BLM), Department of Commerce (NOAA, NMFS), Department of State, Army Corps of Engineers, U.S. Coast Guard, and Environmental Protection Agency

America's Arctic includes the federal public lands of Alaska north of the Brooks Range, as well as the Polar Bear Seas (Beaufort and Chukchi) of the Arctic Ocean, and the Bering Sea, including Bristol Bay.

TOP THREE ISSUES

1. A COMPREHENSIVE ARCTIC CONSERVATION AND ENERGY PLAN

The new Administration should develop a comprehensive Arctic conservation and energy plan based on a full scientific assessment of the health, biodiversity, and functioning of Arctic ecosystems to guide our choices about if, when, where, and how industrial activities are permitted in the Arctic. Based on existing analyses and before completion of the comprehensive plan, the new Administration should quickly support the strongest possible protection for the coastal plain of the Arctic Refuge, including wilderness designation legislation, and permanent protections for other priority areas such as the Teshekpuk Lake Special Area.

2. A PRECAUTIONARY APPROACH TO INDUSTRIAL ACTIVITIES IN THE ARCTIC

The new Administration should take a precautionary approach to any new industrial activities in the Arctic, including pursuing natural gas hydrates or allowing new oil and gas leasing or activities offshore or in priority conservation areas onshore, until a thorough scientific assessment is completed and a comprehensive plan in place.

3. INITIATE INTERNATIONAL NEGOTIATIONS

The new Administration should initiate international negotiations to develop a framework environmental convention that implements an integrated, ecosystem-based management approach to managing new and expanded industrial activity in the circumpolar region.

KEY APPOINTMENT POSITIONS

- Assistant Secretary of the Interior for Fish and Wildlife and Parks
- Director, MMS
- Under Secretary for NOAA at the Department of Commerce
- Director, FWS
- Director, BLM

- Director, NMFS
- Special Assistant to the Secretary of Interior for Alaska
- Interior Solicitor
- Assistant Secretary of State, Oceans and International Scientific and Environmental Affairs
- Assistant Secretary of the Army (for Civil Works)
- Assistant Secretary for Lands and Minerals Management (Interior)

ISSUE 1
A COMPREHENSIVE ARCTIC CONSERVATION AND ENERGY PLAN

BACKGROUND

The Arctic is "the least studied and most poorly understood area on Earth …," and, in particular, the Arctic Ocean is the least understood of all the world's oceans.[1] What scientists do know, however, is that what happens in the Arctic affects the global climate and ecosystems and people thousands of miles away. Unfortunately, they also know that the Arctic is already at the forefront of global climate change: it is warming at about twice the rate of the rest of the planet, with substantial impacts on the people and ecosystems of the region. One of the biggest contributors to this warming is black carbon, which is emitted as a component of soot and reduces dramatically the reflectivity of Arctic snow and ice.

Scattered efforts are underway to gather data on Arctic ocean ecosystems, but no comprehensive, reliable database of this and other relevant information exists to inform federal policies and agency actions with regard to the American Arctic. Baseline data is essential to determining which areas of the Arctic Ocean are most important in maintaining populations of which species, what areas are likely to be important in the future as nutrients and populations shift in response to changes in temperatures, salinity and currents, and what the likely impacts are on larger ecosystems, food sources and people. And baseline data is of course essential to assessing the risks associated with various proposals for commercial activity.

Despite the lack of data, the Bush administration has offered large swaths of the oceans and terrestrial areas in the Arctic for oil and gas development and set a course for offering even more areas in the coming years. Its latest push for energy development now includes unfolding new plans for recovering natural gas in the form of gas hydrates. In addition, the changing climate is creating the potential for other large-scale industrial threats from shipping, fishing and mining. For example, diesel-powered ships, generators and vehicles associated with any of these activities will generate even more black carbon, accelerating the melting of sea ice and the Greenland ice sheet. Further, as sea ice melts, opportunities for industrial fishing move northward.

Another example: an oil spill in Arctic waters could have devastating impacts on marine mammals and those dependent on them. The same environmental conditions that contribute to oil spill risks in the Arctic – lack of natural light, extreme cold, moving ice floes, high winds and low visibility – can make spill response operations extremely difficult or totally ineffective. Right now, however, the federal government does not even have a reliable

[1] U.S. Arctic Research Commission, Report on Goals and Objectives for Arctic Research at "A Message from the Chair" (2005), available at http://www.arctic.gov/files/USARCReportOnGoals2005.pdf.

way to detect an oil spill in the Arctic, much less a comprehensive plan and capacity for responding to a spill in a rapid and effective way. But leasing and permitting decisions continue to be made.

Incremental decision by incremental decision, federal agencies are pushing the Arctic, and the world, in exactly the wrong direction. In lieu of this ad hoc decision-making, the federal government should develop through an interagency task force a comprehensive Arctic conservation and energy plan based on a full scientific assessment of the health, biodiversity, and functioning of Arctic ecosystems to guide decisions about whether, when, where, and how industrial activities should be permitted. Such a plan would be created in conjunction with broader climate and energy plans for America. Creating a comprehensive plan would begin with a gap analysis and research plan developed by independent scientists, such as the National Research Council. Because various federal agencies regulate or otherwise affect activities in the Arctic—NOAA, MMS, BLM, the Coast Guard, EPA, the Army Corps of Engineers — a process to incorporate their expertise and actions is necessary to develop an implementation framework for a comprehensive plan. Permanent protection should be given immediately to those limited areas where sufficient scientific information already exists, including the onshore Arctic National Wildlife Refuge and the Teshekpuk Lake Special Area.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Establish an interagency task force to support development of an Arctic conservation plan**

   To develop a comprehensive plan, it will be necessary for the new Administration to gather all key agencies whose authority and programs affect the Arctic into an interagency Arctic Task Force. In conjunction with input from local Arctic communities, this Task Force would begin the process of re-assessing existing Arctic Ocean and NPRA leasing, developing precautionary fishing and shipping plans and standards, establishing mitigation measures for areas in which development occurs, and evaluating areas for permanent protection.

   Responsible Officials: Chairman of CEQ, Director of OMB, Secretaries of Interior, Commerce, Department of the Army (Civil Works), Administrator of EPA and head of the Coast Guard

2. **Initiate a comprehensive assessment of Arctic ecosystems**

   A plan for the Arctic must begin with a comprehensive assessment of the health, biodiversity, and functioning of the Arctic ecosystems, including the impacts of industrial activities. The first step in such an assessment would be for the new Administration to require the preparation of a gap analysis and research plan prepared by an independent entity such as the NRC.

   Responsible Officials: Secretaries of the Interior/Commerce

3. **Regulate black carbon**

   Climate change already is having significant effects in the Arctic, and releases of black carbon—a component of soot—in the Arctic are exacerbating the warming. As it confronts climate change, the new Administration should regulate black carbon emissions in the Arctic, including action on diesel rules for new and existing sources, oil and gas flaring, and marine transport.

   Responsible Official: EPA Administrator

4. **Close Teshekpuk Lake to oil development**

The Teshekpuk Lake Special Area in the National Petroleum Reserve-Alaska (NPRA) is one of most important and sensitive habitat areas in the Arctic. Though protected for decades, the previous Administration opened this area for leasing, but deferred actual sales.. Because the area is vital for caribou, birds, and other wildlife, as well as subsistence use, the new Administration should close this area permanently to industrialization.

Responsible Officials: Secretary of the Interior, Assistant Secretary for Lands and Minerals Management, BLM Administrator

POLICY RECOMMENDATIONS – LEGISLATIVE

1. **Develop comprehensive legislation for an America's Arctic conservation plan**

Based on the Arctic interagency task force's America's Arctic conservation plan and to the extent that additional legislative authority is necessary, the new Administration should send a proposal to the Congress outlining the plan's assumptions regarding the potential dangers to the Arctic from industrial activities, how the proposed conservation plan would protect the Arctic, and why the enactment of any needed legislative authority is a priority.

Responsible Officials: Interagency Task Force members and President

2. **Support Arctic Refuge Wilderness designation**

The new Administration should reaffirm its strong opposition to any oil and gas activities, including the recovery of gas hydrates, on the coastal plain of the Arctic National Wildlife Refuge and support for the strongest possible protection for the Refuge coastal plain, including legislation designating the area as wilderness.

Responsible Officials: President, Secretary of the Interior

3. **Support special area legislation for the Western Arctic**

The new Administration should announce early on its strong support of legislation permanently protecting the Teshekpuk Lake Special Area and directing the Secretary of the Interior to study additional areas within the National Petroleum Reserve-Alaska for protection.

Responsible Officials: Chairman of CEQ; Secretary of Interior

POLICY RECOMMENDATIONS – BUDGETARY

1. **Fund Arctic scientific assessment**

To develop a comprehensive Arctic conservation and energy plan, there must be an assessment of the health, biodiversity, and functioning of Arctic ecosystems. A specific allocation of additional funding is needed for this assessment. Early Administration support for funding a gap analysis and supporting the development of a research plan by an independent agency, such as the NRC, would be the first step.

AMERICA'S ARCTIC AND THE CIRCUMPOLAR ARCTIC

Responsible Officials: Secretaries of the Interior and Commerce

THE FIRST 100 DAYS

- To avoid losing valuable time, the development and implementation of an America's Arctic Conservation and Energy Plan must be a high priority for the new Administration promptly following the Inauguration. First, CEQ should establish and name the members of an America's Arctic Interagency Task Force, made up of the agency heads of the National Marine Fisheries Service, National Ocean Service, Office of Oceanic and Atmospheric Research, Fish and Wildlife Service, Mineral Management Service, US Geological Survey, Bureau of Land Management, National Park Service, Army Corps of Engineers and the US Coast Guard, and led by the Secretary of the Interior and the Under Secretary for the National Ocean and Atmospheric Administration. The Task Force needs a quick start in order to develop an America's Arctic Conservation Plan by June 30, 2010, acquire necessary additional authorization and funds from Congress and implement the Plan in this Administration. The naming and tasking of this group to develop the America's Arctic Conservation Plan will also demonstrate to the other seven Arctic nations that the U.S. is now serious about protecting the World's Arctic region.

- To develop its Plan in a timely fashion, the Task Force will need to have access to credible and scientifically sound data and information. To provide for this data, the Office of Management and Budget should support a request to seek reprogramming of the FY 2009 Budget to fund an America's Arctic interagency scientific assessment, including a gap analysis and baseline studies immediately after the Inauguration. The work needs to have a quick start and continue indefinitely after the development of the America's Arctic Conservation Plan in order to give managers sound scientific information to adjust their projects and activities.

- The Secretary of the Interior should also direct a prompt legal review of all Chukchi and Beaufort Sea oil and gas lease sale decisions during the last eight years—many of them presently under litigation. To the maximum extent allowed by law, these decisions should be revoked, suspended or limited in order to give the new Secretary of the Interior the opportunity to complete a full and proper environmental review of the leasing decisions, assessing in particular the environmental risks associated with development and taking into account the Arctic conservation plan presented by an Interagency Task Force.

- Within the first 100 Days, the President should announce his support for the strongest possible protection for the Arctic Refuge coastal plain, including legislation designating the Refuge coastal plain a wilderness area. The President should declare such legislation an environmental and energy priority.

- The Secretary of the Interior should also initiate the process to revise the recent Record of Decision for the Northeast NPR-A plan and environmental impact statement to make the

Teshekpuk Lake Special Area off limits to oil and gas leasing and all oil and gas activities. Moreover, the new Administration should send a message to Congress asking it to pass legislation for the Special Area, with protection at least equivalent to a national wildlife refuge. Such a bill should also direct the Secretary of the Interior to withdraw and study other areas of the NPR-A, including all other Special Areas established by previous Secretaries of the Interior, for permanent protection of surface values.

ISSUE 2
A PRECAUTIONARY APPROACH TO INDUSTRIAL ACTIVITIES IN THE ARCTIC

BACKGROUND

Without better data and a careful, comprehensive conservation and development plan, the risk of irreversible damage to the Arctic brought on by a warming climate will be compounded by an explosion of industrial and commercial activity. As sea ice melts, the Arctic Ocean will be increasingly used for shipping, bringing air and water pollution and support facilities in its wake. Fisheries stocks requiring cold waters will migrate north; industrial trawlers will follow, repeating their familiar pattern of overfishing – only this time in the last possible refuge to which cold-water species can retreat before their ultimate annihilation. Areas where oil and gas exploration and production were once prohibitively expensive will be more attractive, at least so long as producers are able to externalize the larger climatic, biological and social costs. Moreover, the newly released estimates of significant deposits of gas hydrates under large swaths of the North Slope will only add to the pressure for further ad hoc energy development. Finally, mining, including coal mining, will be proposed on a scale never before contemplated in the American Arctic.

Associated with all of these activities would be in a significant increase in air pollution and especially diesel soot, a form of black carbon that is a major factor in causing the Arctic to warm already at twice the rate of the rest of the planet.

Arctic oil and gas activity poses the most immediate risk. Despite the lack of information and known threats to marine mammals and fisheries, and despite the utter absence of capacity to handle accidents and oil spills in remote, ice-filled seas, the Bush administration has greatly accelerated the pace of oil and gas leasing, onshore and off. For example, it held three lease sales in the Beaufort Sea and one in the Chukchi Sea and adopted a five-year plan that expands the area available for leasing in the Beaufort to over 33 million acres and in the Chukchi to nearly 40 million. It has routinely issued permits for seismic testing and actual drilling without adequate data or realistic risk assessments. Conservation and Alaska Native groups are fighting these decisions in the courts and in Congress to preserve options for Arctic conservation pending development of better data, realistic risk assessments, and a comprehensive, scientifically informed plan for Arctic protection. And as if the headlong race for energy development were not already bad enough, the Bush Administration has now opened a whole new front with its enthusiastic endorsement of wide scale gas hydrates development and production.

The several court cases challenging lease sales, seismic testing and actual drilling, and others to compel protection of marine mammals, provide opportunities for the new Administration to re-examine the legal adequacy and basis for all existing and potential commitments to Arctic oil and gas development on the continental shelf and in priority

onshore conservation areas. Very early in its tenure the new Administration should impose a "time out" on all further Federal oil and gas activity in the Arctic, including, to the extent allowed by law, areas previously leased, until a scientific assessment of the potential impacts is completed and a plan for protecting affected areas -- including a real, funded capacity to deal with oil spills -- is in place. Such an approach must be taken in the context of a careful, precautionary approach to proposed commercial activity of any kind in the American Arctic until we have better scientific data concerning what is there and a comprehensive plan for development that minimizes the risk of additional stress on the rapidly changing Arctic ecosystem.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Halt new proposed lease sales in the Arctic**

   The new Administration should halt preparation of the Arctic Ocean Multi-sale EIS now underway, revise the 5 year plan relating to the Arctic Ocean and Bristol Bay, and halt further planned lease sales in the Arctic Ocean, Bristol Bay, and in the conservation priority areas of the National Petroleum Reserve – Alaska until the necessary scientific information is established to allow development of a comprehensive conservation plan for the region.

   Responsible Officials: DOI Secretary; MMS Director; BLM Director

2. **Conduct full environmental review of Arctic exploration activities**

   The previous Administration approved a three year drilling plan and full scale seismic exploration in the Arctic Ocean without completing an EIS for either project and despite noise and oil spill threats to marine mammals. An appeals court has recently invalidated the drilling plan approval because MMS failed to conduct an adequate review of impacts to whales and subsistence activities. A new Administration should review decisions still under litigation and not approve new exploration activity in the Arctic Ocean, Bristol Bay, or priority conservation areas of the NPRA until a full EIS assessing impacts for these activities is completed. The new Administration should also ensure that a full, complete and scientifically credible environmental impact analysis of the potential environmental impacts will be conducted on proposed gas hydrate development on the North Slope.

   Responsible Officials: DOI Secretary; Solicitor, MMS Director; NMFS Director; FWS Director, Director of USGS

3. **Correct illegal ESA and MMPA actions for polar bear and walrus**

   The new Administration should immediately review the legal basis for overly broad regulations, now under litigation, authorizing take of polar bear and walrus by the oil and gas industry in the Arctic recently promulgated under the MMPA, and, in accordance with procedural requirements, initiate the administrative process for withdrawing or revising the regulations. Consistent with the requirements of Federal procedural and environmental law, it should also repeal or revise the section 4(d) rule adopted for the polar bear that prevents consideration of the impacts of global warming pollution on polar bears under the ESA and it should withdraw a recent Solicitor's Opinion precluding consideration of global warming in section 7 consultations under the ESA. Designation of critical habitat under the ESA for the polar bear should also be a priority.

   Responsible Officials: DOI Secretary; Solicitor, NMFS Director; FWS Director

4. **Support the Arctic Fisheries Management Plan (FMP)**

The North Pacific Fisheries Management Council is poised to take a significant step toward establishing precautionary management in the Arctic. The current proposed FMP protects the Arctic by closing the Chukchi and Beaufort Seas to commercial fishing. Once it passes the Council, NOAA should promulgate regulations to implement the FMP.

Responsible Officials: Commerce Under Secretary for NOAA, NMFS Administrator

5. **Develop precautionary interim shipping standards**

The new Administration should mandate through an Executive Order or other White House directive the development of precautionary standards for response, rescue, clean up, and emissions for vessels transiting Arctic waters. These standards should be implemented through the Coast Guard, NOAA, EPA, and other appropriate federal agencies.

Responsible Officials: Chair of CEQ, Director of OMB, DOJ Office of Legal Counsel, head of the Coast Guard, Administrator of EPA, Commerce Under Secretary for NOAA

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Support interim Arctic legislation**

The new Administration should support passage of the Polar Bear Seas Protection Act, the Bristol Bay Protection Act and NPRA legislation which safeguard areas from oil and gas leasing and activities until necessary threshold conditions are met. These acts could serve as initial steps toward comprehensive Arctic conservation legislation.

Responsible Officials: Secretary of Interior, Assistant Secretary for Land and Minerals Management, Directors of BLM and MMS

2. **Support robust Congressional oversight**

The new Administration should cooperate with, and actively support, Congress in its efforts to monitor the progress of necessary scientific studies and conduct thorough oversight of the agencies of jurisdiction related to the Arctic, including budgetary oversight.

Responsible Officials: Secretaries of Interior and Commerce, Administrator of EPA

POLICY RECOMMENDATIONS - BUDGETARY

1. **Deny funding for development in priority conservation areas**

The new Administration should not seek any appropriated funds for leasing, pre-leasing, and related preparatory activities in NPRA priority conservation areas, Arctic Ocean and Bristol Bay pending full scientific review and development of an Arctic conservation plan.

Responsible Officials: Interior and Commerce Secretaries, OMB PAD for Natural Resources, Assistant Secretary for Land and Minerals Management, Assistant Secretary for Fish and Wildlife and Parks, MMS Director , BLM Director, FWS Director

2. Support funding for scientific assessments

The new Administration should seek funding for the NRC and NSF to conduct baseline scientific studies based on peer reviewed science in order to fill crucial information gaps associated with industrial development in the Arctic. This will include cumulative impact assessments for future impacts from climate change.

Responsible Officials: Interior and Commerce Secretaries, OMB PAD for Natural Resources

3. Support funding for shipping standards

The new Administration should seek funding to complete and implement the Aleutian Islands Risk Assessment and a similar Arctic Shipping Risk Assessment covering the Beaufort and Chukchi Seas. This funding should include allocations for rescue tugs, vessel traffic and tracking systems, routing agreements, and requirements for double hulls on freight vessels and emergency tow packages for all vessels calling on US ports.

Responsible Officials: Secretaries of Commerce and Homeland Security

THE FIRST 100 DAYS

- A priority first step is to highlight the need for better information about the Arctic and a more rational vision for the Arctic by halting lease sales scheduled for the Arctic Ocean under the current five year plan for as soon as 2009 and defer an EIS for such sales that is currently being developed until the science necessary to understand the potential impacts of oil development on the ecology and people of the Arctic is in hand. Similarly, BLM should promptly announce its intention to halt planned lease sales in the conservation priority areas of the National Petroleum Reserve-Alaska pending the necessary scientific review.

- The new Administration should also immediately emphasize the importance of good science and adequate protection for the threatened resources of the Arctic by fully implementing the recent court of appeals decision reversing MMS approval of a three year Shell drilling plan in the Beaufort Sea offshore of the Arctic National Wildlife Refuge. The administration should not approve new exploration drilling plans in the Arctic Ocean until sufficient information has been gathered and an adequate EIS can be prepared. Along the same lines, the new Administration should announce that no new seismic exploration, which poses severe risks to marine mammals, including endangered whales, will be approved without first completing an adequate EIS assessing the full cumulative effects of this large scale seismic activity in the Arctic Ocean. Moreover, the adequacy of an EIS now being written by NMFS and MMS deserves careful scrutiny before its release. The new Administration also needs to immediately take such steps as may be necessary

to ensure that the environmental impact analysis being undertaken by USGS on proposed gas hydrate development on the North Slope is thorough, scientifically credible and complete.

- The new Administration should promptly signal its support for a significant step that is underway towards precautionary management in the Arctic. Industry, conservationists, and Native entities support an Arctic Fishery Management Plan that protects the Arctic by closing the Chukchi and Beaufort Seas to commercial fishing. The North Pacific Fisheries Management Council plans to adopt this plan in February, and NOAA has the opportunity to begin the final regulatory process to implement the FMP during the President's first 100 days.

- Finally, the new Administration should respond to the significant public interest in protection of the polar bear by taking immediate actions to correct several decisions by the Bush Administration which fail to protect polar bears from the impacts of oil and gas exploration and global warming. FWS promulgated regulations which authorize the take of polar bears and walrus by the oil and gas industry in the Arctic Ocean by any activity associated with oil and gas operations from exploration to development without examining the combined impacts of these operations with global warming, without preparing an EIS, and this despite the fact that the Marine Mammal Protection Act requires such regulations to be limited to one specific activity accompanied by specific mitigation measures. Consistent with Federal procedural law, the administration should initiate the process to withdraw those regulations and replace them with narrower authorizations issued only after a full EIS has been prepared. The FWS regulation which listed polar bears as a threatened species also directed the agency not to address the full impacts of global warming on polar bears. This limitation on polar bear protection, also under litigation, should also be revisited and eliminated in accordance with Federal procedural law.

ISSUE 3
INITIATE INTERNATIONAL NEGOTIATIONS

BACKGROUND

The main challenge for protection of the Arctic marine environment is the need for the development of international rules, standards and systems for marine environmental protection in the face of rapidly increasing industrial activity in the Arctic Ocean. There is an urgent need for a comprehensive international environmental regime to ensure effective, integrated and ecosystem-based management of human activities in this uniquely vulnerable region.

Scientists now believe the Arctic may become ice-free in summer as early as 2013. It is essential that a regime be developed and put in place *before* industrial development in the region, already underway, accelerates. The longer the delay in developing international environmental rules, the more likely it is that unplanned and unregulated development will damage the ecology and marine resources necessary for a sustainable future in the Arctic.

Governance of human activities in the Arctic Ocean is fragmented and weak. The new Administration should take the lead in proposing the adoption of a new framework environmental convention that would implement an

integrated, ecosystem-based management approach to managing new and expanded industrial activity in the Arctic. This convention should:

- reaffirm the authority of existing international agreements such as the Convention on the Law of the Sea (UNCLOS);
- recognize the overarching role of widely-accepted principles and approaches to govern human activities in the Arctic Ocean, including ecosystem-based management, the precautionary principle in decision-making when dealing with less than complete information, transparency, multi-stakeholder participation in decision-making, marine spatial planning, the value and importance of establishing protected areas, and assessment and management of cumulative impacts;
- provide for monitoring and assessment of environmental and socio-economic conditions throughout the Arctic and regular, public reporting; and
- authorize the parties to enter into specific Protocols as may be deemed necessary to either supplement the authorities of existing instruments or to provide for new specific management regimes. Initial areas for such Protocols might include activities such as: oil & gas development, fisheries management, and shipping pollution and safety.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Reduce black carbon emissions

The new Administration should play an international leadership role at the Arctic Council to promote early action measures to significantly reduce black carbon emissions from major sources that affect the Arctic Ocean region. It should apply to the IMO to have all US coastal areas designated as an Emission Control Areas under the Marpol Convention, and direct EPA to set stricter diesel emissions standards for ships operating within the EEZ.

Responsible Officials: Secretary of State, EPA Administrator

2. Seek a new Arctic environmental convention

The new Administration should invite interested States to begin negotiations on an integrated, ecosystem based management regime for the Arctic at the April 2009 events planned in Washington to highlight the International Polar Year and the 50th Anniversary of the Antarctic Treaty.

Responsible Officials: Secretaries of State, Interior and Commerce

3. Seek an Arctic High Seas Protected Area agreement

The new Administration should announce also at the April 2009 events its intention to seek a new international agreement establishing a multi-sector marine protected area for the high seas of the Arctic Ocean.

Responsible Officials: Secretaries of State, Interior and Commerce

4. Freeze expansion of industrial activity

The new Administration should seek agreement from all relevant States to freeze expansion of industrial fishing, shipping, mining and oil and gas development pending adoption of the new Arctic environmental treaty.

Responsible Officials: Secretaries of State, Interior and Commerce

THE FIRST 100 DAYS

- The Arctic Council's high level ministerial meeting, to be held in April 2009, provides a perfect venue to: i) take effective action to implement a rational approach to environmental governance in the region; and, ii) limit emissions of short-term climate forcing agents and to effectively slow warming in the near term. The US should signal its intent to send a high level delegation to the Ministerial meeting, and to be a forthright partner in the Arctic environmental governance process, including support for the development of international rules, institutions and processes so that unplanned and unregulated development in this vulnerable region does not damage the ecology and marine resources necessary for a sustainable future. A first step domestically should be the launching of an inter-agency review of US policies with respect to environmental governance of the Arctic.

- The new Administration should also take a leadership role within the Arctic Council to promote early action measures to reduce emissions of the short-lived climate forcing agents, including black carbon. Black carbon (a component of fine particulate emissions, PM2.5) is a potent short-lived climate forcing agent whose reduction is essential to slow Arctic warming and the melting of sea ice and the Greenland ice sheet. Although reducing CO2 emissions is the critical priority for long term Arctic stabilization, new science now indicates that Arctic melting cannot be slowed unless black carbon emissions are also sharply reduced in the near term. The technology already exists to reduce black carbon emissions from major sources that affect the region, including diesel, coal, agricultural burning and marine shipping emissions.

CROSSCUTTING ISSUES

LAND AND WATER CONSERVATION FUND

LAND AND WATER CONSERVATION FUND

The Land and Water Conservation Fund (LWCF) creates parks and open space, protects wilderness, wetlands and refuges, preserves wildlife habitat, and enhances recreational opportunities from two complementary programs: a federal program and a state matching grants program. The federal program provides funds to purchase land and water resources for national parks, forests, wildlife refuges and other public lands while the state matching grants program provides federal funds to states to assist in the acquisition of more urban open space and creation of local recreation facilities. The success of the LWCF has helped create parks for people to enjoy in 98 percent of counties in the U.S. and has provided protection for more than five million acres of land and water areas across the country. From Denali National Park to the Grand Canyon and from the Everglades to the Appalachian Trail, LWCF has been the critical source of funding available to federal agencies for protecting our most treasured lands.

As global warming continues to imperil plant and animal species, the LWCF will be a critical program in mitigating for and adapting to the effects of climatic changes. To maintain healthy and vibrant ecosystems, plants and animals will need migration corridors and open space to adapt to the changes around them. LWCF provides that opportunity by giving land management agencies the ability to acquire land that connects ecosystems.

In difficult economic times, the LWCF is also a program that saves federal dollars. Acquiring critical 'inholdings' within public land or wilderness boundaries allows the agencies to manage their lands more effectively. Connected and contiguous public lands require fewer resources to be devoted to the mitigation of private land uses, boundary surveys, law enforcement, private land owner disputes, and permitting. The recent economic downturn has also led to a spike in willing sellers during a time when home and land equity is comparatively low. Though not an ideal situation for private land owners nationwide, these factors present an opportunity for the land management agencies to acquire previously unavailable tracts of land for less money than in previous years.

Returning these high priority lands to the federal estate is an investment in our future because, in so doing, we ensure that recreational and conservation opportunities are available nationwide. Much of the American West has seen unprecedented economic growth over the past decade as a result of protected open space being in close proximity to urban centers. The LWCF can be a catalyst in returning balance to our communities by providing the recreational and employment opportunities that lead to higher property values and economic growth.

Conservation of these places, whether private or public, is critical to maintaining the health of our public lands, our quality of life, our recreational opportunities and our economic well-being. Unfortunately, the LWCF has been seriously underfunded and reached a low when the President's FY 06 budget zeroed out the stateside program. The final FY 06 appropriation was the lowest funding level for LWCF in a decade. From 2001 to 2006, funding for LWCF was cut 75 percent.

Congress took a step in the right direction in the FY 08 appropriations bill to reverse this downward funding trend. However, without passing appropriations bills during the past fiscal year, the federal government has further marginalized the LWCF to a critical point. The land management agencies are

unable to fully staff their LWCF programs and manage their growing backlog lists – all during a time when land acquisition opportunities are very high.

Congress must continue to increase funding for this important land conservation program and make a commitment to return to full funding of the LWCF program at its authorized level of $900 million. Royalties from offshore oil and natural gas drilling are used to fund the LWCF program each year, and these dollars should be returned to the federal estate in the form of land acquisition. An incremental funding increase over five years, until full funding, would allow the federal land management agencies to address staffing shortages, train more staff in real estate, address backlog lists, and conduct land surveys to identify all potentially available land purchases. Congress must begin this process in FY 10 by providing $325 million to the LWCF federal program and $125 million for the LWCF stateside program. Restoring funding to the LWCF program will help preserve U.S.'s natural places and create valuable public recreation areas and facilities for all Americans.

POLICY RECOMMENDATIONS - BUDGETARY

FY 10 Recommendation:
Land and Water Conservation Fund - $450 million ($325 million for federal and $125 million for stateside)
An increase of $295.7 million over the FY 08 enacted level of $154.3 million

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY

TOP THREE ISSUES

1. RESTORE CEQ'S LEADERSHIP ROLE ON ENVIRONMENTAL POLICY

CEQ was established by Congress to serve as the President's and the nation's foremost environmental advisor. CEQ has broad responsibility for developing policies to improve environmental quality, analyzing environmental trends, and overseeing implementation of the National Environmental Policy Act, and its role is increasingly important given the urgency and cross-cutting nature of climate change and other environmental challenges. Unfortunately, CEQ's staff and funding has been cut back sharply in recent years, and it lacks the resources it needs to carry out its role effectively. The President should appoint a highly-qualified Chair immediately upon taking office, fill the long-vacant Deputy Director position, and increase CEQ's funding and staff to a minimum of 45 FTEs.

2. CHARGE CEQ WITH A LEAD ROLE ON CLIMATE CHANGE AND ENERGY STRATEGY

The development and implementation of national policies for climate change and energy poses a broad, cross-cutting challenge affecting multiple agencies across the federal government. The President should charge CEQ with a lead role in developing national strategies for climate change and energy, building on its statutory responsibility for and expertise in reviewing, assessing, and developing policies that bridge environmental and socioeconomic factors; its White House presence; and its experience coordinating federal environmental policies across regulatory and management agencies.

3. STRENGTHEN THE APPROPRIATE USE OF THE NATIONAL ENVIRONMENTAL POLICY ACT

The next Administration should strengthen the appropriate use of the National Environmental Policy Act (NEPA). Specifically, CEQ should take a leadership role in restoring the application of NEPA to all major federal actions that may have a significant impact on the environment.

KEY APPOINTMENT POSITIONS

- Chair
- Deputy Director

ISSUE 1
RESTORE CEQ'S LEADERSHIP ROLE ON ENVIRONMENTAL POLICY

BACKGROUND

CEQ was established by Congress within the Executive Office of the President as part of the National Environmental Policy Act of 1969 (NEPA). The Chair of the Council, supported by a relatively small staff, serves as the principal environmental policy advisor to the President. CEQ has broad statutory responsibilities for advising and assisting the President in the development of environmental policies and proposed legislation; identifying, assessing, and reporting on trends in environmental quality and recommending appropriate response strategies; and overseeing federal agency implementation of the environmental impact assessment process under NEPA. CEQ coordinates federal environmental efforts, and acts as a referee for interagency disputes regarding environmental issues.

CEQ thus plays a critical role in the development and implementation of environmental policy within the Executive Office of the President. Its leadership and coordinating role within the federal Executive Branch is of increasing importance, given the urgency and cross-cutting nature of global warming and other current environmental challenges. Unfortunately, CEQ has been severely underfunded and understaffed in recent years, limiting its effectiveness. Although CEQ's staff ranged from 50-70 during the 1970s and 80s, it is currently staffed by only 24 FTEs, making it increasingly difficult for the office to carry out its responsibilities to advise the President, assist in the development of environmental policies, coordinate federal environmental programs among other federal agencies, and oversee federal NEPA compliance. In addition, CEQ has experienced a 4.4% decline in funding over the last eight years, receiving $2.827 million in FY 2000 to only $2.703 million in FY 2008 while the budgets of other White House offices have grown.

We believe that it is of critical importance that the new Administration restore CEQ to its appropriate, and important, leadership role on environmental policy. Given the importance of the CEQ Chair as the principal environmental advisor to the President, the Administration should place high priority on appointing a qualified Chair who enjoys the confidence of the President immediately upon taking office. In addition, the position of Deputy Director of the Council, a Senate-confirmed position established by the Environmental Quality Improvement Act of 1970 but never filled, should be filled promptly to give CEQ another senior leader and spokesperson and to ensure its effective management. Finally, to enable CEQ to serve effectively in its wide-ranging role as environmental advisor, policy-maker, coordinator, and overseer of NEPA compliance, the staff and budget of CEQ should be restored to the levels that made it effective in past administrations (at least to the level of 45 FTEs).

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Appoint the CEQ Chair promptly**

   The Administration should appoint a qualified individual who enjoys the President's confidence to serve as Chair of CEQ immediately upon taking office.

   Responsible Official: The President

2. **Fill the vacant Deputy Director position promptly**

   The Administration should promptly appoint a Deputy Director of CEQ, a Senate-confirmed position established by the Environmental Quality Improvement Act of 1970 but never filled, to give CEQ a second senior-level leader, spokesperson and manager.

   Responsible Official: The President

POLICY RECOMMENDATIONS - BUDGETARY

1. **Restore CEQ's budget and staff**

   The Administration should restore CEQ's funding and staff to the level necessary for it to fulfill its responsibilities effectively. CEQ had 50-70 staff in the 1970s and 80s, but has been severely understaffed and underfunded in recent years; it currently has only 24 FTEs, and is barely functional. It should be provided with at least 45 FTEs and the funds for them.

   Responsible Official: CEQ Chair

THE FIRST 100 DAYS

To ensure that the Chair of CEQ is in office early in the Administration to assist the President on urgent environmental matters, such as climate change, the President should announce his appointment of a Chair for CEQ as soon as possible, together with his announcement of other Cabinet members and principal advisors, such as the National Security Advisor or the Chair of the Council of Economic Advisers.

ISSUE 2
CHARGE CEQ WITH A LEAD ROLE ON CLIMATE CHANGE AND ENERGY STRATEGY

BACKGROUND

CEQ's experience, mandate, and location make it uniquely able to facilitate a rapid and effective White House ramp-up on the full suite of climate and energy issues, particularly if combined with the early appointment of a strong Chair who enjoys the President's confidence.

CEQ has a long history of institutional responsibility for the full spectrum of environmental issues. But it also has a mandate "to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the Nation." 42 U.S.C. 4342. It marries environmental expertise with the broader considerations needed for success on climate and energy.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY

From its senior staff position within the Executive Office of the President, CEQ enjoys overarching perspective on the more specialized viewpoints of regulatory and management agencies. From this vantage, CEQ can ensure that White House direction on climate change is optimally, efficiently, and consistently formulated and implemented across line agency jurisdictions.

CEQ's leadership role on climate-energy issues should reflect its statutory mandates, including directives to:

- "develop and recommend to the President national policies to foster and promote the improvement of environmental quality;"
- "review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in the National Environmental Policy Act, i.e. 'to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans' … and to make recommendations to the President with respect thereto;"
- "gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective;" and
- "utilize, to the fullest extent possible, the services, facilities and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided." 42 USC § 4344-45.

CEQ thus has the statutory mandate, and is well-positioned within the White House, to play a strong leadership and coordination role in developing national strategies to address climate change and energy policy issues.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Direct CEQ to Take a Lead Role in Developing Climate Change-Energy Policy

Consistent with the discussion above, CEQ should be directed to take a lead role in the development, coordination and implementation of climate change and energy policy.

Responsible Official: The President

2. NEPA Guidance on Climate Change

CEQ should develop and issue detailed guidance for federal agencies on how to address climate change in their NEPA analyses. Climate change is profoundly affecting the environment within which agencies act, and their actions in many cases contribute to or reduce global warming in various ways. Many agencies have failed, however, to assess the effects of climate change adequately in their environmental analyses. CEQ needs to issue clear, detailed guidance for all federal agencies to ensure that the foremost environmental issue of our age is properly considered in federal decision-making.

Responsible Official: CEQ Chair

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **National Climate Change Strategy**

   The new Administration should propose and work with Congress to enact legislation requiring an interagency process, led by the Chair of CEQ, to develop and implement an interagency national strategy for addressing the impacts of climate change on wildlife, ecosystems and natural resources. Such legislation should provide a mechanism for gathering and incorporating the best independent science available regarding both impacts and adaptation strategies for wildlife and ecosystems most imperiled by global warming.

   Responsible Official: CEQ Chair

POLICY RECOMMENDATIONS - BUDGETARY

1. **Funding for National Climate Change Strategy**

   The new Administration should request and Congress should provide $5 million to develop the comprehensive national strategy to address climate change's impacts on fish, wildlife, and ecosystems, to be allocated to other agencies by CEQ.

   Responsible Officials: CEQ Chair; OMB Director

THE FIRST 100 DAYS

The President should issue an Executive Order on Climate Change and Natural Resources within the first 100 days that:

- Directs all federal agencies responsible for management of land, water or wildlife, or affecting land use policies, to account for their contribution to and expected impacts of climate change in their policies, planning and decision making and to use their existing authorities to the maximum extent feasible to sequester and store carbon, safeguard native ecosystems and mitigate greenhouse gases through forest and land management and conservation.

- Establishes an interagency council to develop a national strategy to address climate change's impacts on fish, wildlife, and natural resources, including public and private lands, waterways, oceans and coasts. The council and strategy development would be chaired by the Chair of CEQ and include a broad range of federal land management, marine resource and conservation agencies.

- Ensures that each agency has access to and is guided by the best available science on climate change and expected impacts, free of political manipulation, and enhances the capacity of agencies to incorporate climate science into natural resource and forest management.

ISSUE 3

STRENGTHEN THE APPROPRIATE USE OF THE NATIONAL ENVIRONMENTAL POLICY ACT

BACKGROUND

Since 1970, the National Environmental Policy Act ("NEPA") has required federal agencies to assess the environmental effects of their proposed actions and provide the public a meaningful opportunity to participate in agency decision making. The proper application of NEPA ensures that agencies make well-informed decisions that are supported by a robust consideration of the environmental effects of both the proposed action and alternatives to that action, the cumulative effects of the proposed action and its alternatives, and concerns raised by the public.

The past eight years have witnessed an assault on NEPA that has eroded the application of the law to the point where major federal actions with significant environmental effects are taken without any environmental analysis. First, some agencies have improperly shifted the application of NEPA to later stages of decision making. CEQ regulations state that agencies should integrate the NEPA process at the earliest time possible; the regulations also expressly state that the adoption of "formal plans" is major federal action subject to NEPA. However, agencies have not heeded this mandate, with one agency (the Forest Service) going as far as seeking to exempt planning documents entirely from NEPA analysis. By misconstruing NEPA to mean that an agency does not have to conduct a NEPA analysis until narrow, site-specific actions are taken, agencies have effectively exempted themselves from NEPA's provisions at the decision stage. Moreover, some agencies fail to apply NEPA until after they have entered binding contracts that create a financial incentive for the agency to go forward with an action regardless of its environmental impacts.

Second, agencies have improperly expanded the use of categorical exclusions (CEs) to exempt categories of activities that may have significant environmental effects from environmental review. A categorical exclusion is "a category of actions which do not individually or cumulatively have a significant effect on the human environment", and therefore do not require preparation of environmental impact statement or environmental assessment. CEs are approved through an agency's NEPA implementing procedures or, in one case, through legislation. If extraordinary circumstances exist that may cause the proposed action to have a significant effect on the environment, that action cannot be categorically excluded from NEPA analysis.

When used appropriately, CEs can save agencies time and resources, and avoid duplicative analysis for actions that will not have a significant effect on the environment. However, when there are substantive questions about whether an action's impacts are significant, the public deserves the opportunity to be part of the process for evaluating potential impacts.

Over the past eight years, agencies and Congress have expanded the approval and application of CEs. No longer are CEs applied to only discrete actions that do not have a significant environmental effect; instead, CEs have been expanded to include broad categories of actions that should receive a detailed look by the agencies and the public because these actions may have significant direct or cumulative impacts on the environment. Also, some agencies have failed to provide for extraordinary circumstances that would limit the application of CEs to environmentally insignificant actions. Thus, potentially significant actions are approved with minimal to no environmental review or public input.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Reinforcing CEQ's Leadership Role in the CE Process

On September 19, 2006, CEQ published draft guidance designed to aid agencies in the establishment, revision, and use of CEs. This guidance has not been finalized. The next Administration should issue final guidance that will reinforce CEQ's leadership role in the CE process and reflect the changes suggested in comments submitted jointly by over 100 local and national environmental organizations.[1] Specifically, the final guidance should, inter alia, (1) require agencies to consult with CEQ early in the drafting of the proposed CE and at minimum before the proposed CE is published in the Federal Register, (2) require agencies to provide CEQ with a comprehensive administrative record supporting the new or revised CE, (3) require that agencies make information supporting CEs available to the public, and (4) instruct agencies to avoid establishing CEs for activities likely to generate public opposition regarding effects on the human environment.

Responsible Official: CEQ Chair

2. Review of CEs that raise significant concerns

The next Administration should carefully review the CEs that raise significant concerns, and retract those that include actions that may individually or cumulatively have a significant effect on the environment, thus requiring environmental review.

Responsible Official: CEQ Chair

3. CEQ Guidance on Legislative CEs

CEQ should include in its CE guidance a section that pertains to the CEs that were legislatively created by the 2005 Energy Policy Act. This section should clearly state that in applying the 2005 Energy Policy Act CEs, agencies must provide for extraordinary circumstances to limit the application of those CEs. More generally, CEQ should further state that all CEQ regulations implementing NEPA apply to actions taken pursuant to the 2005 Energy Policy Act CEs.

Responsible Official: CEQ Chair

4. CEQ guidance on timing of NEPA application

CEQ should take a leadership role in directing agencies to integrate NEPA at the earliest and most efficacious time to avoid having agencies invest their time and resources in implementing flawed plans adopted without a full understanding of their environmental impacts, cumulative effects or alternatives. CEQ should issue guidance that explains to agencies that 40 CFR § 1501.2 requires agencies to apply NEPA at the planning stages of their decisions, when those plans will have a significant effect on the environment and prior to entering contractual agreements with private parties that create a liability regarding subsequent actions having a significant effect on the environment.

Responsible Official: CEQ Chair

[1] The jointly submitted comments are available at http://ceq.hss.doe.gov/ntf/cegcomments/Combined_No1_NRDC.pdf

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Oppose legislatively-created CEs**

   The Administration should strongly oppose any future legislation that introduces new CEs, such as the unprecedented use of CEs included in the 2005 Energy Policy Act. The Administration should work with Congress to remove or limit appropriately the 2005 Energy Policy Act CEs by limiting their application to situations where there are no extraordinary circumstances, as required by 40 C.F.R. §1508.4.

   Responsible Official: CEQ Chair

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

TOP THREE ISSUES

1. FIXING THE REGULATORY PROCESS

The new Administration must fix the broken regulatory process and reintroduce integrity and efficacy into agency rulemaking. A crucial action that must be taken is to reject the changes to the regulatory review process engineered by the Bush OMB and reaffirm the primary role of substantive law and agency expertise in regulatory decision making.

2. OPENNESS AND TRANSPARENCY

Legally supportable, effective and appropriate agency actions and rulemakings require increased openness and transparency both within the federal government and with the general public.

3. ROBUST SCIENTIFIC INPUT INTO DECISION MAKING

High-quality advice on science and technology issues is crucial to the nation's health, prosperity, and security. A high priority for the next administration should be to provide the clear and objective scientific advice needed to make informed policy decisions.

KEY APPOINTMENT POSITIONS

- Director of OMB
- Deputy Director of OMB
- Deputy Director of OMB for Management
- Administrator of the Office of Information and Regulatory Affairs
- Program Associate Director for Natural Resources, Energy and Science
- Program Associate Director for General Government

ISSUE 1
FIXING THE REGULATORY PROCESS

BACKGROUND

The federal agencies charged with protecting public health, safety, and the environment are responsible for the important task of filling in gaps left by Congress in statutes by promulgating regulations. The Bush Administration through OMB methodically undermined this regulatory process by imposing costly and difficult review procedures that had an inherently anti-regulatory bias and by inappropriately inserting itself into the rule-making process at the expense of the expert agencies. As a result, economically and socially beneficial rules have been delayed, blocked, or weakened.

The new administration should suspend the set of changes made by the Bush OMB to the regulatory process, review their effects, and issue its own changes to the regulatory process that will ensure (1) that the regulatory system serve the public interest in health, safety and environmental protection; and (2) that it be transparent, science-based, and fully open to public participation.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Withdraw Regulatory Review E. O. 13422**

   Executive Order 13422 revised the existing regulatory review procedures of the Clinton Administration (E.O. 12866) and adversely affected the regulatory system by (1) setting an unrealistic threshold for regulatory action, namely, that there be proof of a "market failure"; (2) impeding the implementation of rules by holding up the issuance of routine agency guidance documents; and (3) further politicizing the regulatory review process within individual agencies.

   Responsible Officials: Director of OMB, OIRA Administrator

2. **Revise the Use of Cost-Benefit Analysis**

   The Bush OMB revised the operating manual for the regulatory review process, called the "best practices" document, in a way that both improperly increased the reliance on cost-benefit analysis in the regulatory decision making process and dictated the use of specific cost-benefits techniques that increased anti-regulatory bias. Cost-benefit analysis should never be used to determine the outcome of a rulemaking or to replace the substantive decision making requirements of the underlying statute, which in the environmental field may be a health-based or technology-based standard. When cost-benefit analysis is undertaken, unless otherwise required by law, it should merely be used as a tool to provide supplemental information to inform a rulemaking. Special measures are needed to offset the natural tendency of cost-benefit analysis to overstate costs (e.g. by ignoring the potential for technological progress) and to understate benefits (e.g. by overlooking social and environmental values that are difficult to quantify in dollars). Indeed, some values are recognizably difficult to monetize, such as the value of a human life, an endangered species, wilderness, or social equity concerns. Numerous cases of overinflated costs and undervalued benefits have been documented by Frank

Ackerman and Lisa Heinzerling in Priceless: On Knowing the Price of Everything and the Value of Nothing (2004).

Responsible Officials: Director of OMB, OIRA Administrator

3. Limit the Regulatory Role of OMB

The Bush OMB has inappropriately intruded into the agency rule making process through its use of OIRA. The worst practice is substituting the substantive opinion of OIRA officials for the expert federal agency responsible for the regulatory process. A more appropriate role for OMB is to focus on improving the efficiency of government operations, coordinating policy across agencies and ensuring compliance with the underlying Congressional statutes.

Responsible Officials: Director of OMB, OIRA Administrator

POLICY RECOMMENDATIONS - BUDGETARY

1. Increase the budget

OMB should review the budget of federal agencies to ensure that they have the necessary resources and expertise to properly conduct regulatory reviews and comply with the requirement of the Administrative Procedure Act without undue delays in beneficial rulemakings.

Responsible Officials: Director of OMB, Administrator of OIRA and the Associate Directors for Natural Resources, Energy and Science and of General Government.

2. Include NOAA in PAD for Natural Resources, Energy and Science

OMB should review NOAA's budget under the Program Associate Director for Natural Resources, Energy and Science instead of the Program Associate Director for General Government as part of the Department of Commerce. The current placement of the NOAA budget under the General Government division discourages the scientific work, regulatory policies and other activities in NOAA from being closely integrated with other environmental agencies such as the Department of Interior and EPA, and from being considered by staff with expertise in natural resources-based programs. The U.S. Commission on Ocean Policy thought this issue was so important that it recommended this organizational revision in its report. Although this revision would divide the authority for programs of the Department of Commerce between two OMB PADs, precedent for this already exists (USDA's conservation programs and the Forest Service are under the PAD for Natural Resources, Energy and Science while the USDA's entitlement programs are under the PAD for Human Services; and the U.S. Corp of Engineers likewise is under the PAD for Natural Resources, Energy and Science while the rest of the Department of Defense is under the PAD for National Security).

Responsible Officials: Director of OMB, Program Associate Director for Natural Resources, Energy and Science, Program Associate Director for General Government.

Place a moratorium on finalizing any new "midnight regulations," and review those rules finalized but not yet in effect. Regulations that are mandated by court order or involve a statutory deadline or are necessary to meet health and safety emergencies would be exempt from the moratorium and review.

Rescind anti-regulatory procedures imposed by the Bush OMB, including E.O. 13422 and the improper use of cost-benefit reviews, and issue guidance that will fix the currently broken regulatory process.

ISSUE 2
OPENNESS AND TRANSPARENCY

BACKGROUND

In a recent Union of Concerned Scientists survey, EPA scientists reported selective use of data to justify a pre-determined regulatory outcome and directions from political appointees "to inappropriately exclude or alter technical information in EPA scientific documents." A NASA Inspector General report recently concluded that political appointees in the agency's public affairs office "worked to control and distort public accounts of its researchers' finding about climate change for at least two years," and "'reduced, marginalized, or mischaracterized climate change science made available to the general public.'"

OMB must prevent and reverse agency suppression, alteration or distortion of data, conclusions and recommendations. These actions mislead the public and violate the ability and rights of Americans to use this information to make decisions and to influence agency actions, legislation and private sector activities. OMB also needs to ensure that other agency personnel can review, comment on, and use vital information.

A 2007 Government Accountability Office Report titled Reexamining regulations: Opportunities Exist to Improve Effectiveness and Transparency of Retrospective Reviews stated that agencies need to explore methods to more effectively communicate and document information about their reviews and the underlying analyses.

It is not enough to publish technical data and recommendations if actual decisions are made without a honest explanation. For example, EPA recently rejected the Clean Air Scientific Advisory Committee's recommendations and set a primary ozone air quality standard that did not adequately protect public health. Even worse, EPA found that science required a strong secondary ozone standard to protect crops, but was overruled by the White House.

The integrity of federal science is threatened in no small part by decisions made behind closed doors. Opening up federal science and decision making to scrutiny from Congress and the public is an important means of revealing and ending political interference in science. Much of the pre-rulemaking shaping of a rule is excluded from public review. Transparency is the key to public confidence, accountability, and public participation as well as the antidote to political interference.

The 21st Century Right to Know project was organized by OMB Watch and involves more than 100 organizations and individuals from around the country and across the political spectrum. OMB should seriously consider the project's set of recommendations, once they are final.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Create transparency goals and incentives

OMB should create transparency goals and training programs, direct agencies to include transparency in appropriate job descriptions, make it a factor in those jobs' federal employee performance evaluations, provide positive incentives for transparency and issue annual, public evaluations of agencies' successes in this area. Goals should include disclosure online all communications, written or oral, between any White House office and any nongovernmental entity regarding rules under development or under review.

Responsible Official: OMB Director

2. Disclose Resource Materials Used in Decisionmaking

Disclose the analyses used in the formation and promulgation of regulatory documents. Agency rulemaking dockets should be expanded, complete, and available online. There should be disclosure of what information is considered in rulemaking. The scientific, technical, economic and social information that forms the foundation of regulatory decisions is too often unavailable or hidden from public view. The labeling of information as classified business information (CBI) is overused, agency rulemaking dockets are not easily available, and studies are often used selectively to justify a predetermined policy outcome.

Responsible Official: OMB Director

3. Issue a "Best Practices" Circular

To produce better regulatory decisions and improve transparency, OMB should issue a Circular setting forth best practices instructions for Federal agencies that provides guidance on how to develop the regulatory analysis, recordkeeping, and transparency that should accompany draft notices of proposed rulemaking and draft final rules as well as guidance on the enforcement of regulations. And make clear that all research results considered in the promulgation of regulations should be made part of the agency's rulemaking docket, which should be made available in an online searchable format.

Responsible Official: OMB Director

4. Put Technology to Use to Benefit the Public

The rulemaking process as currently devised provides few mechanisms for the public to learn about a rule's status, but the rise of the Internet has redefined the expectations for government transparency. The Administration should create a system that allows the public to track the status of a rule and its associated paperwork requirements and information should be available online. Online rulemaking dockets should be among the primary vehicles for disclosure. Similarly, agencies should develop plans for digitizing non-digital information. Also, Regulations.gov - the federal government's central location for online access to rulemaking dockets and public commenting - is in need of improvement.

Responsible Official: OMB Director

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Ensuring Public Disclosure of Research Sponsorship**

   Agencies must often rely on private research to develop regulations. Congress should consider legislation to require the disclosure of privately-sponsored research used in the regulatory process in the same way that public research should be disclosed.

   Responsible Official: OMB Director

2. **Ensuring Public Disclosure of Relevant Studies Supporting Rulemaking**

   Currently, agencies sometimes include in the rulemaking docket only the information that is directly cited in a rule. Congress should hold oversight hearings and request that agencies should disclose online all studies in their possession related to a rulemaking, regardless of whether the study was used to inform the policy option the agency chose.

   Responsible Official: OMB Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Adequately Fund Agency FOIA Processes**

   The President should request that Congress appropriate increases in the budget of federal agencies to the extent necessary to ensure that they have the resources to fulfill FOIA requests. As a general trend, the number of FOIA requests the government receives increases each year. Because the FOIA backlog is so significant, and because FOIA requests are likely to increase each year, agencies will eventually require more funds if they are to make progress in reducing the FOIA backlog and to promptly handle new FOIA requests.

ISSUE 3
ROBUST SCIENTIFIC INPUT INTO DECISION MAKING

BACKGROUND

The United States has enjoyed prosperity and health in large part because of its strong and sustained commitment to independent science. As the nation faces new challenges at home and growing competitiveness abroad, the need for a robust federal scientific enterprise remains critical. Unfortunately an epidemic of political interference in federal science threatens this legacy, promising serious and wide-ranging consequences. For nearly 90 documented examples across over 20 agencies and departments see www.ucsusa.org/atoz.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

There are a set of actions taken by the Bush OMB that undermine sound science and should be withdrawn to restore scientific integrity to the regulatory process, as outlined below.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Withdraw OMB Policies that Undermine Sound Science

The new administration should rescind OMB's Risk Assessment Bulletin, which created a new definition of risk assessment that conflicts with long-established concepts and practices and creates unnecessary delays in the rulemaking process. The National Research Council reviewed the Bulletin strongly recommended that the Bulletin be completely withdrawn.

OMB's Final Information Quality Bulletin for Peer Review should also be withdrawn because it improperly interjects politics into science and is expensive to implement with little added benefit. OMB holds very little scientific or peer review expertise and should not play any supervisory role in implementing scientific peer review.

Responsible Officials: Director of OMB, OIRA Administrator

2. Prevent Inappropriate Interagency Review

The administration should clarify which agencies have primary authority in various areas of scientific expertise, and limit any review of scientific information by other agencies to advice and comment. Each agency has authorizing legislation and a mission that describe its particular duty to the people of the United States. Cases such as the DOD review of toxicology profiles in the EPA's IRIS database reveal the perils of allowing other entities to direct an agency's scientific investigations, or to limit that agency's dissemination of scientific information to the public.

Responsible Officials: Director of OMB, OIRA Administrator, other agency heads

3. Exclude OMB from purely scientific determinations

Ensure that OMB review of agency guidance documents does not permit inappropriate political review of scientific documents**.** The OMB plays an important role in coordinating and overseeing the process of crafting regulations. However, the OMB does not have the expertise to credibly review the scientific findings underlying policy decisions across multiple federal agencies. The regulatory process should construct a firewall between scientific decision-making and OMB review.

Responsible Officials: Director of OMB, OIRA Administrator

4. Regulatory solutions and analysis should be consistent with statutory provisions

If a statute directs agencies to promulgate regulations according to standards of best available technology or with an adequate margin of public health protections, for example, the regulatory options should reflect that statutory mandate. This fundamental principle must be followed if the president decides he wishes OIRA to continue transactional reviews of individual significant regulations

Responsible Officials: Director of OMB, OIRA Administrator, heads of agencies

THE FIRST 100 DAYS

Consistent with policies announced under issues 1 and 2 to restore confidence in the integrity and transparency of government, the President should announce measures taken immediately to restore the integrity of science in government decisionmaking, including immediate withdrawal of OMB guidances on Risk Assessment and Peer Review, and policy guidance to ensure OMB does not intrude upon agencies' assessment of scientific issues.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

TOP THREE ISSUES

1. SCIENTIFIC ADVICE FOR THE PRESIDENT AND OTHER DECISION MAKERS

High-quality advice on science and technology issues is crucial to the nation's health, prosperity, and security. A high priority for the next administration should be to provide the president with the clear and objective scientific advice needed to make informed policy decisions.

2. RESTORATION OF SCIENTIFIC INTEGRITY

The science adviser is in the unique position of offering the president an overview of the state of federal science. OSTP can oversee the integrity of science in the executive branch, and hold agencies accountable for any abuses of science that might occur.

3. PROTECTION AND SUPPORT FOR FEDERAL SCIENTISTS

Federal scientists have a profound responsibility to the U.S. public, but to fulfill that responsibility they need certain rights and protections. Federal scientists have chosen to dedicate their lives and careers to advancing the core missions of their agencies but have been struggling in with agencies willing to set aside both the conclusions of science and the rights of their scientists. These scientists deserve a workplace conducive to a robust scientific enterprise.

KEY APPOINTMENT POSITIONS

- Director
- Associate Director, Environment
- Associate Director, National Security and International Affairs
- Associate Director, Science
- Associate Director, Technology
- Associate Director, Scientific Integrity (new proposed position)

ISSUE 1

SCIENTIFIC ADVICE FOR THE PRESIDENT AND OTHER DECISION MAKERS

BACKGROUND

The United States government must adhere to high standards of scientific integrity in forming and implementing its policies. To meet its obligation to serve the public interest, the government must have reliable scientific work and advice at its disposal. This requires the government to provide the resources needed to carry out its scientific missions, and to create an environment that respects the scientific method. To that end, scientists should have the freedoms and protections they need to fulfill their public responsibilities.

Political interference in science has penetrated deeply into the culture and practices of federal agencies. These systemic problems cannot be resolved quickly or simply. Leadership and an unwavering commitment to scientific integrity from our next president, continued oversight from the legislative branch, and the persistent and energetic engagement of many different stakeholders are critical.

The nation will face extraordinary challenges in the coming years and restoring the public's faith in government decision making is a critical need. Transparency and good government reforms are not only inexpensive to implement, but are likely to have additional positive impacts that extend beyond the federal scientific enterprise.

It is our hope that restoring the integrity of science will figure heavily in the presidential transition process and the first months of the new administration. A great deal of power has been accumulated in the executive branch to the detriment of science-based public policy, and for that very reason strong leadership at the top of the executive branch and by federal agencies will be needed to restore scientific integrity to policy making. Congress, the scientific community, and other public stakeholders have played important roles as guardians of independent science, and their continued leadership will also be essential in creating significant and lasting reform.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. An Early Strong Choice for a Cabinet-level Science Advisor

It is critical that a candidate for position be named by December and that the position be filled as soon as possible after the inauguration. The scientist in this position will likely have held scientific leadership positions in the past that have earned him or her the respect of a wide portion of the scientific community. Because science and technology issues are so closely intertwined with other national priorities, including health, agriculture, energy policy, and national security, the science adviser should be a cabinet-level position with consistent and direct access to the president and other cabinet members.

Responsible Official: The President

2. Reinvigorate and Expand Other Advisory Bodies

Advisory bodies such as the President's Committee of Advisors on Science and Technology (PCAST) and the National Science and Technology Council (NSTC) should be expanded into full offices and placed under the direction of the OSTP. The OSTP should organize an on-call interagency task force

with access to experts in a wide range of disciplines from relevant agencies. This task force should operate on an ad hoc basis, responding with timely advice as needed. The OSTP should serve as the president's primary source of scientific advice. However, the agency's staff cannot now encompass the full range of expertise the president may need. The president should amplify the agency's advising capacity by expanding its network of advisory boards as well as its in-house expertise.

Responsible Official: The President

3. Reinstate the Office of Technology Assessment

OSTP should make the case to the president for his leadership on persuading Congress to reinstate the Office of Technology Assessment (OTA) by putting enough funds in his budget to create a successful office, and by appointing a widely respected scientist to lead it. An in-house research staff that can analyze technical information and distill it down to a concise and useful form is an essential resource. From 1972 until its demise in 1995, OTA filled that role for Congress and indirectly for many others.

Responsible Official: Science Advisor

4. Support FACA Reform

The president, through his Science Advisor, should work with Congress to reform and strengthen the federal scientific advisory committee system. The Federal Advisory Committee Act became law in 1972 to ensure, among other goals, that the nation has access to the best objective scientific advice. Unfortunately, the integrity of many scientific advisory committees has been compromised in recent years. Strengthening the scientific advisory system should be a priority for the next administration. In 2008, the House passed HR 5687, the Federal Advisory Committee Act Amendments Act, although the Senate did not pass equivalent legislation. This bill contains many of the following reforms we endorse and the next Congress should continue work on these issues.

Responsible Official: Science Advisor

5. Defining Conflicts of Interest

The Science Advisor should work with the Office of Governmental Ethics (OGE) and the General Services Administration to provide clear guidance on how the following issues affect the federal scientific enterprise:

- Agencies should specify which advisory committees are expressly scientific and which are designed to gather stakeholder input.
- Agencies should clarify their criteria for appointing advisory committee members as "special government employees" (SGEs) or "representatives," and ensure that the proper level of scrutiny of conflicts of interest occurs (GAO 2004). (SGEs are subject to greater scrutiny than representatives, who are assumed to be stakeholders with special interests.)
- OGE should work with the agencies to define the type and magnitude of financial ties that constitute a conflict of interest, and they should establish transparent guidelines for the level of conflict of interest that disqualifies nominees from participating in a particular committee.
- For committees whose mission is purely to provide objective scientific advice (as opposed to committees designed to gather input from stakeholders), committee members should be appointed as SGEs and should be entirely free of financial conflicts of interest.

- Scientists and researchers with conflicts of interest may provide their expertise to scientific advisory committees, but agencies should take steps to ensure that they do not have decision-making roles on those committees, and that their participation is limited to making presentations and responding to questions.
- Scientists who have taken public positions on issues should not be excluded from an advisory committee because of concerns about bias. Having a point of view does not preclude an objective assessment of the information presented to a committee. A scientist's membership in a scientific association should not be evidence of bias, even if that association has a stated policy agenda.

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **FACA Reform**

   Examine HR 5687 as a place to begin exercising leadership on FACA reform legislation.

   Responsible Official: Science Advisor

2. **Reinstate the Office of Technology Assessment**

   The administration should work with Congress to reinstate the Office of Technology Assessment (OTA) and appropriate sufficient funds to create a successful office, and by appoint a widely respected scientist to lead it. None of Congress's research offices are equipped to provide the type of advice in which the OTA specialized. The National Academy of Sciences remains the gold standard for advice on scientific topics, but it operates on a longer timescale and is not designed to handle short term congressional needs such as interpreting information and comparing policy options. The Government Accountability Office and the Congressional Research Service are better able to meet the needs of legislators, but do not have a broad base of scientific expertise.

   Responsible Official: Science Advisor

POLICY RECOMMENDATIONS - BUDGETARY

1. **New Money for OTA**

   Appropriate funds to OTA such that it can be fully staffed and play a significant role.

2. **New Position in OSTP**

   Funding is necessary for the Associate Administrator for Scientific Integrity

THE FIRST 100 DAYS

The early identification of a science advisor and his/her appointment shortly after inauguration will generate considerable visibility for the rest of the reforms he/she might want to propose.

ISSUE 2
RESTORATION OF SCIENTIFIC INTEGRITY

BACKGROUND

The integrity of federal science is threatened in no small part by decisions made behind closed doors. Opening up federal science and federal decision making to scrutiny from Congress and the public is an important means of revealing and ending these abuses. The public needs greater access to federal science through better disclosure of regulatory decision making, wider use of information technology, and the reform of agency communication policies to allow scientists to freely share their expertise. An open government is the best safeguard against corruption and abuse of power, and is a necessary ingredient of democracy.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **The president should instruct the heads of scientific and regulatory agencies that scientific integrity is a crucial component to achieving their missions**

   The president should issue an executive order requiring agency heads to monitor their agency's efforts to improve its scientific integrity, submitting their observations and actions to the OSTP in the form of an annual report on the state of scientific integrity within each agency. The science adviser is in the unique position of offering the president an overview of the state of federal science. The Science Adviser should appoint an OSTP assistant administrator to oversee the integrity of science in the executive branch, and hold agencies accountable for any abuses of science that might occur.

   Responsible Officials: The President, Science Advisor

2. **Commit to the Principles of Open Government**

   The president should publicly commit to the principles of open government and should create policymaking processes that presume that government information is public knowledge, to be withheld only when necessary. The public should not have to rely on time-consuming FOIA requests or whistleblowers to fully understand the workings of their government. The Science Advisor should clarify that this includes scientific information.

   Responsible Official: Science Advisor

3. **Improve the Use of Technology to Share Scientific Information with the Public**

   The administration should radically improve its use of technology to share all scientific information generated by the government with the public, with the goal of making all government scientific information searchable, shareable and usable. While this is a broader initiative, the science advisor should:

   - Redesign science.gov to be a comprehensive source for the government's scientific databases, reports and other information holdings. The website should be broadly searchable and the browsing interfaces should be organized by a variety of topics so members of the public do not need to know which agency has the information they seek.

- Move towards universal electronic reporting of scientific and other information, so the data can be quickly made available to the public.

Responsible Officials: Science Advisor

4. **Review Existing Legal Barriers to the Release of Scientific Information**

The Science Advisor should have a leadership role in insuring that the use of information control markings is reined in. He/She should work to shift the burden of proving that scientific information falls under the Confidential Business Information (CBI) exemption onto those requesting the exemption.

Responsible Officials: Science Advisor, Assistant Attorney General, Civil Division, Department of Justice

5. **Review Agency Policies on Media and Public Affairs and the Clearance of Official and Non-Official Publications and Presentations**

The Science Advisor should build upon the guidelines on the release of scientific information that OSTP released in 2008 and require that every science-based agency have a media policy on its web site. Information sharing is an essential component of the scientific method. Federal scientists and researchers should be free to conduct research and publish findings without fear of retaliation. While federal agencies have a legitimate interest in the quality of scientific results published by staff, the appropriate standard for reviewing and approving publications is scientific peer review, not political or policy review. The science adviser should develop minimum guidelines to ensure the free flow of scientific information and the president should encourage agency heads to adopt policies (or modify existing policies) consistent with these guidelines.

Responsible Official: Science Advisor

ISSUE 3
PROTECTION AND SUPPORT FOR FEDERAL SCIENTISTS

BACKGROUND

The problem of political interference in science will not be solved by a new Administration alone. There will always be pressure on elected officials from special interests—to weaken public safety, health and environmental laws. Systemic reforms to protect scientists are necessary for change to take place.

It is difficult to quantify the number of scientists who have been pressured or bullied to change their scientific findings due to political pressures, and it's even harder to measure how the hostile attitude of political appointees towards conservation science has changed the culture within the agencies. However, the indicators that are available paint a disturbing picture.

Federal scientists have a profound responsibility to the U.S. public, but to fulfill that responsibility they need certain rights and protections. One frontline defense against abuse of science is to specifically affirm that scientists

who report such abuse are protected from retaliation as whistle-blowers. Existing whistle-blower laws should be strengthened for all federal employees, and the failed system for investigating claims of retaliation should be reformed.

The next administration should back legislation to strengthen the rights of federal employees who blow the whistle on fraud and corruption, and to ensure wider application and stronger enforcement of those rights.

While there are broader whistleblower protection laws on the books, court decisions over the years have eroded those laws and stifled Congressional intent to protect federal workers who expose waste, fraud and abuse of authority in the government. When a federal employee steps forward to protect the public from harm or to expose the waste of billions in taxpayer dollars, that worker often is harassed, demoted or fired. Rarely do federal employees win when they try to defend themselves against harassment by agency managers.

The situation is even worse for federal scientists because whistleblower protection laws have not specifically addressed situations where agency managers attempt to distort or suppress federal research or technical information. As a result, scientists who have attempted to disclose political interference with science have been found ineligible for whistleblower protection.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Improved Whistleblower Protections for Scientists**

   Unlike several other environmental statues, the ESA and NEPA do not have built-in whistleblower protections. While there are broader whistleblower protection laws on the books, court decisions over the years have eroded those laws and stifled Congressional intent to protect federal workers who expose waste, fraud and abuse of authority in the government. When a federal employee steps forward to protect the public from harm or to expose the waste of billions in taxpayer dollars, that worker often is harassed, demoted or fired. Rarely do federal employees win when they try to defend themselves against harassment by agency managers.

   Responsible Officials: Science Advisor, Chairman, Council on Environmental Quality, Secretary, Department of the Interior

2. **Informing Scientists of their Rights**

   Government scientists have a number of rights and protections. Unfortunately many are either unaware of them or confused about exactly how they work. Along with work to implement stronger protections, the next administration should educate government scientists regarding their rights and protections on a regular basis through briefings, postings at their workplace, and on the web.

   Responsible Officials: President, Science Advisor

3. **The Science Advisor should fully understand the Merit Systems Protection Board and Office of Special Counsel and work with them to be inclusive of federal scientists as they improve their ability to become a secure means of reporting misconduct and corruption, and of protecting scientists from unlawful retaliation.**

4. **Setting the tone to support scientific integrity**

The president should issue an executive order requiring agency heads to monitor their agency's efforts to improve its scientific integrity, submitting their observations and actions to the OSTP in the form of an annual report on the state of scientific integrity within each agency. It is important that OMB also submit such a report. The science adviser is in the unique position of offering the president an overview of the state of federal science including advising on interagency review of regulatory matters. The Science Adviser should appoint an OSTP assistant administrator to oversee the integrity of science in the executive branch, and hold agencies accountable for any abuses of science that might occur.

Responsible Officials: The President, the Science Advisor

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Passing Whistleblower Protections

In the past, scientists who have attempted to disclose political interference with science have been found ineligible for whistleblower protection. Under the Whistleblower Protection Enhancement Act, H.R. 985, which recently passed in House of Representatives, these disclosures are protected. Whistleblower protections for scientists who report abuse of science would help ensure that basic scientific freedoms of federal scientists are respected.

- Congress should pass the Whistleblower Enhancement Act, which would give federal scientists the right to expose political interference in their research without fear of retribution. The House and Senate have approved, and it's time for the conferencing to end and for a bill to reach the President
- Scientists who provide information or assist in an investigation regarding manipulation or suppression of scientific research should be given adequate protection from retaliation.
- OSTP should fully investigate any retaliatory actions against a scientist who expresses their concerns within or outside of an agency.

Responsible Official: Science Advisor

2. Strengthen the Merit Systems Protection Board and Office of Special Counsel

Congress should strengthen the Merit Systems Protection Board and Office of Special Counsel to make them capable of providing federal employees a secure means of reporting misconduct and corruption, and of protecting them from unlawful retaliation. In the last Congress, bills including substantive improvements to the process were introduced in both the House and Senate but stalled in committee. The next Congress must finish the work on this important reform.

Responsible Official: Science Advisor

DEPARTMENT OF DEFENSE

ARMY CORPS OF ENGINEERS

DEPARTMENT OF DEFENSE

ARMY CORPS OF ENGINEERS

TOP THREE ISSUES

1. RESTORATION

Protection and restoration of healthy, fully functioning ecosystems and their associated ecological services are the highest priority for project planning. Projects should be designed for ecosystem restoration and protection projects, backed by credible science and sufficiently funded.

2. REFORM

The Water Resources Development Act of 2007 requires the Corps to implement a number of reforms that are important for the health, safety, and welfare of people and wildlife. In large part, these reforms have yet to be implemented. The administration should direct the Corps to do so with all deliberate speed.

3. REGULATORY

The Corps should reform the regulatory program governing the use of the nation's navigable waters to prioritize protection of aquatic resources from harm caused by dredge-and-fill activity and other activities covered under this program. Avoidance of adverse impacts to water bodies should be reemphasized.

KEY APPOINTMENT POSITIONS

- Assistant Secretary of the Army for Civil Works, ASA (CW)
- Principal Deputy Assistant Secretary of the Army (Civil Works)
- Deputy Assistant Secretary of the Army (Policy and Legislation)

ISSUE 1
RESTORATION

BACKGROUND

The Corps is the nation's primary river manager and historically has managed the Nation's water resources for flood protection and navigation purposes, often with dire environmental consequences. Beginning in 1990 Congress directed the Corps to incorporate aquatic restoration as one of its three core missions, and their role in aquatic restoration has continued to expand, most notably as the federal agency chiefly responsible for implementing restoration plans in the Everglades, the Mississippi River and Delta, and Puget Sound.

Restoration is critically important for fish and wildlife, for protecting communities, for providing clean water, and for improving economies that rely on healthy natural systems. The importance of restoration for communities was made tragically clear when Hurricane Katrina slammed into the Gulf Coast. Louisiana's coastal wetlands were so degraded they could not protect New Orleans from hurricane Katrina's strength.

Across the country, centuries of exploitation and re-engineering are pushing major aquatic ecosystems to their tipping point where they may no longer be able to support the people, fish, and wildlife that rely on them. In the face of the already significant losses to healthy rivers, wetlands, and coasts, it is more essential than ever that the Corps elevate its restoration mission and ensure that aquatic ecosystem restoration projects are given the same—or higher—priority as Corps flood protection and navigation projects.

The added impacts of sea level rise, rising water temperatures, salt water intrusion, invasive species, and the increasing frequency and intensity of extreme weather events, all being exacerbated by global warming, are devastating already vulnerable aquatic ecosystems even as it has become clear that these systems are vital for buffering the impacts of climate change. The Corps must take action now to ensure these systems are preserved for generations to come.

The Corps has a long history of planning and constructing projects that have damaged our Nation's water resources, but now the Corps must focus on restoring and repairing our damaged ecosystems. The Corps must move restoration projects forward expeditiously and efficiently if our aquatic ecosystems are to continue to provide for our children and grandchildren.

Other involved federal agencies:

Council on Environmental Quality
Department of the Interior
Department of Agriculture
Environmental Protection Agency
National Oceanic and Atmospheric Administration
Department of Transportation

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Programmatic Regulations for Everglades Restoration

Joint programmatic regulations or guidelines should provide for measures to ensure transparency and accountability on the part of implementing agencies and sufficient flexibility to avoid miring restoration in duplicative processes. They should include the Interim Goals and clarify their role: as quantitative desired levels of ecological performance intended to drive the project design and implementation and advance total system restoration.

Responsible Officials: Assistant Secretary of the Army (Civil Works) and the Director of the National Park Service and the Director of the U.S. Fish and Wildlife Service.

2. Establish Office of Ecosystem Restoration under CEQ

Establish by executive order an Office of Ecosystem Restoration to coordinate all federal agencies on ecosystem restoration.

Responsible Officials: The President; Chairman, Council on Environmental Quality

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Consider Restoration in Context of Infrastructure Investment

In any stimulus package going forward, the Department of the Army should support provisions that require taking into account essential ecosystem services provided by fully functioning ecosystems as natural infrastructure, including the enhancement and protection of built infrastructure.

Responsible Official: Assistant Secretary of the Army (Civil Works)

2. Consider Restoration in Context of Transportation Bill

In any stimulus package going forward, the Department of the Army should support provisions that require taking into account essential ecosystem services provided by fully functioning ecosystems as natural infrastructure, including the enhancement and protection of built infrastructure.

Responsible Official: Assistant Secretary of the Army (Civil Works)

3. Ensure Timely Authorization and Consistent Funding

In the next Water Resources and Development Act reauthorization, the administration should work with Congress to create a dedicated funding source and appropriate authorization mechanism for the restoration and protection of priority ecosystems, such as the Everglades, the Mississippi River, and Coastal Louisiana, including adequate funding for monitoring and assessment.

Responsible Officials: Chairman, CEQ; Director, OMB; Assistant Secretary of the Army (Civil Works)

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Full Capability Level Funding**

   Propose and support capability funding for ecosystem restoration, including Everglades, Upper Mississippi River, and Coastal Louisiana restoration (including closing and restoring the Mississippi River Gulf Outlet) initiatives.

   Responsible Officials: Assistant Secretary of the Army (Civil Works); Director, OMB; Chairman, CEQ

THE FIRST 100 DAYS

Issue an executive order on ecosystem restoration, including the creation of the Office of Ecosystem Restoration at the Council on Environmental Quality, and highlight ecosystem restoration funding in President's budget proposal.

ISSUE 2
REFORM

BACKGROUND

For decades, the Corps has planned and constructed structural water resources projects designed to fuel economic development or reduce flood damages by altering and manipulating river systems and coastlines. While these approaches have produced some economic benefits for the Nation, they have also caused enormous environmental and economic harm.

The environmental damage has been so great that Corps projects are recognized as one of the leading reasons that North America's freshwater species are disappearing five times faster than land based species, and as quickly as rainforest species.[1] Large-scale structural projects have also increased flood risks for many communities, reduced water quality, impaired recreational opportunities, and damaged economies that rely on a healthy environment. Tragically, flaws in Corps planning and construction led to the deadly flooding of New Orleans following Hurricane Katrina.

The danger of the status quo is dramatically increasing as the Nation suffers from the increased storms, floods, droughts, and rising sea levels resulting from climate change. Corps planning must change to ensure protection and restoration of healthy rivers, wetlands, and coastlines to help communities withstand these climate change impacts.

As a result of significant effort from the environmental community, Congress enacted critical reforms to the Corps' planning process in WRDA 2007. Calls for reforms also came from the Government Accountability Office (GAO),

[1] Ricciardi, Anthony and Rasmussen, Joseph B., "Extinction Rates of North American Freshwater Fauna"; *Conservation Biology*; 13 (5), October 1999, at 1220.

National Academy of Sciences, National Academy of Public Administration, Army Inspector General, U.S. Commission on Ocean Policy, and others. The GAO told Congress that Corps studies were so flawed that they "did not provide a reasonable basis for decision-making" and that the problems at the agency were "systemic in nature" and "prevalent throughout the Corps' Civil Works portfolio."[2]

The WRDA 2007 reforms include: a new national water policy that requires fundamental changes in Corps planning; updating of the Corps' 25-year-old planning principles and guidelines; implementation of mandatory independent review of key water projects; and an overhaul of the mitigation policies for civil works projects.

It is essential to fully implement the WRDA 2007 reforms and promote additional improvements to the Corps' planning practices. Until the Corps is meaningfully reformed, the Nation will never be able to achieve sound water resources project planning or ensure resiliency in the face of climate change.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Modernize Principles and Guidelines to Protect Natural Systems**

   Revise the Principles and Guidelines to implement the WRDA 2007 requirements that all water projects have the primary objective of protecting and restoring the environment, avoid unwise use of floodplains, and ensure public safety. Revisions should also emphasize a strong preference for the use of nonstructural approaches for all Corps projects.

   Responsible Officials: Assistant Secretary of the Army (Civil Works); WRDA requires mandatory consultation with heads of other agencies, including Interior and EPA

2. **Fully Implement Independent Review**

   Fully implement independent review provisions of WRDA 2007. Corps projects are plagued by poor planning, design, and construction with dire environmental and public safety consequences. Meaningful independent review is a critical tool for correcting those deficiencies.

   Responsible Official: Assistant Secretary of the Army (Civil Works)

3. **Fully Implement Mitigation Reforms**

   Fully implement mitigation reforms in sections 2036(a) and (b) of WRDA 2007. Full implementation of these reforms is essential for improving the Corps' abysmal record of failing to adequately mitigate the adverse environmental and public safety impacts of civil works projects.

   Responsible Official: Assistant Secretary of the Army (Civil Works)

4. **Halting Projects that are Costly and Environmental Damaging**

   Direct the Corps to identify and cease work on projects that are outside of the Corps' main mission areas (for example, projects that would focus on irrigation, which is not a traditional Corps mission). Additionally, the Corps should be directed to identify projects that are not justified economically, that are

[2] Government Accountability Office, *Corps of Engineers, Observations on Planning and Project Management Processes for the Civil Works Program*, March 2006, (GAO-06-529T).

controversial, especially within the communities they are intended to serve, and that will significantly damage the affected ecosystem.

Responsible Official: Assistant Secretary of the Army (Civil Works)

5. **Reassess Operations of Existing Projects**

Direct a reassessment of existing projects that have not gone through an operations reassessment in the past 10 years. Goals should include improvement of environmental conditions, mitigation for existing problems, and adjustments needed to meet changing public needs. Establish a schedule and process for timely reassessments of operations into the future.

Responsible Official: Assistant Secretary of the Army (Civil Works)

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Climate Change and Non-Structural Approaches**

Support for legislative provisions requiring the Corps (1) utilize the most up to date climate science, and known consequences of climate change, in planning water management and development projects; and (2) utilize nonstructural approaches for those projects whenever practicable to protect healthy natural systems that buffer the effects of climate change.

Responsible Official: Assistant Secretary of the Army (Civil Works)

2. **Reassess Operations of Existing Projects**

Support legislative provisions establishing a standardized process for reassessing operations of existing projects every 10 years, or more frequently if conditions warrant, to improve environmental conditions, address environmental problems created by the project, and address changing public needs.

Responsible Official: Assistant Secretary of the Army (Civil Works)

3. **Prioritize Corps Projects and Abandon Outdated Legacy Projects**

Support legislative provisions establishing a system for prioritizing construction of new Corps projects, and de-authorizing outdated and unconstructed legacy projects that do not meet all current project planning requirements and criteria.

Responsible Official: Assistant Secretary of the Army (Civil Works)

4. **Strengthen Independent Review**

Support legislative provisions requiring full and immediate public release of independent review findings and reports, requiring independent review panels to take comments from the public, and eliminating the current independent review sunset provision.

Responsible Official: Assistant Secretary of the Army (Civil Works)

5. Comprehensive National Water Resources Policy and Strategies

Support legislation to modernize, enhance, and redirect the mission of the Water Resources Council (established by 42 U.S.C. 1962a). The redefined mission should include developing a comprehensive approach and strategies for meeting the nation's water challenges, including the effects of climate change, and ensuring that federal activities protect and restore the nation's water resources.

Responsible Officials: Assistant Secretary of the Army (Civil Works) and Chairman, CEQ

POLICY RECOMMENDATIONS - BUDGETARY

1. Fund Implementation of Reform

Fully fund implementation and compliance with the Corps reforms of WRDA 2007 (Principle and Guideline modernization, independent review, and mitigation).

Responsible Officials: Assistant Secretary of the Army (Civil Works) and Director, Office of Management and Budget

2. Fund Projects That Protect and Restore Natural Systems

Direct Corps funding towards projects that protect and restore natural systems and to projects needed to protect high density population areas.

Responsible Officials: Assistant Secretary of the Army (Civil Works) and Director, Office of Management and Budget

3. Reprogram Funding to Projects that Protect Communities *and* the Environment

Reprogram funds that are currently committed to projects that are environmentally destructive and costly Corps legacy projects or other projects that do not focus on restoration, protection, and public safety of high density population areas to projects that protect and restore natural systems and communities.

Responsible Officials: Assistant Secretary of the Army (Civil Works) and Director, Office of Management and Budget

4. Fund the Flood Programs Assessment and Levee Safety Program

Fund the "water resources priorities report" to assess the nation's flood damage reduction programs authorized by section 2032 of WRDA 2007, and fund and implement the activities required by the levee safety program authorized by Title IX of WRDA 2007.

Responsible Officials: Assistant Secretary of the Army (Civil Works) and Director, Office of Management and Budget

5. Fund the Water Resources Council

Fund and reconstitute the Water Resources Council (established by 42 U.S.C. 1962a) to begin developing a comprehensive approach and strategies for meeting the Nation's water challenges, including effects of climate change, and for ensuring that federal activities protect and restore the Nation's water resources.

Responsible Officials: Assistant Secretary of the Army (Civil Works), Director, Office of Management and Budget, Chairman, Council on Environmental Quality

THE FIRST 100 DAYS

Highlight the need for full implementation of reforms to the Corps' planning process and identified funding requests in the President's budget proposal. Issue an Executive Order on climate change as highlighted in the agency report on the Council on Environmental Quality (directing the Chairman of CEQ to issue guidance on integrating climate change effects into all agencies' compliance with the National Environmental Policy Act), and during announcement of that Executive Order highlight other directives, including the use of nonstructural approaches. In conjunction with infrastructure announcements and discussions highlight the stimulus role of restoration, and the value to the nation of using natural systems to protect communities and improve water quality as the cheapest and most effective methods.

ISSUE 3
REGULATORY

BACKGROUND

The Corps has significant regulatory responsibilities for protecting the nation's waters under the Clean Water Act, the Rivers and Harbors Act, and the Marine Protection Research and Sanctuaries Act. The Corps' primary regulatory responsibilities are related to the discharge of dredged or fill material into waters of the U.S. under § 404 of the Clean Water Act. Under the Clean Water Act, the Corps has the responsibility, along with the lead federal agency, the Environmental Protection Agency (EPA), to "restore and maintain the chemical, physical and biological integrity of the Nation's waters."

Strict compliance with the laws, regulations, and polices that govern the Corps' regulatory responsibilities would provide strong protections for the nation's rivers, streams, and wetlands. For example, the Corps is supposed to implement its regulatory responsibilities in a manner that first avoids and then minimizes the destruction, loss, or degradation of wetlands, streams, and other water resources and preserves and enhances the natural and beneficial values of those waters. Mitigation of impacts is a last option, albeit a necessary one when permitted activities affect aquatic resources.

Regrettably, the Corps has not complied strictly with these laws and has not implemented its responsibilities in a protective manner not with appropriate deference to EPA. Instead, the Corps has focused on expediting permit approvals and has fundamentally ignored the § 404 requirements for its own civil works projects. The results have been disastrous for the nation's aquatic resources.

For example, Corps statistics show that in the year 2000 the nationwide permit program authorized 19,407 acres of wetland impacts and damage to 5,651,597 linear feet of streams. This is a dramatic increase from the reported

wetland impacts permitted under the § 404 program just two years earlier. These numbers clearly understate the total losses attributable to the § 404 permitting program as they do not include the impacts from individual permits or even all general permits. The significant losses attributable to the permitting program are perhaps not surprising since the Corps rarely denies a request for a §404 permit to fill and destroy a stream or wetland. In 2001 and 2002, the Corps denied less than 1% of permits requested.

The Corps has accelerated the environmental destruction caused by its programs by weakening regulations and implementing policies that have left the nation's rivers, wetlands, streams, lakes, and coastal waters without adequate protections against pollution and destruction. A greatly expanded use of rubber-stamp general permits has allowed the filling of streams and wetlands by enormously destructive activities such as mountaintop removal mining. Weakened mitigation policies and regulations and rewritten rules have permitted industrial wastes including contaminated materials to be dumped into waterways. Guidance on "navigable waters" has imperiled protections under the Clean Water Act across the nation.

Other federal agency involved: Environmental Protection Agency.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Issue New Rapanos Guidance**

   The 2006 decision in the *Rapanos* and *Carabell* cases, a 4-1-4- split decision, created confusion as to the protection of potentially 50% of America's wasters historically protected under the Clean Water Act. Enforcement of the Act is being hampered by this confusion and the current guidance has not provided sufficient clarity. The Environmental Protection Agency and the Corps should develop and issue improved guidance. During this process, the Corps should give appropriate deference to the views and directives of EPA, the lead agency for Clean Water Act implementation.

   Responsible Official: Assistant Secretary of the Army (Civil Works)

2. **2002 Rule Change Redefining Fill Material**

   Revise the Bush administration's re-interpretation of the Clean Water Act that eliminates the regulatory prohibition on discharging solid wastes into waterbodies. This interpretation has been used by mining companies to destroy headwaters by converting them to waste dumps. A replacement rule must require sensible safeguards to again apply to such destructive activities.

   Responsible Official: Assistant Secretary of the Army (Civil Works), Administrator, EPA

3. **Revise the Mitigation Rule**

   Revise the rule governing mitigation under the Clean Water Act to ensure that the rule requires assiduous efforts at avoidance of impacts to water resources, uses compensation only as a last resort, ensures that compensation occurs in accordance with sound science that seeks to preserve and enhance natural aquatic functions, and bases any stream mitigation on supportable science. Integrate into the rule the recommendations of the General Accountability Office with regard to oversight of mitigation projects.

   Responsible Officials: Assistant Secretary of the Army (Civil Works); Administrator, EPA

4. **Tighten 404 General Permit Requirements**

Review and revise current nationwide and regional general permits. Through a full analysis under the National Environmental Policy Act, ensure that all general permits contain proper acreage and other thresholds, along with permit conditions, to guarantee that neither individual nor cumulative use of permit will have adverse environmental effects. Only permit those activities with minimal impact without having to rely on mitigation. Do not use the general permitting authority to authorize activities that are dissimilar.

Responsible Official: Assistant Secretary of the Army (Civil Works)

5. Provide Guidance on Project Sequencing/Purpose

EPA and the Corps should develop and issue guidance directing Corps field staff to strictly follow the sequencing requirements and to independently and comprehensively evaluate a project's proposed purpose. Although regulations prohibit the Corps from permitting projects when less harmful practicable alternatives to the discharge exist, then require minimization of any impacts that cannot be avoided, and only then allow mitigation to offset the remaining impacts, the Corps' record shows that these requirements are often collapsed. The Corps also often improperly accepts a narrowly-defined purpose for a project, significantly limiting the alternatives that are considered. As a result, inappropriate projects are approved when alternatives exist that would avoid impacts altogether.

Responsible Official: Assistant Secretary of the Army (Civil Works)

6. Clarify Respective Roles of the Corps of Engineers and EPA

Issue and implement an Executive Order or directive clarifying the respective roles of the Corps of Engineers and EPA in carrying responsibilities under the Clean Water Act. EPA has primary responsibility for oversight of guidance, regulations and jurisdictional determinations, while the Corps is responsible for the issuance of individual permits under such guidance, regulations and jurisdictional determinations. However, the Corps has frequently failed to accord appropriate deference to EPA and this must be addressed.

Responsible Officials: The President; Chairman, Council on Environmental Quality, Assistant Secretary of the Army (Civil Works)

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Clean Water Restoration Act

Announce support and work for early passage of the Clean Water Restoration Act.

Responsible Official: Assistant Secretary of the Army (Civil Works)

2. Clean Water Protection

Announce support for and work for early passage of the Clean Water Protection Act. which would prevent mining companies and others from filling waters with waste from activities like mountain top removal.

Responsible Official: Assistant Secretary of the Army (Civil Works)

3. **Transparency in Permitting and Jurisdictional Determinations**

   Support and work for legislative provisions that would require enhanced public transparency in permitting decisions and jurisdictional determinations.

   Responsible Official: Assistant Secretary of the Army (Civil Works)

4. **Regulate Activities that Destroy and Degrade Waters of the U.S.**

   Support an amendment to the Clean Water Act to define "discharge of dredged material" or "discharge of a pollutant" to include redeposits of dredged material incidental to mechanized land clearing, ditching, and draining of wetlands, and channelization of streams, and other excavation in waters of the U.S. that result in destroying or degrading an area of waters of the U.S.

   Responsible Official: Assistant Secretary of the Army (Civil Works)

THE FIRST 100 DAYS

Highlight the goal of returning Clean Water Act protections to the pre-Bush Administration levels (and higher) in the President's budget proposal for Fiscal Year 2010. Issue an Executive Order directing the Corps to defer to EPA on appropriate actions under the Clean Water Act. Announce support for the Clean Water Restoration Act to protect the Nation's waters within the first 100 days.

DEPARTMENT OF DEFENSE

DEPARTMENT OF THE ARMY
(not including Civil Works)

DEPARTMENT OF DEFENSE

DEPARTMENT OF THE ARMY

(not including Civil Works)

TOP THREE ISSUES

1. ENERGY USAGE, RESEARCH AND DEVELOPMENT AND RENEWABLE ENERGY DEPLOYMENT

The Department of Defense is the biggest user of energy in the government. The Army is the biggest user in DOD. The Army is steward of 12 million acres and more than 1500 installations that range from an acre to nearly a million acres. The Army bears the burden of fighting wars for foreign oil and should be on the front line to reduce the use and innovate new ways of conservation. The Army can become a net producer of energy and a fielder of new breakthrough technology on items like the battery.

2. ENVIRONMENTAL RESTORATION OF EXISTING FACILITIES AND REFORM OF PROCUREMENT PRACTICES TO REDUCE THE ENVIRONMENTAL FOOTPRINT

The Army has contaminated sites around the world with unexploded ordnance and toxic chemicals. Groundwater is unusable around some installations. The Army has a system to restore these sites, but it is currently on a path of restoration by the year 2050. This needs to be expedited but it should also include the public in decision-making about these sites. Additionally, the procurement system must be reformed so that the use of more sustainable materials is part of the normal operating criteria.

3. INSTALLATION PLANNING AND MANAGEMENT TO ACCOUNT FOR ENVIRONMENTAL VALUES

The Army will require a major new construction program to meet the repair the damage done over the course of the Iraq war. The Army still has excess capacity in its industrial and training base structure. Climate change will threaten the viability of some installations and some Army installations are home to some of the most endangered wildlife and some of the most biologically diverse ecosystems in North America. A new era of Army installation management will create a model energy efficient and environmentally sustainable base structure that will yield new processes, new interagency arrangements, and perhaps new building technologies.

BACKGROUND

The Army has more than fourteen million acres and over two thousand installations, twelve thousand historical structures, a multi-billion dollar military construction program, and a base operations program. Not only should the Army be preparing for the effects of global climate change, but also it should examine how its institutional processes are creating greenhouse gases, what the installations can do to be a part of local, regional and national solutions, and how the Army is going to adapt the 21st century base structure to the new realities of climate change. The defense authorization committees are well aware of

the need to engage the military in the new realities of climate change, and they are hard at work with authorizations of the services that include these issues. However, the services themselves must embrace new ways of thinking about this issue and about tackling those reforms to change the way the bureaucracy works.

ISSUE 1
ENERGY USAGE, RESEARCH AND DEVELOPMENT AND RENEWABLE ENERGY DEPLOYMENT

BACKGROUND

The U.S. Army is the largest user of energy in the Department of Defense. It includes mobility as well as facility energy. The security threats of climate change include increased tensions over competition for resources like fresh water and food, as well as large-scale migration of refugees, and disease. It is the U.S. military that is often called upon to bring stability to regions in turmoil and conflict. While instability is a major national security concern, the full scope of climate change impacts on national security could go beyond instability to include the loss or diminishment of U.S. military installations, and even the inability to deploy weapons because of dramatic changes in ocean temperatures and intensity of local climate conditions.

The traditional tools of the military, like war games and scenario planning, are overdue in the matter of climate change and would certainly help the next Administration begin the institutional reforms needed to deal with this threat, if they were put into place.

A particularly vulnerable aspect of the military structure that often is overlooked is the fact that installations are not often seen as the "tip of the spear." But climate change will bring major effects to defense installations, particularly the ones in low-lying areas near shorelines and in the Indian Ocean and the Pacific Islands.

The 2006 agreement between the United States and Japan to move 8,000 U.S. Marines from bases in Japan to the island of Guam by 2014 is clearly about more than just relocating Marines. Guam is about to become once again an important forward position in the U.S. Defense posture. The FY 2007 National Defense Authorization Act included a $193 million Military Construction authorization fund for Guam, a $31 million increase over 2006 funding. "Guam is likely to see between $400 million and $1 billion in military construction each year for a period of six to 10 years." (Guam's representative in Congress, Madeleine Z. Bordallo)

Consider having to repeat that major move because of the effects of rising sea level in Guam. As the "National Security and the Threat of Climate Change" report by the CNA points out, "Lack of planning for (critical defense installations) can compromise them or cause them to be inundated, compromising military readiness and capability." In fact, Pacific Island lawmakers who attended a three-day general assembly of the Pacific Island legislature on Guam in early May are very concerned for their own sustainability in light of global warming.

DEPARTMENT OF DEFENSE
DEPARTMENT OF THE ARMY
(not including Civil Works)

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Integrate Environment and Energy Functions Programmatic Regulations for Everglades Restoration**

   While the Department of Defense is in the process of developing a comprehensive energy strategy, there remains a lack of integration of environmental and energy policy. Currently, the Army Installations and Environment organization separates environmental policy and practice from the energy organization into two stovepipe organizations.

   The environmental and energy team must see their mission as a national security mission, and it must be integrated. Ongoing information and training programs like those started at the National Defense University need to be expanded to all service academies and offered throughout the training infrastructure in the services.

   Responsible Official: Assistant Secretary of the Army for Installations and Environment

2. **Develop a Departmental Energy Efficiency Target**

   The department should require a full accounting of the cost of energy at the installations. This should include the cost to the environment from exploration to transportation to clean up of the residue. This should be followed by the development of a department-wide energy efficiency target. The Department should issue an authorization for all installations to modify existing contracts take into account the full cost of energy to the installation and to create energy independence at the installation level.

   Responsible Official: Assistant Secretary of the Army for Installations and Environment

3. **Work with local communities, including tribes, to develop a smart grid**

   The military installations should move aggressively toward a web-enabled, digitally controlled power delivery system that efficiently distributes electricity and protects from blackouts and excess energy consumption.

   Responsible Official: Assistant Secretary of the Army for Installations and Environment

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fund New Energy Technologies**

   Aggressively developing and applying energy-saving technologies to military applications would potentially do more to solve the most pressing long- term challenges facing the Department of Defense (DOD) and our national security than any other single investment area. The Senate Armed Services Committee has recommended that the services enter into multiyear contracts, for a period of up to 10 years, for the purchase of alternative or synthetic fuels. The services ought to be buying at least 25 percent of their electricity from wind, solar, biomass, geothermal or other renewable energy sources by 2025

DOD and the private sector have stated that the technology is available to meet these greenhouse gas requirements.

Responsible Officials: Assistant Secretary of the Army for Environment and Installations Associate Director for National Security at Office of Management and Budget

2. Deploy more versatile fuels on Army installations

No place is better suited for plug-and-drive vehicles than military installations. As military facilities expand and are upgraded and realigned, greater use of high performance buildings, on-site distributed generation, and the most advanced energy-saving technologies need to be aggressively deployed. However, the he trend over the last several years has been to place more defense installations onto the commercial power grid, suggesting that department infrastructure energy plans may not be synchronized with an up-to-date technical and operational risk evaluation. Efforts by DOD to back up critical base functions with on-site renewable generation need to be expanded. The department should require a full accounting of the cost of energy at the installations. This should include the cost to the environment from exploration to transportation to clean up of the residue.

Responsible Officials: Assistant Secretary of the Army for Installations and the Environment and the Associate Director for National Security at the Office of Management and Budget

THE FIRST 100 DAYS

Assess the Vulnerability of Installations

Announce an assessment of installations focusing on climate change and sea level rise. Following the lead of the insurance industry, the military should assess the risks and begin planning for the next round of base closures and begin to build a base structure that takes into account a warming planet and a rising sea level. Fresh water will become scarcer in more places due to warming. Just recently, the Senate Armed Services Committee, concerned with vulnerability of the grid, found that, "despite numerous vulnerability studies, the extent of technical and operational risks to specific critical missions is not adequately assessed, or plans for its mitigation programmed."

Responsible official: Secretary of the Army

U.S. DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

U.S. DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

TOP THREE ISSUES

1. ENSURE REGULATION AND SCREENING OF PLANT IMPORTS

Adequate implementation and funding is needed to enforce the new prohibitions and import declaration requirements under the Lacey Act, which prohibits the trade of illegal wood products. APHIS should revise its raw wood packaging rules to more effectively block against insect pests without damaging the earth's fragile ozone layer. The agency should also strengthen plant screening by revising its Q-37 import screening regulations to avoid the introduction of invasive plant species.

2. STRENGTHEN REGULATION OF GENETICALLY ENGINEERED CROPS

Ensure the scientifically sound assessment, oversight, and regulation of genetically engineered crops, especially crops genetically engineered to produce pharmaceutical and industrial crops.

3. REFORM U.S. DEPARTMENT OF AGRICULTURE WILDLIFE SERVICES

Reform USDA Wildlife Services by increasing their field use of non-lethal methods on native birds and mammalian predators (as tested by their research branch) and by increasing their focus on control of exotic invasive vertebrate species, such as House Sparrows, European Starlings, Rock Doves, feral pigs and nutria.

KEY APPOINTMENT POSITIONS

- Director of APHIS
- Director of Wildlife Services
- USDA Undersecretary for Marketing and Regulatory Programs

ISSUE 1
ENSURE REGULATION AND SCREENING OF PLANT IMPORTS

BACKGROUND

Illegal logging threatens some of the world's most biologically diverse and vulnerable forests, while harming the legal forest products trade by significantly depressing world timber prices. In 2008, the U.S., the world's largest consumer of forest products, became the first country to ban trafficking of all products containing illegally sourced wood. Through an amendment of the Lacey Act, commerce of plants and derivative products – including all timber and wood products – that have been illegally taken or traded is now prohibited. Additionally, the new law requires importers to declare the species, country of origin, and other related sourcing information in an effort to increase wood supply chain transparency and focus law enforcement efforts.

APHIS, along with Customs and Border Patrol, is the lead agency in implementing LAA's new import declaration requirements and is also interested in providing public information that would be helpful to wood product traders who are regulated under the law.

APHIS also plays a key role in preventing the importation of invasive plant species. Intentional horticultural imports are the top pathway for introduction of invasive plants into the United States. Other nations have achieved significant reductions of invasive plant introduction and have reaped significant economic benefits by adopting risk screening protocols. The U.S. urgently needs to adopt a similar approach. The new administration should strengthen plant screening by pushing the United States Department of Agriculture's Animal and Plant Health Inspection Service (USDA APHIS) to revise its Q-37 import screening regulations governing the quarantine of imports of nursery plants, roots, bulbs, seeds, and plant products into the United States.

Other agencies involved include the U.S. Fish and Wildlife Service Office of Law Enforcement for specially dedicated staff to enforce the new provisions of Lacey through investigations, inspections and training ($1.67 M /year or $5 million over 3 years is needed).

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Make Q-37 "Plants for planting" revisions a top priority**

   The new administration should strengthen plant screening by pushing the United States Department of Agriculture's Animal and Plant Health Inspection Service (USDA APHIS) to revise its import screening regulations for nursery plants, roots, bulbs, seeds and plant products (Q-37 regulations).

   Responsible Official: Director of APHIS

2. **Revise Wood Packing Regulations**

   In the Bush administration, APHIS promulgated a set of regulations to combat the very real threat of invasive insects entering into the United States in solid wood packaging material. Those regulations, however, still permit some use of methyl bromide for material that is intended to enter the United States. APHIS should identify alternatives, including alternatives to the use of wood packaging material, and revise the regulations to protect the earth's fragile ozone layer.

POLICY RECOMMENDATIONS - BUDGETARY

1. **New APHIS funds for LAA: implementation (FY10)**

   $5.5 million needs to be appropriated for adequate implementation of the new import declaration requirements and prohibitions of the Act. The funding will be necessary for, *inter alia*, design of a streamlined electronic declarations database system and capacity to perform data analysis of the declarations, training of Customs and Border Patrol Agents on Lacey Act enforcement (i.e., illegal plants, including illegally harvest timber and timber products), and hiring of dedicated enforcement agents.

   Responsible Official: USDA Undersecretary for Marketing and Regulatory Programs

2. **New APHIS funds for LAA: access to public information (FY10)**

   $500,000 should also be directed to APHIS to establish and maintain a public website with information that those involved in the wood products trade would find useful in complying with the new law; such information might include genus and species and common/trade name information for plants; a continuously updated compilation of foreign laws related to taking, possessing, transporting, or selling plants; and a reference of available tools for tracking wood and assessing and addressing risk of illegal sourcing within a wood supply chain.

   Responsible Official: USDA Undersecretary for Marketing and Regulatory Programs

ISSUE 2
STRENGTHEN REGULATION OF GENETICALLY ENGINEERED CROPS

BACKGROUND

Genetically engineered (GE) or genetically modified crops pose a long list of risks to health, the environment, and trade, including the conversion of crops into herbicide-tolerant weeds, and movement of bioactive drugs, like hormones, into the food supply, and the contamination of export grains with unapproved GE traits. Under the current regulatory regime, these and other risks not been seriously address by APHIS, one of the three principal agencies charged with the oversight of GE crops. Most notably, APHIS has allowed the outdoor testing of food crops genetically engineered to produce pharmaceutical or industrial compounds, so-called "pharmacrops," without adequately assessing the risks of contaminating the environment or the food supply, and without requiring containment measures sufficiently stringent to prevent such contamination. As a result of lax regulation, an environmental backlash is developing with negative consequences both for those who use the genetically engineered crops and the environment.

Over the past 15 years, APHIS has routinely allowed the commercial production, free of regulatory oversight, of GE crops designed by herbicide manufacturers to be resistant to their herbicides, the cultivation of which have greatly increased herbicide use, and led to the development of herbicide-resistant "superweeds" Control of these weeds, *e.g*,. pigweed and horseweed, now requires greater use of herbicides overall, including toxic herbicides like paraquat and 2,4 D. Increased herbicide use is expensive for farmers and bad for the environment. In addition, APHIS has failed to fulfill its obligations under the under National Environmental Policy Act (NEPA) and the Endangered Species Act.(ESA)

A weak US oversight regime not only leaves the environment and food supply unprotected but also disadvantages farmers and undercuts confidence in agricultural biotechnology here and around the world.

APHIS is currently in the late stages of a multi-year process revising its rules for oversight of genetically engineered crops. These rules provide the best opportunity in a decade to substantially strengthen regulatory oversight of GE crops. As proposed, the rules are insufficiently stringent to protect the environment, the food supply or the interests of US grain exporters. At this stage it is not known whether the rules will be finalized before the departure of the current Administration. If so, the new Administration should reopen rulemaking to permit strengthening of the rules. If the rule is not final, the process should be slowed down to give in-coming policy

officials an opportunity to review the draft rule and public comments, with consideration being given to revisions to strengthen the proposed rule.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Ensure APHIS rule is strengthened**

   USDA should: stop the promulgation of the APHIS rule; prepare an EIS disclosing the consequences to health and the environment; revise the rule to support a ban on the use of food crops, like corn and alfalfa, for the production of pharmaceutical and industrial compounds; and revise the rules to address the issue of loss of the efficacy of herbicides, especially relatively benign herbicides, like glyphosate.

   Responsible Official: Director of APHIS

2. **Prevent contamination of the food supply with drugs and other GE-produced chemicals**

   USDA should adopt a regulation prohibiting open-air testing of biopharmaceutical crops and the use of food crops in biopharmaceutical production.

   Responsible Official: Director of APHIS

ISSUE 3
REFORM U.S. DEPARTMENT OF AGRICULTURE WILDLIFE SERVICES

BACKGROUND

The Wildlife Services (WS) program, housed under the Animal and Plant Health and Inspection Service (APHIS), continues to spend a disproportionate amount of its annual allocation for preventative livestock protection activities, which translates generally into the killing of tens of thousands of predators primarily on behalf of sheep and cattle producers. But according to a recent study by the Wildlife Conservation Society (WCS), decades of U.S. government-subsidized predator control has failed to prevent a long-term decline in the sheep industry. The study says that more than 80 years of federally subsidized predator control with a total investment of more than 1.6 billion dollars have not been able to stave off an 85 percent decline in the sheep industry since its peak of 56.2 million animals in 1942.

While predation is not the industry's primary threat, it is one of the few factors over which ranchers feel they have some degree of control. In FY2004 alone, federal agents killed more than 80,000 mammalian carnivores, including 75,674 coyotes, 359 mountain lions and 397 black bears. Both Black and Turkey Vultures have been killed in large numbers. The WCS study suggests that federal funding for predator control in the sheep industry should be re-evaluated given the program's failure to prevent the industry's decline. We support such a reevaluation and urge the Committee to direct Wildlife Services to modernize its livestock protection program to focus on assisting ranchers by providing them with a range of more effective means of preventing and reducing predation, many of which have been developed by the program's research facility, the National Wildlife Research Center, rather than concentrating on killing predators. Blackbird control programs should also be revisited to consider nonlethal over lethal methods.

We recommend a report from Wildlife Services documenting its compliance with the directives dealing with the increased use of non-lethal methods.

Wildlife Service could constructively spend substantial sums for the control of exotic invasive vertebrate species such as House Sparrows, European Starlings, Rock Doves, feral pigs, and nutria that cause hundreds of millions of dollars of damage to grains, peanuts, soybeans, cotton, hay, vineyards, and vegetables and that transmit various human and livestock diseases.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Use nonlethal predator control**

   Direct Wildlife Service field agents to implement nonlethal control activities as recommended by Wildlife Services research and to educate ranchers in these practices. Write a report on current implementation of nonlethal methods. Schedule annual reports on implementation and effectiveness of nonlethal methods with operational and research staff working together to evaluate effectiveness.

   Responsible Officials: Administrator of APHIS and Director of Wildlife Services

2. **Control invasive exotic vertebrates**

   Direct Wildlife Services to allocate a specific portion of its funding for the control of the most economically and ecologically damaging invasive exotics.

   Responsible Officials: Administrator of APHIS and Director of Wildlife Services

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Promote Non-lethal Methods**

   Support report language in the Agriculture appropriations bill: "the Committee expects that Wildlife Services will make use of the non-lethal methods developed by the National Wildlife Research Center, will make non-lethal controls the method of choice, and will resort to lethal means only as a last resort."

   Responsible Official: USDA Undersecretary for Marketing and Regulatory

2. **Pass wolf/livestock legislation**

   Support passage of S. 2875 (Gray Wolf Livestock Loss Mitigation Act of 2008) with an amendment to make funding come from USDA not Department of the Interior and pass companion House language.

   Responsible Official: USDA Undersecretary for Marketing and Regulatory Programs

3. Promote non-lethal deterrence in Environmental Quality Incentives Program

Support report language in agriculture appropriations bill regarding Environmental Quality Incentives Program (EQIP) that makes it clear that EQIP funds can be used for non-lethal proactive predator deterrence measures, such as carcass removal, that safely reduce conflicts between wildlife, like wolves, and farming and ranching operations.

Responsible Official: USDA Undersecretary for Marketing and Regulatory Programs

U.S. DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

TOP THREE ISSUES

1. REINVIGORATE THE CONSERVATION RESERVE PROGRAM

The U.S. Department of Agriculture should enhance the ability of Conservation Reserve Program (CRP), America's most successful private lands conservation program, to boost wildlife and environmental benefits and address climate change. USDA should announce a commitment to full enrollment, adjust rental rates, restore incentive payments, protect CRP from incompatible uses, and study ways of further improving CRP administration.

2. HALT POLICIES PROMOTING NATIVE GRASSLAND CONVERSION

Though usually marginal for agricultural production and among the most threatened ecosystems on the planet, native grasslands continue to be put to the plow. USDA should make surviving native grassland ineligible for the federal subsidies and supports that assure a financial return on even poorly-producing land converted to crops.

3. IMPROVE CONSERVATION COMPLIANCE

The Government Accountability Office has determined that conservation compliance is poorly enforced and that 80% of violations are waived. A more effective compliance regimen can ensure fairness to all agricultural producers, produce budget savings and improve protection of our soil, water and wildlife resources.

KEY APPOINTMENT POSITIONS

- Under Secretary for Farm and Foreign Agricultural Services
- Administrator, FSA
- Associate Administrator for Programs
- Associate Administrator for Operations and Management
- Deputy Administrator for Farm Programs
- Deputy Administrator for Field Programs
- Deputy Administrator for Commodity Operations
- All State Executive Directors

ISSUE 1
REINVIGORATE THE CONSERVATION RESERVE PROGRAM

BACKGROUND

The Conservation Reserve Program is America's largest, most successful private lands conservation incentive program. Created in 1985, the CRP provides wildlife and pollinator habitat, reduces soil erosion, and improves water quality on over 33 million acres of land. By planting grass and storing carbon on land that once grew crops -- often on marginal, erodible soils -- the CRP also helps reduce the effects of climate change.

"Whole field" CRP contracts provide millions of acres of wildlife habitat that mimic the native prairies that once dominated the Great Plains. These contracts support many species in sharp decline due to the loss of historic prairies. "Continuous signup" practices encourage farmers to enroll land in high conservation value practices like buffer strips along streams. Several special initiatives have been developed to target these high-value enrollments, thereby achieving particular resource goals such as the restoration of longleaf pine forests and rare and declining habitat for wildlife species of special concern. Through the Conservation Reserve Enhancement Program (CREP) partnerships with state/local agencies and non-profits, USDA has approved various initiatives that use CREP contracts to leverage funding to address critically important natural resource problems in targeted areas.

With rising commodity prices and farmland values in recent years, USDA's CRP rental rates have not kept pace as effective conservation incentives. Moreover, USDA recently suspended the use of incentive payments that had been successfully used for continuous signup practices. The combination of high commodity prices, low rental rates and no incentive payments has dampened recent enrollment in the program.

The 2002 Farm Bill authorized 39.2 million acres of CRP with enrollment reaching a high of 36.8 million acres in September, 2007. Since then, USDA has not held a general CRP signup, while contracts on nearly four million acres of CRP land have expired. The 2008 Farm Bill reduced the program cap to 32 million acres starting in fiscal year 2010. Less than 34 million acres are now enrolled in the CRP, and 8.4 million acres of CRP contracts will expire by 2010. That will leave the program well below its statutory cap if USDA does not increase payments and provide landowners new opportunities to participate in the program through general signup, continuous enrollment, and other CREP initiatives.

CRP lands sequester an estimated 50 million tons of carbon per year. If the grassland under CRP contracts returns to crop production, it would release 45-55 tons of carbon per acre, exacerbating the effects of climate change. USDA has also considered releasing participants from their contracts penalty-free, robbing taxpayers of the benefits of their past investment in the CRP.

The USDA has also been grappling with issues concerning other uses of CRP land, like occasional haying or grazing, which could be compatible with the program's purposes (soil, water, wildlife, and pollinators). In addition, the new Farm Bill approved wind energy projects on CRP land, subject to FSA rules that maintain the purposes of the program. FSA should seek the advice of other federal and state agencies with appropriate environmental expertise in responding to these issues.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Commit to Full CRP Enrollment

FSA should immediately announce plans to maintain full CRP enrollment at 32 million acres by holding general CRP signups, approving new CREP agreements, building on successful continuous signup initiatives like the State Acres for Wildlife Enhancement (SAFE) initiative, and boosting CRP outreach efforts. Moreover, FSA should not release CRP contract holders penalty-free from their contract obligations.

Responsible Officials: Secretary of Agriculture, Under Secretary for Farm and Foreign Agricultural Service, FSA Administrator

2. Adjust CRP Rental Rates

FSA should raise the rental rates available to landowners under the CRP. With quickly rising commodity and land prices, CRP rental rates based on land values that are several years old are no longer competitive in the current market.

Responsible Official: FSA Administrator

3. Restore CRP Incentive Payments

FSA should immediately withdraw its recent policy memo that put incentive payments on hold, restoring the incentive payments. This would encourage farmers to enroll particularly vulnerable acres in practices that protect our natural resources.

Responsible Official: FSA Administrator

4. Protect CRP From Incompatible Uses

FSA should revise its policies to ensure that allowable uses of CRP are compatible with CRP's purposes: wildlife, water, soil and pollinator protection. Mid-contract management that improves wildlife value should be encouraged. USDA should identify areas where wind turbines are not compatible with CRP purposes, and set standards to minimize disturbance where permitted.

Responsible Official: FSA Administrator

5. Improve CRP Administration

FSA administers CRP, but the agency doesn't house USDA's technical resources needed to maximize the conservation benefits CRP can deliver. The Administration should launch a study of options for bringing the needed resources for outreach and technical assistance into the program.

Responsible Official: Secretary of Agriculture

POLICY RECOMMENDATIONS - BUDGETARY

1. **No Restriction of CCC Funding For the CRP**

   The Administration should ask Congress to not restrict Commodity Credit Corporation funding for the Conservation Reserve Program, allowing full funding as approved in the 2008 Farm Bill.

   Responsible Official: Under Secretary for Farm and Foreign Agricultural Services

THE FIRST 100 DAYS

America's farmers and conservationists will be looking to the new Administration for signals about its commitment to farmers and on-farm conservation. Announcing a new initiative to make CRP payments fairer to farmers (through revised rental rates and restored incentive payments) will send a powerful signal to rural America that the Administration will not ignore rural areas or the financial needs of farmers.

Clearly stating that the new Administration plans to reinvigorate the Conservation Reserve Program and will maintain it at its authorized level of 32 million acres also sends a powerful signal to the hunting, conservation, and environmental communities that the Administration is seriously committed to the conservation of the wildlife and natural resources that benefit from the CRP program.

A reinvigorated CRP program can also play an important role in the on-going debate about climate change. Without question, the new Administration and Congress will be heavily focused on developing comprehensive solutions to the threats from climate change. By recognizing and capitalizing on the carbon storage benefits of the CRP, the new Administration can make the case that every agency, and every sector of the economy, can and should be part of climate change solutions. It will also signal that the Administration is willing to take immediate steps that help address climate change, while working towards longer-term solutions and consensus on legislation and international agreements.

Announcing a comprehensive review of the program's administration would also fit into other government-wide efforts to make the federal government work more efficiently and improve program delivery.

ISSUE 2
HALT POLICIES PROMOTING NATIVE GRASSLAND CONVERSION

BACKGROUND

This country's remaining native grasslands are one of the most threatened ecosystems on the planet, and they are critical to the livelihoods of our nation's traditional ranching families. Seventy percent of our country's native prairies have been converted to crop production, leaving the least productive land for pasture and wildlife. Native prairie soils also store large amounts of carbon, much of which is released when prairies are converted to cropland -- adding to our climate change challenge.

A "Sodsaver" provision promoted during the development of the 2008 Farm Bill specified that grassland without a prior cropping history would be ineligible for taxpayer-provided crop insurance, disaster payments and non-insured crop disaster payments if converted to crop production. These grasslands are very marginal lands for crop production, which is why they have not yet been converted.

The Sodsaver provision is a carefully constructed response to a clearly identified need and problem. USDA's National Resources Inventory determined that the nation's privately owned grassland decreased by almost 25 million acres between 1982 and 2003. And according to a GAO September 10, 2007 report, "Farm program payments are an important factor in producers' decisions on whether to convert grassland to cropland…. Several economic studies have reached the same conclusion."

Both the House and Senate Farm Bills authorized a nationwide Sodsaver program that prohibited crop insurance subsidies and disaster payments on any of the nation's remaining native sod that was converted to crops. Unfortunately, the Sodsaver program was narrowed significantly in the final 2008 Farm Bill. It now applies only to the portions of 5 states (MT, ND, SD, MN, IA) that are within the Prairie Pothole Region—and only if the Governors of those states explicitly choose to allow the Sodsaver program in their states.

Rather than applying to all farmland on an equal footing, the final provision now provides no deterrent of any kind in the states outside the Prairie Pothole region. Worse, the presence of Sodsaver in one region but not others could create a perverse incentive to producers to rush to convert sensitive grasslands outside of the current Sodsaver region. Moreover, the original nationwide Sodsaver provision was scored as saving taxpayers $130 million. The final bill's provision was scored at $0 savings.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Program ineligibility for converted grassland**

   USDA should issue a rule that changes the definition of crop production history to exclude all lands not in production prior to 2008, thus making newly broken lands ineligible for farm program payments.

   Responsible Officials: Under Secretary for Farm and Foreign Agricultural Services, FSA Administrator

POLICY RECOMMENDATIONS - LEGISLATIVE

Note: Pending a broader consensus on strategies, tactics, and risks regarding "re-opening" the Farm Bill, no specific legislative changes are recommended at this time. During the annual budget reconciliation process, however, it should be remembered that a nationwide Sodsaver program was previously scored as providing $130 million in budgetary savings, thus making the expansion of that program an attractive vehicle for budgetary offsets.

POLICY RECOMMENDATIONS - BUDGETARY

As noted in the preceding paragraph, the expansion of the Sodsaver Program would result in net budgetary savings which should most appropriately be directed in bolstering NRCS field staff capabilities.

THE FIRST 100 DAYS

The nation's native grasslands are threatened by a federal farm program that combines taxpayer provided crop insurance, disaster payments, and price supports when grass is converted to crops. Landowners who maintain native grasslands receive none of these financial benefits. Grassland conversion should remain the choice of individual landowners, but the federal government shouldn't provide financial incentives to destroy the last remnants of our native prairies.

The Administration needs to institute a study of the loss of grassland acres nationwide, while publicizing the results and responses to the new Sodsaver provision available to the Governors in the Prairie Pothole Region (PPR) of IA, MN, MT, ND and SD. In addition, the Administration should:

- Publicly comment on Prairie Pothole Governors' opt-in determinations as they occur.
- Record and publicize the total acreage of insurance applications to the Risk Management Agency (RMA) for the upcoming crop year on newly converted grassland outside the PPR.
- Record and publicize the total acres in applications within a PPR opt-in state rejected by RMA due to Sodsaver. Conversely, report and publicize the total acres in insurance applications RMA released from "on-hold" status following a PPR Governor's decision to opt-out of the Sodsaver Program.

ISSUE 3
IMPROVE CONSERVATION COMPLIANCE

BACKGROUND

Under current law, farmers must provide minimum levels of wetland protection and soil erosion prevention ("swampbuster" and "sodbuster") in order to receive most USDA payments. A GAO review of the agency's implementation of compliance requirements found many problems with regards to enforcement. Uneven enforcement and inadequate inspections create an uneven playing field between those producers who comply with the law and those who do not. Even when appropriate inspections were conducted and a violation was found, the GAO concluded that USDA program benefits were seldom withheld.

The law provides that committees of three farmers in each county may determine whether local violators should be granted "good faith" waivers and be allowed to receive USDA program payments in spite of a conservation compliance violation. The GAO has determined that 80 percent of cited violations are waived. In an attempt to address this problem, conservation advocates succeeded in adding language to the 2008 Farm Bill authorizing reviews of good faith waivers by the FSA state or district director, with technical advisement from the NRCS state or area conservationist. Effective implementation of this reform will be crucial to its success.

Increased commodity prices and land values is creating a corresponding need to increase the financial incentives for conservation. Voluntary USDA conservation programs like the CRP, WRP, and GRP, which provide annual rental payments or purchase easements to restore and protect grasslands and wetlands, must compete with other potential uses for those lands, including intensive crop production. In our current and projected price environment, greater investment in competitive conservation payments is vital. Conservation compliance withholds farm program payments to those who violate the law and reduces federal expenditures, providing savings for additional investment in conservation. Even absent farm subsidy payments triggered by low prices, compliance penalties still apply to other USDA payments potentially more important in a high crop and land value cycle—like Farm Operating Loans, Farm Storage Facility Loans, and the direct payments made on all program cropland regardless of crop prices.

USDA must correct its uneven enforcement of conservation compliance provisions by increasing compliance inspections, ensuring validity of good faith waivers, and requiring effective mitigation measures. Appropriately employing rigorous but fair compliance regimen will ensure that all farmers are operating on a level playing field and that taxpayers are not subsidizing damaging farming practices.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Prioritize the waiver review process**

   NRCS should improve the "good faith" waiver review process by prioritizing and documenting the review process (2008 Farm Bill Title II, secs. 2002 and 2003).

   Responsible Officials: Under Secretary for Farm and Foreign Agricultural Services; Under Secretary for Natural Resources and the Environment; Administrator of FSA; Chief of NRCS; FSA State Directors; NRCS State Conservationists

2. **Conservation Compliance administrative reform**

The new Administration should implement key GAO Conservation Compliance reform recommendations: 1. Increase oversight of field offices' compliance inspections to improve their accuracy and completeness. 2. Develop a more representative sample of tracts for inspection. 3. Develop an automated system to manage the data needed for inspections.

Responsible Officials: Under Secretary for Farm and Foreign Agricultural Services; Under Secretary for Natural Resources and the Environment; Administrator of FSA; Chief of NRCS; FSA State Directors; NRCS State Conservationists

3. **Swampbuster "minimal effects" determinations and mitigation**

Institute mandatory consultation with FWS on minimal effects determinations under Swampbuster. Request that FWS set mitigation standards which NRCS must follow and require that FWS be consulted on minimal effects determinations with mitigation decisions to determine adequacy of mitigation.

Responsible Officials: Under Secretary for Farm and Foreign Agricultural Services; Under Secretary for Natural Resources and the Environment; Administrator of FSA; Chief of NRCS; FWS Director

4. **Swampbuster, Sodbuster enforcement**

The new Administration should establish a toll-free anonymous tip line to report Swampbuster and Sodbuster violations. Producers should be required to be in compliance within 6 months if found to be out of compliance, and FWS should be consulted with regard to certifying compliance after restoration is performed.

Responsible Officials: Under Secretary for Farms and Foreign Agricultural Services; Under Secretary for Natural Resources and the Environment; Administrator for FSA; Chief of NRCS; FWS Director

POLICY RECOMMENDATIONS - LEGISLATIVE

Note: Pending a broader consensus on strategies, tactics, and risks regarding "re-opening" the Farm Bill, no specific legislative changes are recommended at this time.

POLICY RECOMMENDATIONS - BUDGETARY

The new Administration should request funding to assess the current feasibility of addressing agricultural runoff issues through an expansion of conservation compliance provisions. A previous Economic Research Service Study found that most farms with runoff and leaching problems receive farm program payments and that the threat of withholding those payments may be sufficient to spur farmers to improve their nutrient management and buffer practices.

THE FIRST 100 DAYS

Conservation Compliance is a covenant between the taxpayer and producers who participate in the federal farm program. It is premised on the notion that where the public's money is invested, the public good should be protected. Unfortunately, it has been repeatedly documented that this appropriate and logical covenant is not being administered properly and enforced.

The new Administration should make the proper and consistent implementation of Conservation Compliance rules a priority emphasis within USDA. In particular, the Administration should closely track and document instances of FSA State Executive Directors and NRCS State Conservationists conducting good-faith determination reviews as authorized by the new Farm Bill. Publicizing the restoration of consistently applied compliance provisions will demonstrate a renewed commitment to problem solving that returns benefits for the environment as well as budget savings.

U.S. DEPARTMENT OF AGRICULTURE

U.S. FOREST SERVICE

TOP THREE ISSUES

1. MANAGE THE NATIONAL FOREST SYSTEM TO SECURE CLIMATE BENEFITS

National Forest roadless areas and other sensitive habitat play a vital role storing carbon. Federal management has harmed their ability to reduce atmospheric carbon in ecologically sustainable ways and to provide fish and wildlife habitat, clean drinking water, flood control, public recreation opportunities, and other essential services. Early action on national forests can begin to address climate change, by halting and reversing the degradation of landscape components that best store carbon and provide ecological services.

2. RESTORATION OF SCIENTIFIC INTEGRITY IN FOREST SERVICE PLANNING AND MANAGEMENT

Recent National Forest decisions, from individual projects to overarching rules, have been marred by politicization and suppression of science. The Chief of the Forest Service should have a dedicated science advisor to remedy this. Moreover, flawed decisions made by the previous administration should be corrected to restore the integrity of science in the process and the trust of the public. These include National Forest Management Regulations, the Northwest Forest Plan, and the Sierra Nevada Framework.

3. BUDGET REPRIORITIZATION, ACCOUNTABILITY AND TRANSPARENCY

The Forest Service's budget direly needs reform. Top priorities include: 1) containing the rising expenditures dedicated to fire suppression which have both paralyzed the agency's other programs and slighted protection of communities, 2) recalibrating budgetary priorities to concentrate limited federal dollars on areas that better reflect public needs, and 3) reforming the Forest Service budgetary reporting and accountability mechanisms to ensure transparent decision making and effective oversight.

KEY APPOINTMENT POSITIONS

- Undersecretary for Agriculture for Natural Resources and the Environment
- Deputy Undersecretary, Conservation
- Deputy Undersecretary, Forestry
- Forest Service Chief
- Deputy Chief
- Deputy Chief, National Forest System
- Deputy Chief, Research and Development
- Deputy Chief, State and Private Forestry

ISSUE 1
MANAGE THE NATIONAL FOREST SYSTEM TO SECURE CLIMATE BENEFITS

BACKGROUND

Forests in the United States absorb 10% of the nation's greenhouse gas emissions and their protection must be an important part of an emissions reduction strategy. At the same time, our forests, and the fish and wildlife they harbor, are under threat from global warming including increased wildfires and pest outbreaks, melting of permafrost in boreal forests, declining snowpack, increased drought, increased threat from invasive species, and habitat shifts. The natural systems that provide us with drinking water, flood protection, food, medicine, wildlife, recreational opportunities, scenic beauty, timber, jobs, and numerous other services are at great risk.

Unfortunately, past management of national forests has harmed their capacity to reduce atmospheric carbon in ecologically sustainable ways and to provide habitat and other ecological services in the face of climate change. For example, roadless areas and older forests contain vast amounts of carbon and continue to remove atmospheric carbon dioxide for centuries after establishment. Intact native grasslands and prairie ecosystems also bind up much more carbon than heavily altered rangelands. Logging, roading, and grazing of federal lands can adversely affect these functions, while also damaging the ecosystems – introducing exotic species, altering fire regimes, degrading habitat, and hurting essential public services and values.

Many national forest lands have been so compromised that they require substantial restoration. Full restoration of the values and services the American public wants and needs from these lands is vital. It will be a demanding, long-term task, calling for careful study and planning to reconcile competing considerations, deal prudently with uncertainty, and maximize benefits. The incoming administration can, in the meantime, confidently undertake several early measures to promote carbon storage on federal lands, as well as restore degraded ecosystems and begin to address the impacts of climate change on forests and grassland ecosystems.

The initial step in making national forest management more responsible from a global warming standpoint is to stop degrading the landscape components that currently do the best job of mitigating climate change and providing increasingly important refugia for fish and wildlife. For example, it is generally accepted that older forests, native grasslands and prairies, and roadless areas play a key role in mitigating climate change. The immediate steps, described below, can help secure the climate benefits of these lands. Thereafter, the Forest Service and other federal land management agencies should pursue policies that enhance these functions. Prime examples include reforestation of denuded lands and thinning plantations to accelerate development of old growth.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Protect roadless areas**

   The almost 60 million acres of inventoried roadless areas within the National Forest System provide vital refugia for fish and wildlife in a warming climate while storing large quantities of carbon. The new administration should defend the Roadless Area Conservation Rule in all outstanding appeals, halt any ongoing rulemakings begun under the Bush Administration's petition process, work to restore full

coverage of the 2001 rule -- including an early announcement of the expiration of the "temporary" exception from the rule that the Bush Administration adopted for the Tongass rainforest.

Responsible Official: Under Secretary of Agriculture and/or Chief of the Forest Service

2. Climate Change Related Research

The Forest Service should promote research and the development of tools supporting forest management strategies for sequestering and storing carbon while providing multiple ecological benefits. The Forest Service should also monitor and research the impacts of climate change on forest and grassland ecosystems and develop strategies for ameliorating these impacts.

Responsible Official: Chief of the Forest Service

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Allocation of Cap and Trade Allowance

Any comprehensive climate change legislation proposed by the Administration or supported by it in Congress must allocate a portion of revenue from the sale of emissions allowances to support conservation and related strategies for wildlife, habitat and other natural resources threatened by global warming impacts. Providing a dedicated portion of funding will be necessary to ensure that important public values and resources will be addressed in the context of a comprehensive approach to climate change.

Responsible Official: Under Secretary of Agriculture and/or Chief of the Forest Service.

2. Fish and Wildlife and Ecosystems Threatened By Warming

Propose legislation to require development and implementation of an interagency national strategy for helping fish and wildlife and ecosystems navigate the bottleneck of global warming impacts, including gathering and incorporating the best independent science available regarding both impacts and strategies for fish and wildlife and ecosystems most imperiled by global warming.

Responsible Official: Chief of the Forest Service

POLICY RECOMMENDATIONS - BUDGETARY

1. End global warming subsidies

Review federal land management related expenditures that result in a net loss to taxpayers and reduce the long-term carbon content of landscape components. Examples include taxpayer-subsidized conversion of old or late-successional forests to plantations or earlier seral stages, construction of new roads that disrupt natural processes, and reduction of buffer zones, reserves, and/or rotation ages. Amend budget requests to reduce or eliminate these expenditures, consistent with public safety, ecological considerations, and valid existing rights. This may require reform of agency budget categories that currently combine many activities.

Responsible Official: Under Secretary of Agriculture and/or Chief of the Forest Service

2. **Aggressively fund carbon sequestering land restoration**

   Develop priority lists and budget proposals for the re-creation of mature, old growth and grassland systems and the maintenance of soil integrity, to demonstrably enhance carbon storage, fish and wildlife habitat, and related ecological services.

   Responsible Official: Under Secretary of Agriculture and/or Chief of the Forest Service

THE FIRST 100 DAYS

Direct the U.S. Forest Service and Dept. Agriculture, utilizing their existing statutory authority, to secure climate benefits through ecologically sound management of federal lands by:

1. Protecting roadless areas: The almost 60 million acres of inventoried roadless areas within the National Forest System provide vital refugia for fish and wildlife in a warming climate while storing large quantities of carbon. The new administration should defend the Roadless Area Conservation Rule in all outstanding appeals, halt any ongoing rulemakings begun under the Bush Administration's petition process, and announce expiration of the "temporary" exception from the rule that the Bush Administration adopted for the Tongass rainforest.

2. In fragmented areas, initiating science-based reviews to identify and conserve high priority fish and wildlife habitat where projects funded or planned through the Forest Products program, and other destructive management, can be halted or reduced.

3. Fund Forest Legacy Program ($125 million)

ISSUE 2
RESTORATION OF SCIENTIFIC INTEGRITY IN FOREST SERVICE PLANNING AND MANAGEMENT

BACKGROUND

No federal agency has a greater need to be guided by the best available science than the U.S. Forest Service. The Forest Service must plan decades ahead and daily manage 191 million acres of federal lands that are highly diverse, often poorly inventoried, and include highly complex, interactive ecological systems of which some are significantly compromised. Because the Forest Service is subject to strong and diverse political, economic, and institutional pressures, its ability to base its management decision on unbiased science is critical for restoring public confidence in its decisions regarding long-term stewardship of America's national forests. The meaningfulness of Forest Service environmental analyses, its ability to perform them with in-house expertise, the independence of its researchers, and its willingness to consider fairly the vital input of outside scientists, have all suffered in recent years. If the agency is to manage the national forests and all their public resources wisely and efficiently, restore degraded lands, avoid future ecological impacts, and rebuild public confidence in its stewardship, the Forest

Service's capacity for and commitment to using the best available science must be revitalized. While many decisions made by the Bush administration deserve reconsideration based on their abuse of science, we would draw your immediate attention to three.

The Bush administration was the first administration to redo the rules that govern the long-term management of our 191 million-acre National Forest System without convening a committee of scientists as provided for in the National Forest Management Act. A major feature of their proposal was the elimination of broadly-supported wildlife conservation requirements that have stood since the Reagan administration. In addition, they proclaimed that forest plans would not contain any decisions and thereby essentially sought to categorically exclude them from the National Environmental Policy Act. While this obviously undermines the quality of environmental impacts analysis, it also greatly diminishes both the information available to the public and their ability to participate meaningfully in the process.

Bush administration officials were committed to dismantling the Northwest Forest Plan developed by President Clinton. One important example of a willful effort to ignore sound science is the 2008 Northern spotted owl recovery plan and critical habitat determination. When the Northern Spotted Owl Recovery Team submitted their plan to the Fish and Wildlife Service, they were directed by the Washington Oversight Committee (comprised of Administration political appointees) to "emphasize the new science and de-emphasize the past" which was code for moving away for protecting critical blocks of old forest habitat reserves. This so-called "new science" that underlies the plan was roundly criticized in multiple independent scientific peer reviews, including two commissioned by the government. Dependence on this fundamentally-flawed recovery plan and critical habitat determination significantly undermines the protection of forests on both Forest Service and BLM lands covered under the plan.

Similarly, administration officials ignored the advice of both government and outside scientists when they re-wrote the 2001 Sierra Nevada Framework that applied to the 11 national forests in the Sierra Nevada range of California. Forest Service scientists objected to the 2004 plan calling it a "prescription for continued owl population declines". The agency's Science Consistency Review called the environmental analysis underpinning the 2004 Framework "confusing and potentially misleading". These comments and many more by both agency and independent scientists were ignored by the Forest Service in its drastic re-write of the 2001 Framework that resulted in the elimination of protection for important old growth habitat.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Science Advisor**

   Establish a Science Advisor to the Chief of the Forest Service, charged with assessing the agency's scientific capacity and internal process for using the best available science to underpin management decisions throughout the National Forest System.

   Responsible Official: Chief of the Forest Service

2. **Revise National Forest Planning Regulations**

   Restore long-standing wildlife conservation requirements, meaningful plans and informed public participation to forest planning by conducting a rulemaking that suspends the 2008 National Forest Planning Regulations and applies the 1982 planning regulations.

Responsible Officials: Undersecretary of Agriculture for NRE and Chief of the Forest Service

3. **Revise the Northwest Forest Plan, including the Western Oregon Resource Management Plans (BLM)**

   Revise the Northern Spotted Owl Recovery Plan and Critical Habitat Determination to fully incorporate the best available science. Suspend the implementation date for the Western Oregon Plan Revisions (WOPR). Revise the WOPR to incorporate the results of a scientifically-sound recovery plan and critical habitat determination and to correct the other scientific failings of the WOPR.

   Responsible Officials: Undersecretary of Agriculture for NRE, Chief of the Forest Service, Assistant Secretary for Land and Minerals Management, Director of the Fish and Wildlife Service, Director of the Bureau of Land Management.

4. **Revise the 2004 Sierra Nevada Framework**

   Withdraw the 2004 Sierra Nevada Framework and develop a new plan to increase protection for mature and old-growth forests and dependent species (such as the fisher and the California spotted owl), reduce the risk of high severity wildfire near homes and communities and correct the NEPA shortcomings of the 2004 Framework, including those identified by the U.S Court of Appeals for the Ninth Circuit.

   Responsible Officials: Undersecretary of Agriculture for NRE and the Chief of the U.S. Forest Service

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Support the America's Wildlife Heritage Act**

   The America's Wildlife Heritage Act, introduced by Rep. Ron Kind (D-WI) in the 110th Congress, modernize's the Forest Service wildlife population viability standard and monitoring requirements and codifies them into law. Authorizing these requirements in statutes is an important step to avoid the type of large regulatory swings proposed by the Bush administration.

   Responsible Official: Undersecretary of Agriculture for NRE

THE FIRST 100 DAYS

Initiate a rulemaking that suspends the 2008 National Forest Planning Regulations and provides that the 1982 planning regulations shall apply pending any further direction.

ISSUE 3
BUDGET REPRIORITIZATION, ACCOUNTABILITY AND TRANSPARENCY

BACKGROUND

The Forest Service's budget is in dire need of reform. The three prime areas that need to be addressed are: 1) containing the rising expenditures dedicated to fire suppression which have both paralyzed the agency's other programs and proven counter productive to managing wildfire near communities, 2) recalibrating budgetary priorities to concentrate limited federal dollars on areas that better reflect public needs, and 3) reforming the Forest Service budgetary reporting and accountability mechanisms to ensure transparent decision making and effective oversight.

Wildfire management costs have increased significantly over the years, from 13 percent of the Forest Service budget in 1991 to now nearly 50 percent. In eight of the last nine years, the Forest Service required emergency supplemental funding. Moreover, the Forest Service has repeatedly exhausted its suppression monies, and five times in the last nine years, was forced to raid the budgets of a broad range of vital programs and services like campgrounds and trail maintenance, habitat enhancement, and fire prevention and safety work. At the same time, funding for proven "firewise" activities near homes and communities have plummeted, while spending on counterproductive backcountry logging has increased. To successfully address wildfire, natural fire must be returned to ecosystems where appropriate while making communities safe. The Forest Service budget must be reoriented to reflect better planning and more effective spending.

Budgetary priorities should also be shifted to reflect the clear evidence that climate change is not only an imminent threat, but a reality already imposing changes on ecosystems across the country. For example, the Forest Inventory and Analysis (FIA) program conducted by the Forest Service provide the only consistent nationwide data on the state of U.S. forests. The FIA system recently underwent a major revision to ensure timely information, a consistent national sampling format, and a uniform system of Forest Health Monitoring to supplement FIA's traditional emphasis on commercial timber supply. Yet funding has never been adequate to fulfill this mandate. As climate change increases stress on our forests, timely, complete, and accurate information about the state of our nation's forests, both private and public, is critically important. Funding levels should be reprogrammed to reflect the pressing need to protect and restore resilient, intact ecosystems and to engage in important research. Recent years have seen these management goals systematically impoverished in favor of extractive activities that both waste taxpayer dollars and degrade vital public resources.

Finally, to further its overall mission and restore public confidence, it is imperative that the Forest Service improve its budgetary transparency and accountability. Multiple GAO and OIG reports have found glaring lapses in data collection and recurrent problems with long-term planning based on measurable goals. For example, current reporting is ineffective for basic activities like evaluating the cost-effectiveness of timber sales and documenting the location and effectiveness of hazardous fuels treatments.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Improve Accounting Transparency**

   The Forest Service should be directed to undergo a comprehensive review of GAO and OIG recommendations on maintaining an evolving and effective accounting program based on accurate data collection, storage and reporting. Better accounting would provide the Forest Service a better grasp of its funding needs and foster greater public trust.

   Responsible Officials: Undersecretary of Agriculture, Chief, OMB examiner

2. **Fully Implement Forest Inventory and Analysis**

   The Forest Inventory and Analysis (FIA) program must funded to support the frequent resampling necessary to track changes in forest health and to support an established, well-trained and experienced cadre of employees who provide reliable data.

   Responsible Officials: Undersecretary of Agriculture – NRE, Chief, OMB examiner.

3. **Fully Implement Resources Planning Act (RPA) Program**

   Fully implement the Resources Planning Act (RPA) program which requires that the Forest Service develop periodic and long-term strategic plans for National Forest resources. In 2007, the FY08 Interior Appropriations bill removed a multi-year limitation on the Forest Service's implementation of the RPA program. This reinstated program is meant to provide the President, Congress and the public a better appreciation of the budgetary needs of the Forest Service and improve understanding of the effects of climate change on the National Forest System including the effects on fish and wildlife and their habitat.

   Responsible Official: Undersecretary of Agriculture – NRE, Chief

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Separate Emergency Suppression Fund**

   Include a legislative proposal in the FY 2010 USDA Forest Service Budget Justification establishing an emergency off-budget account for costly wildfire suppression. The goal of such legislation is to reduce the effects that costly fires have on the Forest Service's budget, including ending the practice of transferring funds from non-fire agency programs.

   Responsible Official: Undersecretary of Agriculture - NRE, Chief, OMB examiner

POLICY RECOMMENDATIONS - BUDGETARY

1. **Reinvest in State Fire Assistance**

   Increase State Fire Assistance funding levels to at least $150 million. SFA is the primary federal program that can help communities become fire safe. SFA supports community wildfire protection planning and

"firewise" prevention methods. Upfront protection will lead to decreased suppression costs and reduced risk.

Responsible Official: Undersecretary of Agriculture - NRE, Chief

2. Reduce the Forest Products and KV Fund

Reduce the Forest Products program to FY 2000 funding, and do not invest in the KV fund in the FY 2010 Budget Justification. Projects funded through the Forest Products and KV fund consistently lead to great environmental, ecological, and economic damage. The agency's constrained budget cannot afford to subsidize timber companies at the expense of forest health. Additionally, reinsert in the Budget Justification appropriate reporting requirements associated with the agency's timber program.

Responsible Officials: Undersecretary of Agriculture – NRE, Chief, OMB examiner

3. Forest Service Timber Roads Program

Cut all funding for the construction, planning and design of logging roads for new timber sale contracts. The timber program pays to construct logging roads that assist timber companies in cutting and removing trees from our national forests. Over the history of the program, the agency has paid for hundreds of thousands of miles of timber roads. Construction of these forest roads exploit tax dollars and leads to the degradation of wildlife habitat, soil, and streams.

Responsible Officials: Undersecretary of Agriculture – NRE, Chief

4. Travel Management Planning and Legacy Roads Program

The Forest Service has launched an assessment of its travel system, but funding for implementation has been taken from the Recreation program. This project should be fully funded on its own merit. Additionally to date, this project has identified a significant amount of roads for closure, which will necessitate fully funding the Road Decommissioning program and the newly established Legacy Roads Program. The Forest Service should first prioritize decommissioning roads that are not in use and/or that are causing the most serious environmental problems.

Responsible Officials: Undersecretary of Agriculture – NRE, Chief, OMB Examiner

5. Fully Fund the Recreation and Wildlife Programs

The Recreation, Heritage & Wilderness program makes up the largest of the forest uses and demand for outdoor recreation is growing. However, recent years have seen this program woefully underfunded. In contrast, the budget for logging and timber road-building consistently increased denoting prioritization of corporate subsidies over public access and conservation. This pattern should be reversed and the Forest Service directed to focus funding on managing environmentally sound recreation and preservation of our natural heritage for generation to come. A fully funded Wildlife and Fisheries Habitat Management program will allow to FS to optimally work with partners to inventory and monitor, manage, and restore habitat on national forests and grasslands in four program areas: 1) Threatened, Endangered and Sensitive Species; 2) Wildlife; 3) Fisheries; and 4) NatureWatch (wildlife viewing and education).

Responsible Officials: Undersecretary of Agriculture – NRE, Chief, OMB Examiner

U.S. DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

TOP THREE ISSUES

1. IMPROVE EFFECTIVENESS OF WORKING LANDS CONSERVATION PROGRAMS

Ensure NRCS implements its working lands conservation programs to increase environmental benefits and help producers solve pressing natural resource challenges. The Environmental Quality Incentives Program and Conservation Stewardship Program will spend almost $10 billion from 2009-2012. NRCS must ensure they deliver real environmental gains in the short and long term.

2. IMPROVE AGENCY EFFECTIVENESS

The new Administration should thoroughly evaluate the effectiveness of resource allocation within NRCS at generating environmental benefits, and increase investment in the agency where necessary in order to ensure the agency effectively delivers conservation programs and technical assistance

3. MAINTAIN VALUE OF WETLANDS RESERVE PROGRAM

The WRP helps protect and restore wetlands on farms. NRCS should ensure that new Farm Bill program rules retain broad eligibility for the program, use reasonable payout schedules, and ensure fair payment levels. The new Administration should ask Congress to fix two provisions that discourage participation in this important program.

KEY APPOINTMENT POSITIONS

- Under Secretary for Natural Resources and the Environment
- Deputy Under Secretary for Natural Resources and Environment
- Chief, NRCS
- Chief of Staff, NRCS
- Eastern, Central and Western Regional Assistant Chiefs

ISSUE 1
IMPROVE EFFECTIVENESS OF WORKING LANDS CONSERVATION PROGRAMS

BACKGROUND

The Environmental Quality Incentives Program (EQIP) is the largest farm bill conservation program for working lands and is therefore a critical tool for helping farmers adopt farm and ranch stewardship practices. Through EQIP, the agency provides cost-share assistance and incentive payments for producers to purchase infrastructure or adopt land management practices aimed at enhancing natural resources, including soil, water, wildlife, energy and air quality. In the 2008 Farm Bill, Congress authorized over $6.1 billion in spending for this program for fiscal years 2009 through 2012.

Unfortunately, NRCS has historically missed critical opportunities for allocating these funds strategically to maximize environmental benefits. Shortcomings include: insufficient targeting of funds to the most critical issues in a particular geographic area; paying for practices and installations that may not provide actual environmental benefits (and, in the worst case, may actually cause environmental harm); failing to devise application evaluation criteria and payment rates that reward innovation and higher levels of environmental performance; over-funding capital and energy-intensive structures; and under-funding cost-effective management practices, such as biologically integrated pest management, and advanced nutrient management and organic systems.

The Conservation Security Program was included in the 2002 farm bill as an innovative new program designed both to reward farmers for good stewardship practices already in place and to encourage program participants to improve their environmental performance. Unfortunately, funding cuts and poor USDA implementation decisions since 2002 resulted in an overly complicated program that frustrated farmers and dedicated insufficient resources to assisting producers in improving environmental performance. The 2008 Farm Bill made significant changes to the (renamed) Conservation Stewardship Program, including simplifying the program, providing for nation-wide, continuous signup, and focusing the program more effectively on assisting participants in taking new steps to address the most critical environmental challenges in each region of the country. NRCS needs to implement the revised program effectively, so it will boost farmer participation and increase environmental benefits.

The 2008 Farm Bill also includes a new Cooperative Conservation Partnership Initiative (CCPI) which offers tremendous potential to increase the environmental benefits produced through both EQIP and CSP. This provision requires NRCS to reserve 6% of the funds of these programs (and the Wildlife Habitat Incentives Program) every year for multi-stakeholder cooperative projects that will leverage resources from state and local governments, producer associations and nonprofit organizations that focus on achieving specific conservation outcomes on agricultural land in a particular geographic area.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Reward environmental performance**

   Rework the NRCS EQIP ranking tool to ensure all states prioritize applications that will have greatest impact in cost-effectively addressing the priority environmental problems in their areas. Reward higher levels of environmental performance and management intensity. Ensure that CSP participants improve

their environmental performance during their contract to address the priority resource challenges in their area.

Responsible Official: Chief of NRCS

2. **Target funds to priority problems**

Conservation dollars should be invested in ways that target specific environmental problems (e.g., water quality in a polluted watershed, or air pollution in an air quality district). Working lands programs should be utilized and coordinated to provide incentives for farmers to adopt practices and systems that address those problems while achieving multiple resource benefits.

Responsible Official: Chief of NRCS

3. **Promote IPM and organic farming**

Provide national leadership to ensure that conservation programs have the capacity to promote Integrated Pest Management and organic production systems. Ensure effective implementation of new Farm Bill provisions to assist producers interested in transitioning to organic agriculture, including nationwide availability and technical assistance.

Responsible Official: Chief of NRCS

4. **Do No Harm**

Audit program implementation to ensure that funded stewardship activities, individually or together, enhance environmental benefits and do not cause environmental harm. For example, NRCS should prioritize projects at existing Concentrated Animal Feeding Operations over new or expanding ones to avoid subsidizing new facilities which may cause additional environmental impacts.

Responsible Official: Chief of NRCS

POLICY RECOMMENDATIONS - BUDGETARY

1. **No Restriction of CCC Funding**

The Administration should ask Congress to not restrict Commodity Credit Corporation funding for working lands conservation programs, allowing full funding as approved in the 2008 Farm Bill.

Responsible Officials: Under Secretary for Natural Resources and the Environment, Chief of NRCS

THE FIRST 100 DAYS

Some initial strong steps to ensure that we get more environmental bang from the buck out of our working lands conservation programs would be very consistent with commitments made during the campaign to ensure smarter, more effective and responsive government. New leadership positions should be announced to promote IPM and organic systems within the agency and its programs.

If rules to implement changes in the 2008 Farm Bill are published by NRCS under the current Administration before January 20th that do NOT ensure that these programs do more to deliver real environmental benefits than they have in the past, the new Administration should recall them and make improvements.

In addition to ensuring that new rules for working lands programs are effective in driving environmental improvement, the new Administration should ensure that rules are issued and implemented promptly so farmers and ranchers have the opportunity to enroll without delay in fiscal year 2009.

NRCS should launch an effort to examine ways to better quantify the environmental benefits of different conservation practices and systems, and study the potential use of performance-based payments for conservation programs.

ISSUE 2
IMPROVE AGENCY EFFECTIVENESS

BACKGROUND

The mission of NRCS has historically been to protect the nation's private lands from soil erosion and improve water quality through direct assistance to producers at the field level. As funding for farm bill conservation programs has grown, this mission has expanded to include the protection of all natural resources. Members of the NRCS field staff are conservation professionals – scientists and engineers – whose on-the-ground work is critical to ensuring that producers effectively implement conservation practices and the public receives the environmental benefit from conservation programs that it has invested in through taxpayer dollars. NRCS staff provide assistance not only to producers who participate in farm bill conservation programs, but also to those who are willing to implement conservation improvements without farm bill financial assistance but still need technical advice and planning in undertaking conservation activities on their land. The provision of basic conservation technical assistance to all producers regardless of whether they are enrolled in a conservation program should continue to be an important part of NRCS' mission.

Unfortunately, as the size of the programs the agency administers has grown, agency resources have not kept pace. In addition, allocation of those resources is a concern. Field staff for the nearly 12,000 person agency is distributed to nearly 2,600 county offices. The distribution formula currently used has never been adequately explained and is shown to be ineffective for states like California (the largest agriculture producing state) and Florida. Both states have diversified production systems and are large specialty crop producing states. In 2007, NRCS assisted landowners to protect and improve 47.4 million acres of land, mainly in the middle portion of the US. States outside the Plains and Corn Belt have had fewer opportunities to increase and diversify staff and subsequently have had more difficulty effectively delivering conservation programs and technical assistance. The staffing allocation process at NRCS should be reviewed, reassessed and made public.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Reallocate NRCS financial and staff resources**

   NRCS financial and staff resources should be focused on those programmatic priorities and locations which will produce the highest level of conservation and environmental benefits. Staff allocation formula should be adjusted to assure that high priority conservation needs and under-served customer groups are more effectively covered and to reduce the emphasis on delivering assistance to particular types of production systems.

   Responsible Official: Chief of NRCS

2. **Improve Conservation Program Enrollment Processes**

   Existing sign up processes should be restructured and new sign up processes should be developed for conservation programs so they more effectively focus on the priority conservation needs of each state and the programs most beneficial for conservation in those states.

   Responsible Official: Chief of NRCS

3. **Report on Unused Federal Funding**

   The new administration should conduct an assessment and publish a report on how much federal funding for conservation goes unused and why. This will help the agency design new policies to ensure that all funds are put to good use in getting conservation benefits on the ground.

   Responsible Official: Chief of NRCS

4. **Develop a Resource Conservation Corps**

   NRCS should assess the potential benefits and structure of a Resource Conservation Corps, as well as develop a pilot program for such an initiative. This service program would provide loan forgiveness and stipends for recent graduates from relevant agriculture and natural resource disciplines and would help improve outreach capacity at NRCS state or regional offices.

   Responsible Official: Chief of NRCS

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fully fund conservation programs and technical assistance**

   The budget should fully fund all USDA conservation programs at the level specified in the 2008 Food, Conservation, and Energy Act, and provide full funding for Technical assistance.

   Responsible Officials: Under Secretary for Natural Resources and Environment, Chief of NRCS

2. **Funding for Conservation Benefits Assessment**

   The President should recommend $50M in funding for the Conservation Effects Assessment Program (CEAP) in support of the new Resource Conservation Act (RCA) approved in the 2008 Farm Bill, thereby identifying ways of enhancing implementation effectiveness for conservation programs. A CEAP counterpart should be established at Forest Service with the goal of cross-agency coordination.

   Responsible Officials: Under Secretary for Natural Resources and Environment, Chief of NRCS

3. **Funding Ecosystem Services Marketing Board**

   The President should recommend $1M in funding for the Ecosystem Services Marketing Board, established in the 2008 Farm Bill. The Deputy Assistant Secretary for Natural Resources and Environment should be put in charge of managing this Board and selecting dedicated staff. Funding should include two stakeholder meetings and internal management funds to staff this Board.

   Responsible Officials: Under Secretary for Natural Resources and Environment, Chief of NRCS

THE FIRST 100 DAYS

The Administration should begin a review process to examine the formula for allocation of resources within NRCS. The review should examine the effectiveness of NRCS at improving the conservation of targeted natural resources and focusing on the most critical environmental needs. The review should result in concrete recommendations for improving the delivery of both conservation technical assistance and conservation programs by NRCS.

ISSUE 3
MAINTAIN VALUE OF WETLANDS RESERVE PROGRAM

BACKGROUND

Our nation continues to lose valuable wetlands across the country, despite various initiatives intended to reverse that trend. Perhaps no program contributes more than the Wetlands Reserve Program (WRP) in helping the nation try to achieve the national goal of no net loss of wetlands. WRP has been an extremely beneficial program for landowners, wildlife, the environment and taxpayers, having restored nearly two million acres of marginal agriculture land back to wetlands.

Under WRP, USDA purchases the development rights to a piece of property and secures wetland restoration benefits for the public. These payments are an exchange of assets of equal value – the landowner receives a payment for protecting and restoring the wetland, and in exchange the public gains the benefits that wetlands provide, including improved water quality, groundwater recharge, flood reduction, wildlife habitat, and recreational opportunities.

In the 2008 Farm Bill, Congress authorized $1.3 billion in spending for this program for fiscal years 2009 through 2012, enough to enroll 746,200 acres of wetlands over the next five years. Unfortunately, this bill eliminated an annual enrollment target for this program (it was previously 250,000 acres per year), making it harder to ensure that the program is fully funded each year. Several other changes were made to WRP that potentially decrease the program's appeal to landowners and make the conservation of wetlands with the highest biological value difficult. These include:

- A change in the WRP statute that will prevent people who have owned land less than 7 years from obtaining a WRP easement where the purpose of the purchase was to place the land in the program.
- A change that provided that payments for WRP easements valued at more than $500,000 would be paid out in at least 5, but not more than 30 annual payments, except where a lump sum payment would further the purposes of the program. In many states with high land values, the *average* WRP easement far exceeds $500,000.
- Several years ago NRCS adopted a new ("Yellow Book") appraisal method for valuing WRP easements, and the result was a collapse in the number of applications in some states and far fewer societal benefits and value to taxpayers. Congress put new language in the Farm Bill in an attempt to fix the problem by offering 3 options for establishing maximum easement value.
- A change that caps restoration cost-share agreements at $50,000 per year, potentially negating a significant benefit of WRP to enrolling landowners, especially those that are interested in enrolling larger-scale marginal agricultural fields with the prospect of becoming high quality wetlands.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Retain Broad Eligibility for Enrollment

The NRCS should insure that the rules implementing the law maintain broad eligibility for the program by giving people who have owned their land less than 7 years fair opportunity to provide adequate assurances that their land purchase was not motivated primarily by the intent to put the land in the WRP.

Responsible Official: Chief of NRCS

2. Use Reasonable Payment Options

NRCS should insure that new implementation rules provide that in instances where a lump sum payment is critical to a farmer's willingness to participate in the WRP, the 5-year payment rule could be waived to avoid losing high-value wetlands from the program. Additionally, new implementation rules should accommodate multi-year agreements for larger-scale restoration cost-share agreements.

Responsible Official: Chief of NRCS

3. Insure Fair Payment Levels & Funding for Maintenance

NRCS should insure that its new rules honor Congressional intent for streamlining the process and providing fair estimates of the value of the conservation easement being acquired. Additionally, NRCS should provide cost-share for maintenance activities on new contracts as well as for past program participants, where such activities are critical to insuring long-term health of wetlands.

Responsible Official: Chief of NRCS

4. **Insure Inclusion of Riparian Areas**

   Report language accompanying the 2008 Farm Bill clearly recognized the value of riparian areas, and affirmed that these areas can be enrolled as uplands that are dependent on a wetland or where they link other protected wetlands. Through the rules process, NRCS should ensure that riparian areas, which are increasingly important wildlife migration corridors especially in the arid Southwest, are eligible for WRP protection.

   Responsible Official: Chief of NRCS

5. **Insure WRP Conservation Goals**

   The 2008 Farm Bill includes a pilot program for WRP that retains grazing rights where they are compatible with the land, consistent with long-term wetland protection and enhancement goals, and comply with a specific conservation plan. Participation in this program should focus on areas whose ecology evolved with grazing bison and fire. Moreover, robust management plans must be required that prevent excessive grazing and minimizes potential damage to the affected wetlands.

   Responsible Official: Chief of NRCS

POLICY RECOMMENDATIONS - BUDGETARY

1. **Request Full Funding for Program**

   The new administration should fully fund WRP as part of the Administration's budget request and encourage Congress to leave WRP funding intact.

   Responsible Officials: Under Secretary for Natural Resources and the Environment, Chief of NRCS

THE FIRST 100 DAYS

Within the first 100 days, the NRCS Chief should insure that the aforementioned fixes are included in any final rulemaking issued on the WRP to the maximum extent allowed by law. Moreover, if WRP implementation rules are published by NRCS under the current Administration before January 20th but such rules have not yet become effective and do NOT include the above recommended improvements for the implementation of the WRP, the new Administration should, to the maximum extent allowed by law, suspend and recall the regulations in order to make such improvements.

U.S. DEPARTMENT OF AGRICULTURE

RESEARCH, EDUCATION AND ECONOMICS

TOP THREE ISSUES

1. DEDICATE A FAIR SHARE OF USDA REE RESOURCES TO SUSTAINABLE AGRICULTURAL PROGRAMS

The new Administration should provide a "fair share" of USDA resources to support sustainable agriculture through research and extension activities. Specific priorities are the SARE and ATTRA programs, the promotion of genetic diversity by investing in public plant and animal breeding, and the expansion of research on organic agriculture and antibiotic free livestock production.

2. PESTICIDE DATA COLLECTION

The new Administration needs to restore capacity of the National Agriculture Statistics Service to provide regular and frequent reports on the use of agricultural chemicals in U.S. agriculture.

3. ADVANCING A SUSTAINABLE BIOENERGY FUTURE

The new Administration needs to ensure full funding of research programs related to biomass energy and direct research funding into those feedstocks and processes with the greatest potential to lower greenhouse gas emissions over their entire life cycle and to be environmentally, economically and socially sustainable.

KEY APPOINTMENT POSITIONS

- Undersecretary for Research, Education and Economics
- Agricultural Research Service, Administrator
- NIFA, Administrator
- NIFA, Plant and Animal System, Deputy Administrator
- NIFA, Natural Resources and Environment, Deputy Administrator
- NIFA, Plant and Animal System, Deputy Administrator
- NIFA, Competitive Programs, Deputy Administrator

ISSUE 1

DEDICATE A FAIR SHARE OF USDA REE RESOURCES TO SUSTAINABLE AGRICULTURAL PROGRAMS

BACKGROUND

Increased resources are needed to expand research on environmentally and economically sustainable agriculture practices such as regional food systems, organic farming practices, and antibiotic free livestock operations.

Organic agriculture for example, provides multiple environmental benefits, such as clean water and air, but has traditionally been underfunded by USDA research and extension programs. In the last 5 to 10 years funding has increased significantly, but still is far below market share for this type of production.

Antibiotics are a major environmental threat, contaminating both ground and surface water. About 70% of all antibiotics are used in livestock operations where they readily leach into soil and water. The recent farm bill created a new research initiative within the USDA National Institute of Food and Agriculture (NIFA) called Research and Extension Grants for the Study of Antibiotic Resistant Bacteria. Among other things, this program would fund projects that study the judicious use of antibiotics, safe and effective alternatives to antibiotics, and movement of antibiotics into ground and surface water. No mandatory funding was provided for this important research initiative.

Increase funding for developing public plant and animal varieties is another important research area. In recent decades, public investment in classical breeding has declined as resources have shifted toward work in the area of genomic and molecular genetics. The result is a lack of genetic diversity in the farm fields of our nation. The problem is particularly acute for organic farmers and sustainable farmers whose systems depend so heavily on local adaptation of plants and animals to unique soils and pest conditions and the changing climates of their areas. If we continue to allow the consolidation of our germplasm resources into an ever-narrowing pool, we jeopardize our food security in the event of blight or pathogens. Diversity and adaptability of our seed and animal germplasm is the best precaution against such vulnerabilities.

The role of both the the USDA NIFA and the USDA Agricultural Research Service (ARS) are critical to reinvigorating the investment in plant and animal breeding. Congress included both conventional/classical breeding as part of the new Agriculture and Food Research Initiative at NIFA in the Food, Conservation, and Energy Act of 2008.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Add Two New National Program Areas**

   The new Administration should designate two new National Program areas within the USDA NIFA Agriculture Farming Research Initiative, one to address classical plant breeding, and another to address classical animal breeding. Each with an allocation of $10 million per year. Grant terms of up to 10 years should be awarded.

Responsible Officials: Under Secretary for Research, Education and Economics, NIFA Administrator

2. **Increase Public Breeding Work**

The new Administration should increase support for public breeding of plant and animal varieties at the USDA Agricultural Research Service, particularly efforts geared toward the development of varieties suited for organic and sustainable agricultural systems.

Responsible Officials: Under Secretary for REE, NIFA Administrator

3. **Study of Antibiotics in Livestock**

The new Administration should include the study of antibiotics in livestock as a National Program Area within the Agriculture and Food Research Initiative at the USDA NIFA.

Responsible Officials: Under Secretary for REE, NIFA Administrator

POLICY RECOMMENDATIONS - BUDGETARY

1. **Increase Funding for SARE Grants**

The new Administration should increase funding for the Sustainable Agriculture Research and Education (SARE) grant program to $20 million in the first budget that it sends to Congress and then dramatically increase funding for this program in subsequent years to a level that is at or near the full authorization level.

Responsible Officials: Under Secretary for REE, NIFA Administrator

2. **Funding for ATTRA Program**

The new Administration should increase funding for the Appropriate Technology Transfer for Rural Areas (ATTRA) program to $5 million.

Responsible Officials: Under Secretary for REE, NIFA Administrator

3. **Increase organic research**

The new Administration should increase funding for organic research, extension and data collection activities at the USDA NIFA, ARS, ERS, NASS, and AMS to $ 25 million in the first budget that it sends to Congress and then dramatically increase funding for this program in subsequent years to a level that is at or near the full authorization level.

Responsible Officials: Under Secretary for REE, NIFA Administrator

4. **Funding for Antibiotic Research**

The new Administration should provide $5 million in new funding for the new antibiotics research initiative created in Section 7521 of the 2008 Farm Bill.

Responsible Official: NIFA Administrator

5. **Two New National Program Areas (Classical Plants and Classical Animals)**

   The new Administration should create two new national programs within the Agricultural Farming Research Initiative, focusing on classical plant and animal breeding and allocate out of the existing AFRI budget, $10 million for each new program.

   Responsible Officials: Under Secretary for REE, NIFA Administrator

6. **Managed Ecosystems**

   The new Administration should increase funding for the NIFA AFRI managed ecosystems program to $5 million.

   Responsible Officials: Under Secretary for REE, NIFA Administrator

THE FIRST 100 DAYS

All of the above budget and reorganization recommendations should be incorporated into the first budget that the new Administration sends to Congress.

ISSUE 2
PESTICIDE DATA COLLECTION

BACKGROUND

The National Agricultural Statistic Service (NASS) has regularly collected and published agricultural chemical use data since at least 1991, but has dramatically scaled back its program in recent years. First, the agency replaced its annual surveys of major field crops with biennial ones. Then, in the 2007 growing season, data collection was limited to just three crops—cotton, apples and organic apples. Now, NASS has taken the most drastic step—announcing that it will not collect agricultural chemical use data on any crops during the 2008 growing season.

NASS's Agricultural Chemical Usage reports are the only reliable, publicly available source of data on pesticide and fertilizer use outside of California. Elimination of this program will severely hamper the efforts of the USDA, the Environmental Protection Agency (EPA), land grant scientists, and state officials to perform pesticide risk assessments and make informed policy decisions on pesticide use. In particular, USDA and EPA will have difficulty tracking their progress in meeting their policy commitments to reduce the use of hazardous pesticides through adoption of Integrated Pest Management (IPM) practices and to support IPM research. NASS's data is also an important tool for educating the public about pesticide use and represent the public interest in pesticide and pest management policy decisions.

Agricultural chemical usage data generated by private firms such as Doane or Crop Data Management Systems are both extremely expensive and unreliable, and thus are no substitute for NASS's program. Even at these prices, the companies severely limit subsequent use and reporting of results derived from analytical work using their data. State governments also find these data too expensive. The EPA, too, has sometimes struggled to find funding to acquire these proprietary data. Even if these proprietary data were affordable, they are of substandard quality, and

the procedures used to generate them are not disclosed. As a result, these data cannot be relied upon as the basis for important regulatory and policy decisions on agricultural chemical use.

NASS' objective and reliable data are critical to sound policy decisions on pesticide use. They are also the only publicly available resource to counter misinformation about pesticide usage and trends in American agriculture.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Provide USDA pesticide data**

   The new Administration should restore the NASS' capacity to provide regular and frequent reports on the use of agricultural chemicals in U.S. agriculture. Specifically, NASS should reinstate its program of the 1990s, which involved surveys of chemical use annually on major field crops (such as corn, soybeans and cotton); periodically on other field crops; and biennially on fruit and vegetable crops.

   Responsible Official: NIFA Administrator

POLICY RECOMMENDATIONS - BUDGETARY

1. **USDA pesticide data**

   The new Administration should insure that the NASS pesticide data collection program is funded at no less than $8 million.

   Responsible Officials: Under Secretary for REE, NIFA Administrator

THE FIRST 100 DAYS

The new Administration should reprogram sufficient funds to support the renewal of a robust pesticide reporting program in the first budget that it sends to Congress.

ISSUE 3
ADVANCING A SUSTAINABLE BIOENERGY FUTURE

BACKGROUND

USDA will play a key role in advancing the next generation of biofuels and bioenergy. The agency has the opportunity to ensure that this next generation is more sustainable and brings about significant life cycle greenhouse gas emission reductions, while also benefiting the environment, farmers and rural communities. USDA research can and should be a major force in shaping a truly sustainable, yet economically viable next generation of biomass energy.

A top priority is to ensure that all available funding is secured for this research. A second priority will be to ensure that the funding that is secured is used to move the industry forward in ways that are both sustainable and economically viable. For example, simply developing the feedstock with the highest biomass output per acre is not sufficient, if that feedstock uses so many inputs as to make it too expensive, environmentally damaging, or greenhouse gas intensive. Another example is the use of crop residues. Simply helping to develop collection and storage and conversion technologies is insufficient. There must also be an understanding of the long term consequences for soil fertility.

We suggest a special priority in USDA research for studies of native plant mixes for biomass production. This priority is justified by the low level of work on implementation and development that has gone into utilization of these crops to date, despite their potential to produce sustainable renewable biomass that maximize net energy gains and greenhouse gas reductions, while also providing improved water quality, wildlife habitat and restoration of soil fertility.

Further research still needs to be done to improve the implementation of the sustainability safeguards in the Renewable Fuel Standard, including quantification of lifecycle GHG emissions from biofuels production and verification of producer compliance with the definition of renewable biomass. Accurate quantification of emissions from direct and indirect effects of biomass feedstock and biofuels production is challenging. While we believe that current scientific understanding is sufficient to make reasonable estimates of these impacts, these estimates should continue to be refined as additional scientific information becomes available. USDA should work with EPA to find ways to incorporate an option in RFS lifecycle analysis for those producers who want to demonstrate improved greenhouse gas reductions beyond the model's default values to do so. It should also work with EPA to find improved ways to track the compliance of all feedstock with RFS safeguards on land use change.

Selecting "winners" in terms conversion technologies or fuels is not wise as the industry is still in its infancy. Enzymatic conversion of switchgrass, poplars or miscanthus to ethanol is just a small part of the potential biomass-to-energy future. USDA should ensure that the range of possible conversion and fuel/electricity scenarios are fully considered and that their relative greenhouse gas implications are fully studied.

A truly economically and environmentally sustainable, low carbon bioenergy future will not happen without strong, well designed research efforts. USDA can help make it happen.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Life Cycle GHG Assessment Tools**

   The new Administration appointees at the Department of Agriculture should work in cooperation with EPA, DOE and others to develop metrics for comprehensive life cycle assessment for biofuel-biomass-bioenergy impacts that include GHG effects of land conversion and fertilizer use and water management.

   Responsible Official: NIFA Administrator

2. **Sustainable Regional Models for Bioenergy**

   The new Administration should begin research to develop regional assessments of biofuel-biomass-bioenergy production systems that protect or enhance natural resources, do not compromise regional food

production resources, and give primary status to energy conservation and development of low carbon renewables such as wind, solar and tidal power.

Responsible Official: NIFA Administrator

3. **Feedstock Research on Native Mixes**

The new Administration should begin to study the potential uses of restored native plant mixes for biomass as well as the sustainable harvest of existing native mixes that can be accomplished without compromising biodiversity, soil, water or wildlife.

Responsible Official: NIFA Administrator

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fully fund R and D Programs**

Congress should fully fund existing RD&D programs to develop, deploy, and deliver advanced, sustainable biofuels including those in the Biomass Research and Development Act and the Energy title of the Farm Bill

Responsible Officials: Undersecretary for REE, NIFA Administrator

THE FIRST 100 DAYS

The above recommendations for a reinvigorated research program on biofuels-biomass-bioenergy is very much in line with the new Administration's identification of climate change and renewable energy development as its highest environmental set of priorities. Accordingly, DOA should begin implementing the above policy and budgetary initiatives at the earliest possible moment.

DEPARTMENT OF EDUCATION

DEPARTMENT OF EDUCATION

TOP THREE ISSUES

1. NO CHILD LEFT INSIDE ACT

Seek passage of the No Child Left Inside Act to create $100 million in funding for state environmental literacy plans, teacher training, and increased access to quality environmental education experiences for all young people, and host a White House Conference on Connecting Kids to Nature to promote formal and nonformal environmental education, environmental justice education, physical activity, and direct nature experiences as instrumental avenues to raising well-rounded, healthy children.

2. NATIONAL ENVIRONMENTAL EDUCATION ACT

Support the reauthorization of the National Environmental Education Act (NEEA), which was passed in 1990 and provides the primary support for environmental education. It funds lifelong environmental education through the EPA and created the EPA Office of Environmental Education and the National Environmental Education Foundation. This legislation has helped build a more informed citizenry that has the skills and knowledge to respond to increasing environmental challenges—from the need for environmental regulation to how to address climate change. The Act needs to be revised and the authorization level needs to be substantially increased.

3. PRESIDENTIAL COMPREHENSIVE CLIMATE CHANGE EDUCATION AND READINESS INITIATIVE

Establish a Presidential Comprehensive Climate Change Education and Readiness Initiative and associated legislation to equip our American workforce with the necessary skills and knowledge for the new green economy through major adjustments to K-12 education, school-to-work programs, higher education, professional re-education, and consumer and public education.

KEY APPOINTMENT POSITIONS

- Senior Policy Advisor to the Secretary of Education, Environmental Education
- Environmental Education Advisor, Council of Environmental Quality
- Senior Policy Advisor to the Secretary of Commerce or Undersecretary of Commerce for Oceans and Atmosphere
- Senior Policy Advisor to the Director of the US Peace Corps, Environmental Education and Sustainability

STRENGTHEN ENVIRONMENTAL EDUCATION

BACKGROUND

The transition to a green economy presents a tremendous opportunity for those who embrace it - and a great risk for those who ignore it. Transforming our nation's economic, energy, and environmental systems to move towards a green economy will require a level of expertise, innovation, and cooperation unseen since the 1940s.

America needs major new investments in our educational infrastructure to overcome these challenges, reclaim our economic competitiveness, and return us from the brink of catastrophe from global warming. At the same time, it has been well proven that an investment in education and innovation - in human capital - is without a doubt the best investment that can be made for long-term, across-the-board economic growth.

This transition will require a major job training and education effort on the part of business, government, and educational institutions. But green manufacturing workforce development programs are just a piece of what is needed; the green economy will not be driven by manufacturing workers alone. Architects, engineers, planners, scientists, business managers, financial experts, lawyers, entrepreneurs, political leaders, and many others will all be needed to develop a green economy. In short, we must have a broad base of educated citizens who understand the connections between economics, the environment, and social well-being.

To prepare Americans for the transition to a green economy, new investments are needed:

- to retool our nation's universities and colleges as centers of research, education and workforce training in green economy-related fields,
- to restructure K-12 education by bolstering environmental education and STEM (science, technology, engineering, and math) education to provide students with a basic understanding of the relationships between environmental, economic and social systems,
- to bolster existing school-to-work programs to provide disconnected young people with educational and work options through new initiatives like a Climate Conservation Corps,
- to provide more opportunities for under-served audiences to take part in high-quality environmental education programming, and
- to mount major public education programs to sensitize the public and to develop educated consumers.

Public investment in education for a green economy will more than pay for itself, just as the post-Sputnik education programs did in the 1950s and '60s. Today, a similar investment would equip a new generation of Americans with the highest caliber human capital, inspire them to tackle the green economy as their generational undertaking, and pave the way for new industries and technologies.

Federal agencies involved in environmental education: Department of Education, CEQ, EPA, NOAA, Department of Energy, Department of Interior (BLM, FWS, NPS), USDA (Forest Service), and NASA

DEPARTMENT OF EDUCATION

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Executive Order Improving School Performance through Environmental Education**

   Issue an Executive Order directing the Department of Education to place high priority on environmental education curriculum that integrates science, math, social studies, economics, and outdoor and service learning. Research shows that environmental education increases performance and test scores in primary and secondary schools, particularly in the areas of science and math.

   Responsible Officials: The President, Chairman, CEQ, Secretary of Department of Education

2. **Federal Resource Agency Directive on Climate Literacy**

   Direct all federal resources agencies to develop and conduct climate literacy training for all personnel to familiarize them with challenges, needs, and appropriate responses for each agency. Identify specific needs for professional training and capacity building.

   Responsible Officials: Secretary of Education, Chairman, CEQ

3. **White House Conferences on Healthier, Greener Communities and Connecting People to Nature**

   Launch a White House initiative focused on creating green communities that promote ecological integrity, social equity, economic well being, and health. Conference themes, co-sponsored with key federal agencies, would focus on how to connect kids to nature to improve the wellbeing and competitiveness of American youth, building a more equitable and green economy, support service learning to engage youth in greening the community, and promote social equity to create more sustainable communities. As part of this initiative, each Conference would facilitate collaboration across sectors and focus on how to eliminate barriers, support research, and promote innovative solutions.

   Responsible Officials: Secretary of Education, Chairman, CEQ

4. **National Goal of 100% of New School Construction and Rehabilitation to meet "Green Schools" Standards by 2012**

   Declare a Department of Education policy to support a national goal that 100 percent of newly constructed or rehabilitated schools to become "Green Schools" to lower energy costs and greenhouse gas emissions, and provide opportunities for formal and nonformal environmental education.

   Responsible Official: Secretary of Education

5. **Executive Order to Create a Presidential Commission on Americans and the Great Outdoors**

   Issue an Executive Order to launch a third Presidential Commission to explore American's connection to the great outdoors, building upon the President's Commission on American's Outdoors (PACO – 1987) and the Outdoor Recreation Resources Review Commission (ORRRC – 1962). A major focus of the Commission will be to study ways to bolster environmental education and connecting people to nature.

DEPARTMENT OF EDUCATION

Responsible Officials: the President, CEQ Chairman, Secretary of Education, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce (NOAA)

POLICY RECOMMENDATIONS - LEGISLATIVE

1. No Child Left Inside Act

Include the No Child Left Inside Act in the Administration's Congressional recommendations to reauthorize the Elementary and Secondary Education Act to support teacher training, improve student achievement and health, prepare youth for the workplace, address environmental justice, and ensure every student graduates from high school environmentally literate. The House passed a modified version of the bill by a bipartisan vote of 293-109 in September, 2008. Provide incentives for federal land management agencies to partner with local and state education agencies.

Responsible Official: Secretary of Education

2. National Environmental Education Act (NEEA)

Support the reauthorization of the NEEA, which passed in 1990 and provides the primary support for environmental education. It funds lifelong environmental education through the EPA and created the Office of Environmental Education and the National Environmental Education Foundation. It provides capacity building, training, and a national and regional grant program. If there is going to be a responsive citizenry for environmental regulation and climate change, there must be a mechanism to educate the public. The authorization needs a serious modernization and an increase in authorization levels.

Responsible Official: Secretary of Education

3. National 21st Century High-Performing Public School Facilities Act

Support the National 21st Century High-Performing Public School Facilities Act, H.R. 3021, which passed the House by a vote of 250 to 164. The bill would create new funding administered by the Department of Education to help public k-12 school systems across the country reduce energy costs and carbon emissions through green building design while funding essential and long overdue repairs and upgrades. The legislation should be modified to promote formal environmental education, focus on the relationships between a healthy environment and healthy communities, improve and enhance schoolyard environments to create greener and healthier schools for students of all ages.

Responsible Official: Secretary of Education

4. Comprehensive Climate Change Education and Readiness Bill

Promote a comprehensive climate change education bill to advance education for a green economy through major adjustments to K-12 education, school-to-work programs, higher education, professional re-education, and consumer and public education, in order to equip our American workforce and citizenry with the needed skills and knowledge to maximize environmental and economic gains in the transition to a green economy.

Responsible Official: Secretary of Education

DEPARTMENT OF EDUCATION

5. **Launch a Climate Conservation Corps**

Recommend legislation to implement a 21st Century "Climate Conservation Corps" focused on energy conservation measures to help consumers save money, protect natural resources and biological systems from a changing climate, and educate Americans about climate change. Modeled after the Depression-era Civilian Conservation Corps that lifted three million unemployed Americans out of poverty, this new Climate Conservation Corps will create jobs, help the nation lower energy bills, and create more resilient natural systems.

Responsible Officials: Secretary of Education, Administrator, EPA, Chairman, CEQ, Director, OMB

POLICY RECOMMENDATIONS - BUDGETARY

1. **No Child Left Inside**

Support a $100 million authorization and funding for the proposed No Child Left Inside Act, which would promote formal environmental education opportunities for K-12 schools through grants for state environmental literacy plans, teacher training, and capacity building.

Responsible Officials: Secretary of Education, Director, OMB

2. **National Environmental Education Act (NEEA)**

Fund the NEEA at $14 million and support an increase in the funding level through reauthorization. For eight consecutive years the Bush administration zeroed support for this fundamental public program to promote understanding of environmental issues, laws, and behaviors. This funding, which costs a mere three cents for every American, must be fully supported by the new Administration to make America more competitive, help Americans transition to the new green economy, and to prevent environmental education from being pushed out of the classroom. Current authorization allows for 14 million per year. FY08 funding at $9 million; FY09 and FY10 request is for $14 million.

Responsible Officials: Secretary of Education, Director, OMB

3. **University Sustainability Program**

Fully fund the new University Sustainability Program (formerly the Higher Education Sustainability Act), which has the potential to significantly accelerate the green economy transition by graduating a generation of students who understand the fundamentals of a green economy and has broad support within higher education. Newly authorized program; FY09 request is $50 million.

Responsible Officials: Secretary of Education, Director, OMB

4. **NOAA education programs**

Double the modest current funding for NOAA's Education Initiatives (which include the Environmental Literacy Grants program) to enable the Office of Education to implement the education recommendations of the U.S. Ocean Action Plan, and continue the expansion begun by Congress of the BWET (Bay Watershed Education and Training) grant programs to currently unserved regions including the Great Lakes, Southeast, Alaska, and Mississippi River basin. FY09 funding was at: $14.6 million; FY09 and FY 10funding request is for $24 million.

Responsible Officials: Secretary of Education, Undersecretary of Commerce for Oceans and Atmosphere, Director, OMB

5. **Green Schools Goal**

According to the U.S. Green Building Council, if all new school construction and school renovations went green starting today, energy savings alone would total $20 billion over the next 10 years. Green schools typically cost less than $3 per square foot more to build, an investment that is paid back within a few years of operation. According to data from the construction industry, "K-12 green construction" is the fastest growing sector across the country. Also fully fund the newly-authorized Energy Sustainability and Efficiency Grants and Loans program, which provides loans and grants for renewable energy and energy efficiency projects at higher education institutions, public schools, and local governments. New program, FY09 and FY10 funding request is $250 million for grants program and $500 million for loan program.

THE FIRST 100 DAYS

To highlight the President's leadership on environmental education, the First 100 Days could include any of the following:

- **Green Jobs and Green Education Stimulus Package Launch at a Community College.** Environmental education is the cornerstone of our new clean energy future. An economic stimulus package with a focus on green jobs and green education would help Americans of all ages, all backgrounds, and all walks of life transition to the green economy. A community college would be a powerful venue for this announcement. This initiative could include the creation of Climate Change Centers of Excellence at key universities across the country to promote broad public understanding of our new green economy. The President could also announce his full support for the Higher Education Sustainability Summit authorized by the Higher Education Act (PL 110-315) to ensure that higher education prepares the next generation to combat global warming. This green stimulus package could also promote a dramatic investment in climate change education and a Climate Conservation Corps, focused on new job creation, public understanding of energy conservation to reduce energy bills, and work projects to promote natural resources adaptation to global warming.

- **Green Schools Initiative.** Excessive heating and cooling bills hurt many school budgets across the country. The President could unveil a new national Green Schools goal to promote green design in new school construction and rehabilitation projects. This initiative would save millions of dollars in energy costs to local schools, reduce greenhouse gas emissions, and provide more opportunities for environmental education.

- **No Child Left Inside Event**. The President and the Secretary of Education could support inclusion of the No Child Left Inside Act in the Administration's proposed legislation to reauthorize the Elementary and Secondary Education Act. The President could issue a proclamation for "No Child Left Inside Days," to draw attention to the benefits of outdoor and

environmental education in our nation's schools. The announcement could take place on the White House lawn as local K-12 students participate in hands-on environmental education activities with their teachers and would involve federal land management agencies and national conservation groups.

- **White House Conference on Greener, Healthier Communities and Connecting People to Nature**. The President could launch a White House initiative focused on creating green communities that promote ecological integrity, social equity, economic well being, and health. Conference themes could focus on how to connect kids to nature, building a more equitable and green economy, and promoting social equity to create more sustainable communities.

- **Presidential Commission on Americans and the Great Outdoors**. The President could launch a 21st Century commission on Americans and the Outdoors to explore Americans' connections with nature, the quality of our federal conservation and recreation programs, the importance of conservation to public health, the quality of environmental education systems, and the benefits of conservation to our economy.

DEPARTMENT OF ENERGY

DEPARTMENT OF ENERGY

TOP THREE ISSUES

1. HELP THE U.S. ACHIEVE ALL COST-EFFECTIVE ENERGY EFFICIENCY

Efficiency is not only the least expensive way to reduce global warming pollution, but also saves consumers and businesses money on their energy bills. In general, the Secretary should seek to prioritize DOE's energy investments based on (a) their cost-per-ton of (CO_2-equivalent) GHG emissions avoided, and (b) their relative capacities to minimize or avoid hitherto unpriced non-carbon "externalities" and "socialized costs,". These externalities and costs include their "well-to-wheels" full-life-cycle risks and benefits to: atmospheric, terrestrial, freshwater, and marine resources; biodiversity; food security; international security; public health and safety, energy security; domestic job creation, and global sustainable development.

2. PURSUE ENERGY SECURITY AND GHG REDUCTION GOALS IN TANDEM BY INCREASING SUPPLIES OF RENEWABLE ENERGY IN AN ENVIRONMENTALLY RESPONSIBLE MANNER

Building from a base of continuing gains in end-use efficiency, it is evident that the wind, solar, geothermal, advanced hydro, and biomass resources of the United States have the inherent potential to power the U.S. economy. Global warming and the need to bolster our energy security make the transition to renewable sources of energy an urgent priority.

3. CUT FUNDING FOR COSTLY AND POLLUTING FOSSIL AND NUCLEAR ENERGY

Terminate current misguided long-term R&D investment in an irrelevant, costly, and dangerous "vision" of a globalized plutonium fuel-cycle partnership, and minimize the federal financial commitment to uneconomical new-build nuclear power that would divert resources from less costly and more sustainable energy solutions**.** The Federal government has invested hundreds of billions of dollars over six decades in the development of the fossil and nuclear energy industries. It is time to move on.

ISSUE 1

HELP THE U.S. ACHIEVE ALL COST-EFFECTIVE ENERGY EFFICIENCY

BACKGROUND

The Department of Energy plays a critical role in promoting efficient use of energy in all sectors of the American economy, but especially in regard to the end use of electricity. The Secretary of Energy should request Congress to designate funds for energy efficiency programs that are best implemented at a national level. A range of private

sector entities, including, utilities, large energy consumers, energy service companies, retailers, manufacturers, and real estate firms are already beginning to develop the enormous energy efficiency potential of the country. This development can be accelerated and scaled up considerably with cost-effective federal programs.

The Secretary should request Congress to establish grants that would be awarded to states and utilities using performance-based criteria. These performance-based grants would create an incentive for these entities to actively support and continuously improve energy efficiency within their area of influence – helping consumers keep their energy costs down. Since some states are farther along in developing efficiency programs and policies than others, the grants should begin to be awarded immediately while the performance-based criteria are being developed, which should take no more than two years. During the two-year transition period, the grants should be awarded based on a state's population. The grants would be awarded according to performance-based criteria beginning in the third year of the program. States receiving grants should be conditioned on their adopting decoupling mechanisms for utilities that administer efficiency programs and the building efficiency codes described below. The grant program is meant to reward the states and utilities that most aggressively pursue efficiency through maximum use of federal programs and their own measures.

The energy performance of buildings has remained hidden for far too long. Building owners are aware of the fuel efficiency of their automobiles, but have no concept of the fuel efficiency of their buildings – a much larger asset and investment. To address this long ignored problem, the Secretary of Energy should establish national building labeling programs.

DOE should adopt aggressive energy efficiency standards for appliance and equipment products that are technologically feasible and cost effective, including strong standards in each of the appliance standards rulemakings currently pending before DOE. Efficiency standards should be pursued not only in the appliance and equipment categories required by federal legislation, but in all areas where energy savings are significant. DOE has this authority, but has not used it. The Secretary should follow the example of the State of California, which has consistently identified cost effective energy savings in appliance and equipment categories not covered by standards and issued new standards to cover them.

There is vast energy potential waiting to be harvested by reducing the amount of electricity and natural gas we waste. The Secretary should ask Congress to require electric utilities to increase their end use energy efficiency by one percent per year and natural gas utilities to increase their end use efficiency by an amount of similar aggressiveness and feasibility. These standards would lower carbon emissions and other air pollution, as well as reduce transmission costs and congestion.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Set Robust Standards and Fully Exploit Existing Standard Setting Authority

DOE should adopt strong standards in each of the appliance standards rulemakings currently pending, and appropriately construe its standard setting authority. Efficiency standards should be pursued not only in the appliance and equipment categories required by federal legislation, but in all areas where energy savings could be significant. DOE has this authority, but has not used it. The Secretary should follow California's example which has consistently identified cost effective energy savings in appliance and equipment categories not covered by standards and issued new standards to cover them.

Responsible Official: Asst. Sec. for EERE

2. Promulgate an Advanced Model Building Code

With or without legislative direction, the Asst. Sec. for EERE should publish a more stringent, or "stretch code," so that states that want to use a more aggressive code than prevailing model codes will have a technically robust code to use. Code development requires significant resources and technical capacity that many states do not have, and thus a national stretch code would be a valuable tool for reaching state efficiency goals.

Responsible Official: Asst. Sec. for EERE

3. Establish federal building efficiency labeling programs

Develop or adopt an energy label program that would facilitate the development and display of labels showing a building's energy efficiency potential, and determine whether new statutory authority is needed to require all government owned or financed buildings to obtain and display an energy label. Work with other agencies to incorporate an energy efficiency asset value rating system into loan underwriting standards, by requiring the assumption of the worst possible rating unless documentation exists of a higher efficiency level

Responsible Official: Asst. Sec. for EERE

4. Modify guidelines for conducting economic analysis of efficiency standards

The Secretary should direct that the economic analysis DOE performs to set efficiency standards include the value of reduced global warming pollution and lower energy prices that would occur as a result of a given standard. The Secretary should also direct that DOE set standards at the most stringent level that is cost-effective within the range of economic uncertainty present in the analysis.

Responsible Official: Secretary of Energy

5. Require Efficiency Roadmaps and Increased Accuracy in Standard-Setting

The Secretary should direct DOE staff to create standards roadmaps for major appliances to help guide the industry towards higher efficiency while giving manufacturers the security they need to pursue the deployment of more efficient products. DOE staff should also be directed to: (a) compare the economic impacts predicted to occur as a result of setting efficiency standards to what actually occurred; and (b) evaluate the accuracy of assumptions and methodologies utilized in previous standards rulemakings in comparison to actual results.

Responsible Official: Secretary of Energy, through Asst. Sec. for EERE

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Super Efficient Buildings Incentive (SEBI)

Request Congressional authority and funding to establish national performance based incentive programs for super-efficient new buildings and energy efficiency improvements to existing buildings. These programs would be directed at commercial and residential buildings that are either built significantly above code, or make significant improvements to their efficiency through deep energy retrofits or operational changes. An urgent SEBI priority is an energy efficiency home retrofit program

that would provide a rebate to any party obtaining an owner's consent to undertake an efficiency retrofit of an existing home. The rebate would reward the percentage improvement in energy efficiency compared to the home in its previous state, while utilizing certified third party verification of efficiency improvements. The retrofit program should include support for the training of home energy raters, which would be needed to implement the program.

Responsible Official: Asst. Sec. for EERE

2. **Super Efficient Appliance Deployment (SEAD)**

Request Congressional authority and funding to establish a national program, modeled after successful utility and state-level efficiency programs, which rewards retailers and manufacturers for increasing market penetration of highly efficient products through any number of mechanisms, including, but not limited to employee training, advertising or consumer rebates. Under this program, manufacturers, retailers, distributors and others in the supply chain would receive incentives for exceeding market adoption projections for top-tier efficiency products. Federal guidelines should be established based on the characteristics of programs that have worked well in the past to identify the top-tier products that would qualify for this incentive, as well as identify a methodology for establishing the business-as-usual market penetration projections.

Responsible Official: Asst. Sec. for EERE

3. **Federal efficiency grants to states and local distribution utilities**

The Secretary should request Congress to establish a grant program for states and local distribution utilities to advance energy efficiency in their respective regions Since some states are farther along in developing efficiency programs and policies than others, during an initial two-year period grants should be awarded based on a state's population, with a transition to performance-based criteria in the third year of the program. Grants should be conditioned on states adopting decoupling mechanisms for utilities that administer efficiency programs and improved building efficiency codes. The grant program would reward states and utilities that most aggressively achieve efficiency gains through maximum use of federal programs and their own measures.

Responsible Official: Asst. Sec. for EERE

4. **Require New Buildings to be More Energy Efficient**

Request Congressional authority to establish targets for residential and commercial model building codes to increase their energy efficiency savings by at least 30 percent by 2010, and 50 percent by 2015. If the targets are not achieved, then DOE should be required to issue mandatory code provisions achieving these savings. States should be required to adopt the updated codes as a condition for receipt of federal funding for clean energy projects. Congress should provide DOE sufficient resources to provide technical assistance and funding for the adoption, implementation, and compliance of the codes.

Responsible Official: Secretary of Energy

5. **Ask Congress to Clarify Aspects of DOE's Standard Setting Authority**

The Secretary of Energy should ask Congress for the following changes in its EPCA authorities: (a) statutory simplification of the current economic criteria for justifying standards, so as to require

selection of standards that deliver maximum energy savings when operating cost savings cover the increase in purchase price over the product lifetime; (b) clarification that EPCA's definition of "standard" does give DOE authority to impose standards that apply multiple metrics or multiple design requirements to regulated products, since DOE has argued in recent years that EPCA does not confer this authority; (c) in view of DOE's long history of failing to meet EPCA deadlines for amending existing standards for new appliances and commercial equipment, a "sun-setting" of the DOE's preemption of state efficiency standards would provide additional pressure on DOE to meet its deadlines.

Responsible Official: Secretary of Energy

POLICY RECOMMENDATIONS - BUDGETARY

1. Increased funding for efficiency standard setting and enforcement

Congress should increase funding for this program so that rulemaking schedules can be met and test procedures updated when needed. These actions are needed to ensure that the appliance and equipment efficiency standards adopted by Congress are effectively implemented and achieve their intended cost-effective energy savings. Currently, manufacturers self-certify products. The budget should include funding for DOE to begin independent testing of appliances and commercial equipment being offered for sale to verify that products are meeting energy efficiency standards.

Responsible Official: Asst. Sec. for EERE/OMB

2. Keep Energy Star Requirements Up to Date with increased funding

Increase funding for the Energy Star program to ensure that the stringency of requirements for new products remains ahead of the market, and only the most efficient products are receiving the Energy Star label.

Responsible Official: Asst. Sec. for EERE/OMB

3. Appliance Efficiency Standard Process Improvement

Currently, DOE takes two to three years to develop and finalize standards. The new Secretary should seek an increase in funding to provide additional staff to speed up the rulemaking process for selecting standards for appliances and commercial equipment.

Responsible Official: Asst. Sec. for EERE/OMB

4. Increase funding for weatherization

Congress should increase the funding of the *Weatherization Assistance Program* in order for the program to scale up to reach 1 million homes per year. Additional funding should be given to other programs that target low income energy efficiency, including those for manufactured and multi-family housing, as well as renter-occupied units.

Responsible Official: Asst. Sec. for EERE/OMB

5. **Support to Indian Tribes for Improving Building Energy Efficiency**

There has been at least 15 years of federal funding and technical assistance provided to states and local governments to improve the energy efficiency provisions of building codes. This pattern of federal funding and technical assistance has overlooked the fact that, for buildings on lands within their jurisdiction, it is tribal governments that have the authority to enact and implement building codes. Indian tribes should therefore receive the same type of federal funding and technical assistance that states and local governments currently receive to improve the energy efficiency provisions of their building codes.

Responsible Official: Asst. Sec. for EERE/OMB

ISSUE 2
PURSUE ENERGY SECURITY AND GHG REDUCTION GOALS SIMULTANEOUSLY, BY ACCELERATING DEVELOPMENT, PRODUCTION, TRANSMISSION, DISTRIBUTION, AND UTILIZATION OF RENEWABLE ENERGY RESOURCES IN AN ENVIRONMENTALLY RESPONSIBLE MANNER

BACKGROUND

The Secretary of Energy should seek to play a constructive leadership role in bringing about consensus on new deployments of interstate transmission for tapping renewable electricity resources in areas not currently served by sufficient transmission capacity. The Secretary can advance this objective through effective regional grid planning frameworks that incorporate up-front public environmental consensus-building processes to identify transmission alternatives that avoid harmful impacts to protected natural areas and viewsheds, historic landscapes, and wildlife.

The DOE should support energy storage and demand-side management solutions to promote further grid reliability and minimize integration costs for variable generation. Depending on the status and provisions of federal climate legislation, the Secretary may want to request that Congress separately require electric utilities to produce at least 25 percent of their power from renewable energy sources by 2025. The Department of Energy recently reported that the U.S. could get 20 percent of its electricity from wind alone.

The Secretary should request Congress to at least double DOE's current energy research and development (R&D) appropriations for energy efficiency and clean renewable energy technologies. Overall spending on energy R&D is currently $3.5 billion per year, with renewables and efficiency each receiving only a fifth of that amount. Examples of the technologies this new funding would support include photovoltaic (PV) solar, concentrating solar power, wave and geothermal, building and industrial efficiency, and reducing vehicle miles traveled. Congress should at least double (in real terms) spending on efficiency and renewable energy R&D to $3.2 billion by 2013.

Public entities are eligible for a renewable electricity production incentive through the Clean Renewable Energy Bonds (CREBs) program, but this program does not adequately promote such production by these entities. The

Secretary of Energy should work with the Treasury Department to increase funding for and accessibility to CREBs as a means of increasing renewable power production by public power entities.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Revise EPACT Energy Corridor Designations**

   Corridors designated under sections 368 and 1221 of EPACT 2005 should be revised to maximize opportunities to develop renewable energy and harmonize processes. Corridor designations should be limited to reasonable sizes and balance protection of wild lands and ecological values with the need for additional energy transmission capacity.

   Responsible Officials: Secretaries of Energy and the Interior

2. **Standardize Environmental Review for Transmission Siting**

   The administration should create an inter-agency transmission task force (DOE, Bureau of Land Management, U.S. Forest Service, Fish & Wildlife Service and Department of Defense) convened by the Council on Environmental Quality to standardize federal siting and environmental review processes for transmission projects under existing federal authority.

   Responsible Official: Secretary of Energy

3. **Ecologically Compatible Renewable Energy Development**

   To ensure that development of renewable energy resources such as wind, solar, and biofuel are compatible with protection of ecosystem health and wildlife, the Secretary of Energy should convene a Federal Advisory Committee to recommend criteria and standards for siting and operation of renewable energy generation and transmission options on public and private lands that are consistent with conservation of wildlife habitat, protection of water quality, full lifecycle reduction of greenhouse gases, and avoidance of conflicts with food needs.

   Responsible Official: Secretary of Energy

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Establish Renewable Energy Zones and Regional Transmission Planning Efforts**

   The Secretary of Energy should assist states, tribes and regional power pools in identifying and in some cases financing the infrastructure deployment necessary to scale-up renewable electricity generation via the establishment of renewable energy zones and/or other regional planning efforts. The Secretary should ask Congress to establish renewable energy zones and/or other regional planning efforts that catalyze the transmission development necessary to scale up remote renewable electricity generation. The Secretary should consult with FERC and Congress about reforming its transmission cost allocation and interconnection framework in a manner that addresses existing barriers in regional transmission development.

2. **Require utilities to produce more renewable energy**

T Depending on the status and provisions of federal climate legislation, the Secretary may want to request Congress to separately require that electric utilities produce at least 25 percent of their power from renewable energy sources by 2025. The Department of Energy recently reported that the U.S. could get 20 percent of its electricity from wind alone.

Responsible Officials: Secretary of Energy

3. **Remove regulatory barriers to development of renewable energy transmission**

Congress should give the Federal Energy Regulatory Commission the authority to remove barriers to regional transmission for renewable resources and to adopt cost allocation and interconnection policies that encourage renewable generation development.

POLICY RECOMMENDATIONS - BUDGETARY

1. **Ramp Up DOE's Efficiency and Renewable Energy R & D**

The Secretary should request Congress to at least double DOE's current energy research and development (R&D) appropriations for energy efficiency and clean renewable energy technologies. Overall spending on energy R&D is currently $3.5 billion per year, with renewables and efficiency each receiving a fifth of that amount. Examples of the technologies this new funding would support include photovoltaic (PV) solar, concentrating solar power, wave and geothermal. Other examples include building and industrial efficiency, and reducing vehicle miles traveled. Congress should at least double (in real terms) spending on efficiency and renewable energy R&D to $3.2 billion by 2013b.

Responsible Officials: Secretary of Energy through Asst. Sec. for EERE and OMB

2. **Increase Sustainable Biofuels and Biomass Research Funding**

Congress should fully fund RD&D programs previously adopted in EISA 2007 and EPAct 2005, such as the *Biofuels Research Initiative*. Research activities should promote the deployment of advanced, sustainable biofuels that decrease global warming pollution, do not cause other significant environmental harm, and avoid food price spikes. New programs should be created where appropriate.

DOE and USDA jointly administer the *Biomass Research and Development Act*. The program is designed to improve feedstocks and production methods, cellulosic conversion processes, and product diversification. The program is authorized at $200 million per year through 2015. The Secretary of Energy should work with the Secretary of Agriculture to insure that their agencies are fully funded to carry out this program.

Responsible Officials: Secretaries of Energy and Agriculture

3. **Advanced biofuel and renewable fuel infrastructure grants under EISA**

Section 207 of the Energy Independence and Security Act of 2007 establishes a grant program, administered through DOE, to make awards to biofuel projects achieving the greatest lifecycle greenhouse gas reductions compared to motor vehicles fuels for calendar year 2005. Qualified fuels must

achieve at least an 80% greenhouse gas reduction. EISA authorized $500 million for the period of fiscal years 2008-2015. The new Secretary should seek full funding for this program.

Section 244 of EISA requires DOE's Vehicle Technology Deployment Program to develop and administer a renewable fuel infrastructure grant program and develop state tribal, and local pilot programs to establish renewable refueling infrastructure corridors. . Section 244 is authorized at $200 million per year through 2014. The new Secretary should seek full funding for this program.

4. **Fully fund transportation electrification under section 131 of EISA**

   Section 131 of EISA requires the Secretary of Energy to establish a competitive grant program for state and local governments that carry out projects to encourage the use of plug-in electric drive vehicles. The program is authorized at $90 million per year through 2012. Additionally, section 131 establishes a broader electrification program, also developed and administered by DOE. Qualified projects include truck stop electrification, electric airport and ground support equipment, electric cargo handling, shipside and shore side electrification, and electric truck refrigeration units. This second program is authorized at $95 million per year through 2013. The Secretary should pursue full funding for these programs.

5. **Fund development of a domestic Plug-In Hybrid vehicle industry**

   Congress should fully fund RD&D programs previously adopted in EISA 2007 and EPAct 2005 and create new programs where appropriate to promote the deployment of plug-in hybrid vehicle related technologies. These programs would promote domestically produced vehicle battery manufacturing, electrification of government fleets, and smart grid programs that accommodate electric vehicle technologies.

ISSUE 3
CUT FUNDING FOR COSTLY AND POLLUTING FOSSIL AND NUCLEAR ENERGY

BACKGROUND

Congress has largely rejected the Bush Administration's grandiose "vision" of a globalized plutonium fuel cycle partnership – the Global Nuclear Energy Partnership or "GNEP" – in which just a few advanced nuclear fuel cycle countries, led by the United States, would accept spent fuel from nuclear client states, chemically reprocess it to extract plutonium and uranium for recycling into fresh fuel and permanently store the resulting high level radioactive wastes from reprocessing, and whatever spent fuel is not reprocessed.

This implausible century-long vision has few takers in the U.S., and is in any case utterly irrelevant to the monumental task of making huge near-term reductions in U.S. and global carbon emission over the next 20-30 years. The GNEP Program should be terminated and budget savings transferred to efficiency and renewable energy programs that can make a difference on a scientifically and economically relevant timescale dictated by the urgent imperative for cost-effective decarbonization. The plutonium in spent fuel will still be there a century from now, should we ever decide that it makes economic and international security sense to separate it and burn it in the costly fast reactors that will be required to eventually transmute long-lived radioactive elements into less harmful materials that cannot be used in nuclear explosives.

As for the commercial nuclear power industry we have today, it stands to benefit greatly from an escalating carbon price under a prospective carbon cap and trade bill, but fearing that it might soon fade in a free and open competition with more cost effective renewable energy technologies that will likewise benefit from placing a price on carbon, the nuclear industry has sought and will continue to seek large federal subsidies in advance of, or even within, a cap and trade regime. If DOE's loan guarantee program is not quickly capped at the current level and phased out, the nuclear industry will surely seek and perhaps obtain from Congress the full $122 billion it wants to cover the debt portion of every plant that has submitted a license application to date to the NRC. Combined with similar sums likely to be extracted from Congress for other large-scale fossil energy projects, the cumulative liability for taxpayers could easily spiral out of control and *result in a major distortion in the allocation of public and private capital investment*.

With the appropriate tax credit incentives in place, renewable energy projects are quite fundable in the private capital markets, so the loan guarantee program primarily benefits huge coal and nuclear projects that the private capital markets continue to perceive as embodying excessive economic risk. The nuclear industry can easily overcome this perception by building one or more new reactors in regulated utility environments, in which, due to the involuntary forbearance of ratepayers, the perceived financial risk is low, and this results in a lower cost of capital and no real need for a federal loan guarantee. The real explanation for the rush to secure federal loan guarantees for new nuclear plants is that these new plants simply cost too much, on the order of $6500 per kilowatt or $8-9 billion per unit, and will produce electricity at a "levelized" cost (over 30 years) of about 15.5 -18 cents per kilowatt hour, with higher "rate shock"effects in the early years of operation. Efficiency and some renewable technologies are already doing far or marginally better than this, and are likely to be joined by many other renewable technologies reaching "grid parity" in different regions over the same period that it takes to deploy these large reactors.

There is no need and little political support on Capitol Hill for categorically excluding nuclear power technology as a future energy option, but by the same token there is no compelling justification for subsidizing it either. Just devise grid access and connection policies that ensure nuclear new-build is compelled to compete on a level playing field with cleaner, more cost-effective energy options, including distributed generation, and let the cards fall where they may.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Terminate the Global Nuclear Energy Partnership (GNEP) Program

Terminate the GNEP Program, including its associated Programmatic Environmental Impact Statement (PEIS) process. The hugely costly long-term GNEP "vision" is not relevant to urgent GHG reduction efforts in the 2009-2030 time period, and confronts high technical and financial hurdles to the deployment of commercially viable fast reactors, which have proven after six decades of development and billions of dollars expended, to be very costly, unreliable, and unsuited to commercial deployment.

Responsible Officials: Secretary of Energy/Ass. Sec. for NE

2. **Minimize Taxpayer Exposure to Energy Loan Guarantees**

Protect U.S. taxpayers by minimizing the government's exposure to financial losses through loan guarantees to energy projects with a high degree of technical and/or financial risk. Refrain from committing to any energy loan guarantees until an independent review determines that DOE is able to effectively manage the program.

Responsible Official: Secretary of Energy

3. **Oppose Expansion of Loan Guarantee Authority**

Oppose any expansion of the existing authorization for the program, and upon its expiration seek no additional authority unless proposals pass a rigorous and impartial cost-effectiveness test (Congress).

Responsible Official: Secretary of Energy

4. **Accurately Assess Loan Guarantee Costs and Risk Factors**

Ensure that DOE has a sound, comprehensive and transparent methodology for determining subsidy and administrative costs and assure that fees to loan guarantee recipients reflect these costs. Amend the application guidance to provide the necessary detail to accurately assess project feasibility, including the financial risk factors associated with applications from asset-less LLCs.

Responsible Official: Secretary of Energy

5. **Suspend Yucca Mountain Nuclear Waste Repository Program**

Protect US ratepayers and taxpayers by recognizing that the proposed nuclear waste repository at Yucca Mountain is based on poor science and a flawed political process. The focus should be directed to reducing the immediate security threats posed by vulnerable pent fuel pools. Two early steps are to: (a) withdraw DOE's license application for Yucca Mountain; and (b) develop a program to remove spent fuel from overcrowded fuel pools and store it in secure, hardened onsite facilities.

Responsible Officials: Secretary of Energy/ Assistant Secretary for Nuclear Energy

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Develop a safe uranium target material with which to make medical isotopes**

Use $5-10 million of the FY 2009 funding provided for NE infrastructure -- $222.2 million was requested – to begin development of a domestic source of the medical isotope Tc-99m, using low-enriched uranium targets irradiated in a university reactor that uses, or is being converted to use, LEU fuel. Request Congress to provide long-term authorization and funding to pursue this objective.

Responsible Official: Assistant Secretary for Nuclear Energy

2. **Seek Congressional Agreement to Terminate the MOX Program**

Eliminate $487 million in FY 09 DOE/NE funding (under Fuel Cycle Research/Facilities) for construction of a Mixed Oxide (MOX) Plutonium Fuel Fabrication plant at the Savannah River Site, Aiken, SC, and seek Congressional agreement on ending the program. The MOX plant complex is slated

to cost at least $5 billion ($10 billion with the full panoply of necessary supporting facilities) and some of this money would better spent on the cheaper, safer, more proliferation-resistant option: immobilization of surplus plutonium in a durable matrix material with existing high-level waste. Consolidation of non-pit plutonium could continue at SRS in advance of immobilization.

Responsible Officials: Asst. Sec. for NE/ and NNSA Deputy Administrator for Defense Nuclear Nonproliferation

POLICY RECOMMENDATIONS - BUDGETARY

1. Reduce Funding for Office of Nuclear Energy

To increase funding for EE, RE, and OE programs, which should be grouped and coordinated under the expanded jurisdiction of a single Assistant Secretary, cut FY 2009 funding for the Office of Nuclear Energy from $1,419.4 million to $576.7 million, as shown below.

Responsible Officials: Secretary of Energy/Ass. Sec. for NE

2. Phase-Out DOE's Nuclear Licensing Cost-Sharing with Industry in FY 09

Having largely fulfilled its mission of subsidizing new reactor license applications, reduce the Nuclear Power 2010 program from $241.6 million to $134 million, and plan on terminating the program at the end this fiscal year.

3. Terminate the Global Nuclear Energy Partnership (GNEP) Program

As part of this broader policy action (see Adminsitrative Actions above), terminate R&D on advanced spent fuel reprocessing and fast reactor development within the *Advanced Fuel Cycle Initiative* (AFCI) program (the technical development effort of the GNEP); reduce FY 09 AFCI funding from $301.5 million to $70 million; and refocus AFCI R&D on: (a) accelerating conversion of research and test reactors that currently use weapons-usable Highly Enriched Uranium (HEU) fuel, to higher density low-enriched (LEU) fuel that presents a much reduced nuclear terrorism threat; and (b)Reestablishing a university Nuclear Energy Research Initiative (NERI) that is consistent with the above objectives and does not contribute to utilization of nuclear-weapons-usable materials in the civil nuclear fuel cycle at home or abroad.

4. Cancel the Nuclear Hydrogen Initiative

Consistent with a national strategic shift away from long-range deployment of hydrogen fuel cell vehicles toward near-term deployment of plug-in hybrids and electric vehicles, cancel the "Nuclear Hydrogen Initiative" and shift funding to more cost-effective clean energy development.

5. Shut Down the Plutonium MOX Fuel Pork Barrel

Eliminate $487 million in FY 09 DOE/NE funding (under Fuel Cycle Research/Facilities) for construction of a Mixed Oxide (MOX) Plutonium Fuel Fabrication plant at the Savannah River Site, Aiken, SC. The MOX plant complex is slated to cost at least $5 billion ($10 billion with the full panoply of necessary supporting facilities) and some of this money would better spent on the cheaper, safer, more proliferation-resistant option: immobilization of surplus plutonium in a durable matrix material with

existing high-level waste. Consolidation of non-pit plutonium could continue at SRS in advance of immobilization.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

TOP TWO ISSUES

1. IMPROVE PUBLIC HEALTH MONITORING PROGRAMS

There is a pressing need to significantly expand the scope and reach of programs that monitor and track the health of individuals and our communities. Much is still unknown about the effects of toxic chemicals on the human body and their effect on human health and disease. Unfortunately, environmental and health monitoring programs to assess such effects have been severely underfunded during the past Administration and must now be expanded in order to protect public health.

2. IMPROVE GLOBAL WARMING HEALTH PREPAREDNESS

Global warming is setting in motion a wide range of increasingly significant public health threats ranging from increases in respiratory illnesses to the spread of insect borne disease and the degradation of food supplies. Unfortunately, the scientific research foundation for addressing these climate-health problems has been severely hampered during the Bush Administration because of significant budget cuts in climate related research at various National Centers at the CDC. The new Administration needs to reverse these budget reductions and reinvest in climate-health related research.

KEY APPOINTMENT POSITIONS

- Director of the CDC
- Director of the National Institute for Occupational Safety and Health
- Director of the National Center for Environmental Health
- Director of National Center for Health Statistics
- Director of National Center for Zoonotic, Vector-Borne, and Enteric Diseases

ISSUE 1
IMPROVE PUBLIC HEALTH MONITORING PROGRAMS

BACKGROUND

Toxic pollution in the environment, workplace, and home can harm human health and cause disease. Programs that monitor and track the health of individuals and communities provide information needed to identify public health threats and prevent future harm. From measuring toxic chemicals in the human body to understanding the patterns of diseases in a community, these programs are needed to shed light on environmental contaminants and their effect on human health.

Without adequate monitoring, the public, the scientific community, and the government are unaware of the hazards around us. Environmental and health monitoring programs under the direction of the CDC have been severely cut during the past eight years and must be restored.

The Environmental Protection Agency also plays an important role in setting regulatory standards that apply to toxic emissions and the monitoring of toxic chemicals in the environment. Moreover, EPA conducts important research on the health impacts of these chemicals. Funding increases need to be provided for these vital programs as well as for the monitoring programs for the CDC.

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fund monitoring of chemical spills**

   The new Administration should restore funding for the Hazardous Substances Emergency Event Surveillance System (HSEES) to the 2004 level of $1.7 million. This program is the only means by which health outcomes from chemical accidents and other short-term releases of hazardous substances are tracked in the United States. The goal of HSEES is to reduce injuries and death that can affect first responders, employees, and the general public. Currently the program is active in only 14 states. The program should be expanded, with the goal of covering at least 35 states and 90 percent of the U.S. population.

   Responsible Officials: Director of CDC, Director of National Center for Environmental Health

2. **Fund collection of health information**

   The new Administration should provide full funding support for the National Health Information Survey. This important survey has monitored the health of the nation since 1957 by collecting information used to track disease patterns, healthcare access, and achievement of national health goals. Restoring funding will enable the collection of robust and comprehensive health status information that adequately reflects the diversity of the United States and is better able to inform needed health policy and research.

   Responsible Officials: Director of CDC, Director of National Center for Health Statistics

3. **Fund foodborne illness monitoring**

   The new Administration should restore $2 million to the budget for the foodborne illness surveillance to bring the program back up to the 2004 budget level. CDC should then evaluate the program for further possible enhancement in light of increased threats from foodborne illness.

   Responsible Officials: Director of CDC, Director of National Center for Zoonotic, Vector-Borne, and Enteric Diseases

4. **Fund occupational illness monitoring**

   The new Administration should expand occupational asthma and occupational illness tracking programs to more states, and provide more resources to NIOSH for data analysis in these programs.

   Responsible Officials: Director of CDC, Director of National Institute for Occupational Safety and Health.

5. **Fund monitoring of environmental exposures**

   The new Administration should restore $5 million to the budget for the CDC biomonitoring program to bring the program back to 2002 levels. The new Administration should request at least an additional $10 million in the next year to allow the development of state biomonitoring program capacity.

   Responsible Officials: Director of CDC, Director of National Center for Environmental Health

ISSUE 2
IMPROVE GLOBAL WARMING HEALTH PREPAREDNESS

BACKGROUND

Global warming directly threatens the health of all Americans, but the burdens of global warming will fall especially on certain vulnerable populations, including children who are at greater risk of worsening allergies and asthma from pollen levels; the elderly who are at greater risk from heat waves; people living in poverty who are especially vulnerable to extreme weather events; and members of racial and ethnic minority groups who suffer particularly from air pollution made worse by rising temperatures. Scientists are reporting changing patterns of mosquito, tick, and flea-borne diseases, degradation of food and water supplies, more extreme weather events, and other hazards.

The scientific foundation of the climate-health link is threatened by major cutbacks in research funding, and by the lack of teaching curriculum for the next generation of scientific leaders in this field. The grim convergence of a climate crisis striking a weakened health system can spell serious trouble in the years to come. Funding support is essential to help create the research foundation for climate health preparedness, and to strengthen the public health system that has been allowed to unravel over the past decade and which must now be rebuilt.

Preparedness should include centralized coordination of public health activities, as well as regional and local-scale efforts targeted to address the most pressing threats in certain geographic areas. Key aspects of public health preparedness include leadership, planning, coordination, tracking, and education. The CDC is ideally placed to lead in developing programs to respond to public health challenges being exacerbated by climate change. CDC already

has programs that support climate change preparedness (such as the National Center for Environmental Health; the National Center for Zoonotic, Vector-borne, and Enteric Diseases; and the Environmental Public Health Tracking Program). CDC also has a long history of working with state and local health departments on a variety of public health challenges.

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fund global warming preparedness**

   The new Administration needs to seek an additional $20 million for CDC's National Center for Environmental Health to support its work in: developing a national climate-health coordinating center (20% of funding to establish an information clearinghouse and coordinate activities across agencies); furthering scientific research into how to prepare our nation's public health system to cope with the inevitable effects of global warming (40% of funding to establish up to six academic centers of excellence, map vulnerabilities, and develop tools to evaluate what does/doesn't work locally); and offering funding support and guidance to state and local preparedness efforts (40% of funding to help guide local surveillance & planning).

   Responsible Officials: Director of CDC, Director of National Center for Environmental Health

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

TOP THREE ISSUES

1. REDUCE EXPOSURE TO ENDOCRINE-DISRUPTING CHEMICALS IN OUR FOOD

A number of widely used synthetic chemicals called endocrine disrupters have been discovered to have significant adverse effects on the human body, especially when exposure takes place at critical periods of human development such as during fetal growth or puberty. These chemicals mimic hormones and interfere with a wide range of activities within the human body such as reproduction or the functioning of the nervous system. Unfortunately, the regulation of these harmful chemicals has been completely inadequate and new controls need to be established in order to reduce exposure to their harmful effects.

2. ENSURE THE SAFETY AND QUALITY OF BOTTLED WATER

Most consumers assume that bottled water is safer and cleaner than tap water but this is not necessarily correct since there is no consumer right-to-know labeling requirement that applies to bottled water. This gap in consumer protection needs to be eliminated.

3. BAN THE USE OF THE PHARMACEUTICAL LINDANE

Lindane is a dangerous neurotoxic pesticide that is nevertheless is still allowed to be used as a pharmaceutical treatment for head lice and scabies. Its use is not safe for children and other vulnerable populations and should be taken off the market.

KEY APPOINTMENT POSITIONS

- FDA Commissioner
- Director for Center for Food Safety and Applied Nutrition
- Director of Office of Food Additive Safety
- Director of the Office of Food Safety
- Director of Center for Drug Evaluation and Research
- Director of the Office of Nonprescription Products
- Director of the Office of Pharmaceutical Science

ISSUE 1

REDUCE EXPOSURE TO ENDOCRINE-DISRUPTING CHEMICALS IN OUR FOOD

BACKGROUND

A number of synthetic chemicals are able to mimic hormones and interfere with fertility, reproduction, metabolism and functioning of the nervous system. These chemicals are called endocrine disruptors and are widespread in our daily life. When exposure to these chemicals occurs during critical stages of development - such as during fetal growth, early childhood or puberty - organs can be permanently altered and malfunction later in life. Some chemicals such as bisphenol A (BPA) were intentionally developed to mimic hormones, in this instance the female hormone estrogen. Other chemicals, such as phthalates, were not intentionally developed to interfere with hormones but have been discovered to have this effect decades after they were first produced.

As our scientific knowledge and expertise has progressed over the past 20 years, we have come to have a greater understanding of endocrine disruptors, the level of contamination in our own bodies, and their ability to cause harm. Many endocrine disrupting chemicals were approved for use by the FDA before this toxicity was fully understood or appreciated. Other endocrine disruptors, such as pesticides, contaminate our food supply because of their use on food crops.

Now that we have a better understanding of the toxicity of these synthetic chemicals, we must act to reduce exposure. This is especially critical for those chemicals that other federal agencies have recognized as being harmful. We also need good information to be able to act, which can be achieved through better monitoring for contaminants in our food supply.

The Environmental Protection Agency has a key role to play in this effort as well since it is mandated to implement a testing and screening program for endocrine disrupting chemicals and funds research on endocrine disrupting chemicals. EPA also regulates the use of pesticides, including some that are endocrine disruptors.

National Toxicology Program – has reviewed and written reports on the toxicity of endocrine disrupting chemicals, including those approved by the FDA.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Ban endocrine disruptors from food packaging**

   Bisphenol A and some phthalates are endocrine-disrupting chemicals approved as food additives. There is widespread exposure to both in the general population through food contamination. Everyday levels of exposure to both are associated with developmental harm and cancer. BPA also has been associated with neurological damage. FDA should revoke all approvals of these chemicals in food packaging.

   Responsible Officials: FDA Commissioner, Director for Center for Food Safety and Applied Nutrition, Director of the Office of Food Additive Safety

2. **Regulate the use of "antimicrobial" chemicals**

There is widespread use of chemicals marketed as "antimicrobials" in things like soap, deodorant, and toothpaste. These include the hormone-disrupting chemicals triclosan and triclocarban, which are not proven to be effective. FDA has been reviewing the safety of these chemicals *since 1978!* The new Administration should insure that the FDA promptly determine whether chemicals marketed as antimicrobials are safe for use in personal care products and if not they should be banned.

Responsible Officials: FDA Commissioner, Director of Center for Drug Evaluation and Research, Director of the Office of Nonprescription Products

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Ban BPA from all food packaging**

The new Administration should support legislation banning the use of BPA in food packaging including baby bottles, sippy cups, and canned food including infant formula.

Responsible Officials: The FDA Commissioner, Director for Center for Food Safety and Applied Nutrition, Director of the Office of Food Additive Safety

POLICY RECOMMENDATIONS - BUDGETARY

1. **Improved monitoring of Mercury in Fish**

The new Administration should seek sufficient funding necessary to insure that the FDA adopts rapid screening methods for mercury in fish and test a statistically-representative sample of all commonly-consumed fish species from each region annually. There are rapid and improved testing methods which could be used to replace more expensive methodologies previously in use by FDA.

Responsible Officials: FDA Commissioner, Director of Center for Food Safety and Applied Nutrition

2. **Testing for Pesticides in Food**

The new Administration should seek additional funding to enable the FDA to increase testing for pesticide and other hazardous residues in food, with a focus on imports, which are more likely to be contaminated with chemicals at unsafe levels or which are illegal in the United States. Currently only an estimated 0.00003% of imported food is tested for contaminants. The combined budget for pesticide residue testing is completely inadequate at $32 million, and the FDA methods are antiquated and insensitive. The program needs to be updated and expanded to meet current testing standards.

Responsible Officials: FDA Commissioner, Director of Center for Food Safety and Applied Nutrition

ISSUE 2
ENSURE THE SAFETY AND QUALITY OF BOTTLED WATER

BACKGROUND

Most consumers assume when they buy bottled water that it is safer, cleaner, and better regulated than tap water. However, this assumption is not necessarily correct – especially in light of studies showing contaminants in some bottled water that exceed state or federal standards and guidelines. While customers of public water systems are provided with mandatory annual right-to-know reports about the presence of contaminants in tap water, there is no similar right-to-know labeling requirement for bottled water. Consumers of bottled water remain in the dark about the actual quality of their purchases.

The Environmental Protection Agency also has a role to play through its regulation of levels of drinking water contaminants under the Safe Drinking Water Act. The FDA is supposed to promulgate bottled water standards that are no less stringent than EPA's tap water standards for each contaminant.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Establish Public Right-To-Know Regulations**

   The new Administration should insure that the FDA promulgate regulations that require specific information about the precise source and quality of bottled water and the potential health effects of any contaminants found to be included on the labels of bottled water, so that consumers can make informed choices.

   Responsible Officials: FDA Commissioner, Director of the Center for Food Safety and Applied Nutrition

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Regulate all bottled water**

   Support legislation clarifying the scope of FDA's authority to regulate all bottled water, even where that water is produced and sold primarily within a single state.

   Responsible Officials: FDA Commissioner, Director of the Center for Food Safety and Applied Nutrition

ISSUE 3
BAN THE USE OF THE PHARMACEUTICAL LINDANE

BACKGROUND

Lindane, is a dangerous pesticide that has been banned by EPA for use on cattle and food but, in every state except California, it is still legal to use this neurotoxic pesticide as a pharmaceutical to treat head lice and scabies. Lindane is not safe for use on children and other vulnerable populations (it already carries a "black box" warming), and furthermore, it is ineffective. Safer substitutes exist and are readily available.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Ban the use of pharmaceutical lindane**

   The new Administration should insure that the FDA ban the use of Lindane as a pharmaceutical by revoking all approvals for use.

   Responsible Officials: FDA Commissioner, Director of the Center for Drug Evaluation and Research, Director of the Office of Pharmaceutical Science.

DEPARTMENT OF HOMELAND SECURITY

DEPARTMENT OF HOMELAND SECURITY

TOP THREE ISSUES

1. INTEGRATION OF ENVIRONMENTAL PROTECTION INTO THE DEPARTMENT'S MISSION

Leadership at the Department of Homeland Security (DHS) has failed to demonstrate a strong commitment to environmental protection. The highest level attention the environment has received has been to waive environmental laws. A dramatic shift in policy direction is needed, both symbolically and in reality, to integrate environmental values and a concern for protection of natural resources into the department's work.

2. COMPLIANCE WITH ENVIRONMENTAL LAWS AT THE U.S. MEXICO BORDER

Utilizing discretionary authority granted by Congress, Secretary Chertoff has waived environmental, historic preservation, archaeological, religious, tribal protection and agency organic acts (i.e., National Park Service) for construction of walls and roads at the U.S. Mexico border for over 550 miles, including wilderness areas, national wildlife refugees, national forests and other critical conservation areas. Physical damage to resources and communities has already occurred as the result of construction. The rule of law needs to be reinstated for these actions.

3. REINVIGORATING US COAST GUARD ENFORCEMENT OF MARINE CONSERVATION AND POLLUTION LAWS

The U.S. Coast Guard is the nation's enforcement agency for a wide variety of laws passed to protect nation's marine environment. Since the U.S. Coast Guard was moved into DHS, there has been a significant shift in policy direction and resources related to environmental protection in the marine environment. The Coast Guard's capacity must be restored so that they can effectively enforce the nation's marine environment.

KEY APPOINTMENT POSITIONS

- The Deputy Secretary
- Chief of Staff
- Assistant Secretary for Policy
- General Counsel
- Secure Border Initiative Executive Director (U.S Customs & Border Protection)
- Commandant of the US Coast Guard

ISSUE 1
INTEGRATION OF ENVIRONMENTAL PROTECTION INTO THE DEPARTMENT'S MISSION

BACKGROUND

Since the establishment of the Department of Homeland Security, its leadership has failed to demonstrate a strong commitment to environmental protection. Indeed, there is no unit within DHS shown on the website organizational chart with responsibility for environmental compliance, nor any reference to DHS' responsibilities under environmental law. The small environmental office is buried in the Office of the Chief Administrative Office, along with occupational safety programs and energy management. That office, in turn, reports to the financial office which reports to the UnderSecretary for Management who reports to the Deputy Secretary. The environmental staff has no access to the Secretary's office and no input into major decisions affecting the environment. The highest level attention the environment has received has been to waive environmental laws (see Issue #2 below).

Meanwhile, homeland security requirements have had enormous impact on public lands and the marine environment. For example, direction from DHS has resulted in land management agencies having to expend enormous resources for maintaining security for high visibility national landmarks. Barrier construction and enforcement actions at the southern border have contributed to considerable damage in national wildlife refuges and national monuments. And the U.S. Coast Guard, the nation's enforcement agency for the marine environment, has been substantially stripped of resources to do its job in that arena. However, DHS has been slow to provide funding for mitigation and monitoring of environmental impacts, and in fact, has still not concluded an agreement to fund a much-publicized "up to $50 million" commitments for impacts caused by border barrier construction at the southern border.

The environmental staff helped to produce a "Strategic Plan for DHS Occupational Safety and Environmental Programs" in September 2007, but the plan is unimplemented in some significant part.

DHS leadership should recognize that the National Environmental Policy Act (NEPA) supplements all agencies and departments' authorization with the policies and goals of that Act, and that homeland security includes protection of natural and cultural resources.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Signal Importance of Environmental Protection**

   The Secretary of Homeland Security should issue a policy directive stating the environmental protection is an integral part of homeland security and that all DHS components are expected to act accordingly. The directive could also announce a reorganization of environmental responsibilities.

   Responsible Official: Secretary of Department of Homeland Security

2. Reorganization of Environmental Responsibilities

The environmental and energy responsibilities should be moved from the figurative bottom basement and elevated to a much higher level, possibly with shared responsibilities between the Assistant Secretary for Policy and the General Counsel.

Responsible Official: Secretary of Department of Homeland Security

3. Complete Ongoing Negotiations with Department of the Interior

DHS and its components should be directed to conclude expeditiously the ongoing interagency negotiations with the Department of the Interior regarding promised mitigation funds for threatened and endangered species mitigation (up to $50 million).

Responsible Official: Deputy Secretary of the Department of Homeland Security

4. Fund Monitoring and Mitigation

DHS should expand its current dialogue with the Department of Interior to include officials from the Departments of Agriculture (Forest Service) to develop and fund a scientifically credible and transparent borderlands monitoring protocol and to provide mitigation funds for environmental damage to federal lands. It should also initiate high level discussions to agree on transfer of funds to compensate for the unfunded security work now assumed by the National Park Service and other land management agencies at the border and in other parts of the country.

Responsible Official: Deputy Secretary of Department of Homeland Security

5. Review implementation of Strategic Plan

DHS' September 2007 strategic plan should be review to identify unfilled commitments and develop a schedule for meeting those objectives. It should also be reviewed for items that should be, but were not, included in the plan.

Responsible Official: Deputy Secretary of Department of Homeland Security

POLICY RECOMMENDATIONS - BUDGETARY

1. Cross-cutting budget initiative for border lands

The administration should establish a cross-cutting border initiative, including DHS, Defense, Department of the Interior (National Park Service and U.S. Fish and Wildlife Service), and the Forest Service, to address the impacts of illegal immigration and law enforcement activities on public lands in the borderlands region. In addition to mitigating for border security infrastructure impacts, funding increases also are needed for staff and appropriate infrastructure improvements for resource agencies, including more law enforcement agents; providing environmental and cultural sensitivity training for Border Patrol and other non-land management agency law enforcement agents; biological research, habitat restoration, and monitoring programs, including funding for understanding and mitigating impacts on endangered species, other wildlife and habitat; and restoration of degraded habitats; and resource protection, including the removal of trash and abandoned vehicles; cleaning and protecting fouled water

sources; blocking hundreds of miles of illegal roads; fighting fires associated with border crossers; and protection and restoration of important historic, cultural, and anthropological structures and artifacts.

Responsible Officials: Secretaries and budget officials of Department of Homeland Security, Defense, Interior, and Agriculture and Director of OMB

THE FIRST 100 DAYS

The new Secretary of Homeland Security should issue a Department-wide directive establishing environmental protection as a high priority and announcing the reorganization of the environmental office. Direction regarding updating and implementing the Strategic Plan could be included in the Directive.

ISSUE 2
COMPLIANCE WITH ENVIRONMENTAL LAW AT THE U.S. MEXICAN BORDER

BACKGROUND

Beginning in the Clinton administration, Congress provided officials in the Department of Justice and Department of the Interior with the authority to waive several environmental laws. Clinton administration officials publicly declined to use such authority. However, following the establishment of the Department of Homeland Security, Congress broadened the authority to allow, at his or her sole discretion, the Secretary of Homeland Security to waive all laws except for the Constitution for the construction of walls, fences and roads at the southern border. In the past three years, Secretary Chertoff has used that authority five times, culminating in a "mega waiver" that included all federal environmental laws and state, local and "other" laws that relate to those subjects. His April 1, 2008, waiver also included all historic preservation and archaeological protection laws, as well as laws passed to protect Native American gravesites and other important places, the Religious Freedom Act, the Administrative Procedures Act and the organic act of the National Park Service. Thus, over 550 miles of land, the majority of which is public lands, including wilderness areas, national wildlife refugees, national forests and other critical conservation areas, have no coverage under environmental laws for border walls and roads.

On-the-ground damage due to border barriers has already been identified by other federal agencies. The National Park Service issued a report documenting damage to natural resources and roads at Organ Pipe Cactus National Monument, and called for an independent third party review of construction. The International Boundary and Water Commission identified a barrier installed at Nogales without appropriate consultation as a contributing factor to flooding that caused millions of dollars of property damage in Nogales, Sonora and Nogales, Arizona. In Arizona, New Mexico and Texas, the wall will cut across important wildlife corridors, leaving highly endangered populations of ocelots (the remaining 100 or so ocelots in the United States), jaguars (returning to Arizona after decades of being absent) and other wildlife stranded on one side or the other.

DEPARTMENT OF HOMELAND SECURITY

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Renounce Future Use of Waivers**

   The Secretary should disavow any intent to use the waiver authority for border walls and roads.

   Responsible Official: Secretary of Department of Homeland Security

2. **Correcting Past Mistakes and Avoiding Future Ones**

   In coordination with the federal land management agencies and state, local and tribal officials, DHS should evaluate work to date, identify problems caused by completed or on-going construction and initiate a process under the National Environmental Policy Act to determine how to correct those problems. Future construction should cease until a complete evaluation of the project and alternatives to it is completed.

   Responsible Officials: Secretary of Department of Homeland Security, Executive Director, Secure Border Initiative NET

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Repeal of Real ID Act waiver**

   The Administration should support the repeal the waiver authority given in the Real ID Act in any reauthorization or amendment of that Act.

   Responsible Official: Department of Homeland Security

THE FIRST 100 DAYS

The Secretary of DHS state that the authority to waive all laws under Section 102 of the Real ID Act will not be invoked in the future. At the same time, he or she should direct the initiation of a review of impacts from existing construction of border barriers and direct that no further contracts or work orders for border construction work be executed until that review has been completed.

ISSUE 3
REINVIGORATING U.S. COAST GUARD ENFORCEMENT OF MARINE CONSERVATION LAWS

BACKGROUND

The U.S. Coast Guard is tasked with enforcing a wide variety of conservation and environmental laws that were passed to protect the nation's marine environment - for example, maritime oil spill prevention, protection of living marine resources and fisheries, and actions to address marine debris. However, the Homeland Security Act of 2002 prioritizes terrorism and fails to recognize the importance of protecting the homeland from degradation of natural resources. The National Environmental Policy Act
supplements the authority all departments and agencies with the mandate to incorporate environmental protection and policies supporting the natural and cultural environment for all Americans, but this has not been adequately recognized by the leadership in DHS.

Indeed, since the US Coast Guard was moved into DHS, there has been a significant shift in policy direction and resources related to environmental protection in the marine environment. Resources dedicated to non-homeland security missions within DHS fell from 40% in 2003 to 10% in 2006, and the Coast Guard has borne a significant portion of that burden even though it is the largest single component of the department and despite growing responsibilities. Between 2001 and 2005, it is reported that funding for environmental protection activities in the Coast Guard fell over one million dollars (From $250 million to less than $150 million a year).

Prior to its incorporation into DHS, the Coast Guard reported that its work on safety and environmental issues amounted to more than half of its operational activity. Now, at least well-founded anecdotal evidence suggests that in many key areas (for example, off the coast of Florida), the Coast Guard is unable to monitor for violations of fishing regulations or other environmental and resource protection transgressions unless it happens to come across such actions while on a drug-related interdiction or security-mission activity that they are doing for DHS.

And the Coast Guard's environmental responsibilities continue to expand. For example, the Coast Guard must enforce requirements to bring the United States into compliance with the International Convention for the Prevention for Pollution from Ships. It must also enforce new International Maritime Organization requirements concerning access to protected areas, as well as domestic regulations governing such vast areas as the Papahānumokuākea Marine National Monument, the second largest marine protected area in the world.

Finally, Congress needs to act on various pieces of legislation and international conventions that would contribute to the nation's ability to protect the marine environment.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Make Environmental Responsibilities a Priority**

   DHS and US Coast Guard leadership should acknowledge that environmental protection is also part of homeland security, and reflect that policy in budget and policy actions.

Responsible Officials: Secretary, Department of Homeland Security and Commandant of the Coast Guard.

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Amend Homeland Security Act

While the Homeland Security Act of 2002 states that the Secretary of DHS should ensure that the non-terrorist related functions of DHS agencies and subunits should not be diminished or neglected without specific direction from Congress, in fact, the Act places a priority on anti-terrorist activities. The administration should urge that Congress amend the Act to specify that defense of the nation's natural resources are an integral part of homeland security.

Responsible Official: Secretary, Department of Homeland Security

2. Ratify the Anti-Fouling Convention

The administration should urge Congress to ratify this international convention dealing with the regulation of potentially harmful vessel bottom coating. Ratification would pave the way for the US becoming a party and demonstrating international leadership in protecting the marine environment.

Responsible Official: Commandant, U.S. Coast Guard

POLICY RECOMMENDATIONS - BUDGETARY

1. Fund the Coast Guard's Marine Protection Work

Budget levels for marine protection and fishery surveillance, patrol and law enforcement should be brought up to pre-9/11 levels, with additions made as needed for marine protection responsibilities that have been added since that time.

Responsible Officials: Commandant of the Coast Guard, Deputy Secretary, Department of Homeland Security

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

TOP THREE ISSUES

1. RESTORING BALANCE TO THE BLM'S OIL AND GAS PROGRAM

The new Administration should restore balance between the BLM's fossil fuel leasing and extraction programs, especially its oil and gas program, and the BLM's legal obligation to protect a host of environmental, ecological, fish and wildlife, cultural, and wild land values and resources, as required by the Federal Land Policy and Management Act and other statutes.

2. PRESERVING LANDS IN NATURAL CONDITION

In keeping with its multiple-use mandate, the BLM should reaffirm its commitment to preserve and protect certain public lands in their natural condition. Lands managed by the BLM primarily for conservation are comprised of unique ecosystems, wild and remote landscapes, important wildlife habitats, and harbor important artifacts of America's cultural legacies. Agency resources should be directed to ensure the conservation of these lands.

3. RESTORE SCIENCE IN AGENCY PLANNING

The new Administration should restore and enhance professionalism and the use of science in agency planning, analysis, and decision-making. Given the uncertainties of climate change, science-based planning, including landscape-level analysis and interagency coordination, is critical to successfully balancing energy development and wildlife and ecosystem conservation and the delivery of multiple use benefits on BLM lands.

KEY APPOINTMENT POSITIONS

- Assistant Secretary, Land and Minerals Management
- BLM Director
- Deputy BLM Director (one of two)
- BLM Chief of Staff

ISSUE 1
RESTORING BALANCE TO THE BLM'S OIL AND GAS PROGRAM

BACKGROUND

During both terms of the Bush Administration, the extraction of oil and gas from the public lands has become the Bureau of Land Management's dominant policy objective. Though the extraction of these and other fossil fuel resources from the public lands is a legitimate activity, policies pursued by the Bush Administration have emphasized the extraction of fossil fuel resources above the proper stewardship of all other resource values that occur on lands managed by the BLM, including a host of environmental, ecological, fish and wildlife, cultural, and wild land values. The BLM's obligation to protect and properly manage these resources is articulated in Sec. 102(a) (8) of the Federal Land Policy and Management Act (FLPMA) , as well as in a number of other applicable statutes. Unfortunately, the Bush Administration's drive to open vast areas of the public lands to energy development, along with its efforts to reduce various environmental safeguards to protect the resources and values that have been placed at risk from the impacts of energy development, have begun to adversely affect the environment and quality of life of areas throughout the Rocky Mountain West and Alaska where much of this development is concentrated.

Most conservationists agree that oil and gas development is a proper use of the public lands. Such development, however, should only be carried out in an environmentally safe manner and in appropriate places. Balance must be restored between the extraction of these fuels and the stewardship of other resource values, so that the air we breathe and the water we drink are unimpaired by these activities, fish and wildlife habitats and populations are not threatened, areas of the public lands more appropriate for wilderness and other kinds of protective designations are unharmed, and fossil fuel extraction activities are carried out in a manner that assures the future restoration of lands damaged by these activities.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Rescind Executive Order Expediting Energy Projects**

   Rescind (1) E.O. 13212 directing the federal agencies to "expedite energy-related projects," including by expediting permit review and taking other actions to "accelerate completion" of these projects; and (2) E.O. 13211 requiring agencies to prepare a "statement of energy effects" for any action that could adversely affect energy supply and distribution, detailing not only potential effects but also alternatives to avoid those effects.

   Responsible Official: the President

2. **Review Proposed Lease Sales before Giving Notice**

   The new Administration should require prior review by the BLM Director of any oil and natural gas lease sales proposed for areas that would be withdrawn from leasing under proposed or pending conservation legislation or areas that are important wildlife habitats or migration corridors identified by the states with reference to the Western Governor's Association Res. 07-01. It should also require that

lease sale proposals for inventoried roadless areas on national forests be reviewed by the Chief of the U.S. Forest Service before any leasing action is taken by BLM agency staff. Upon such review, affected lands could be deferred indefinitely from future sales, have additional stipulations added to protect key values, be segregated from future sales pending Congressional disposition of their status, or be administratively withdrawn from future sales.

Responsible Officials: Assistant Secretary for Land and Minerals Management and BLM Director

3. Conform Application of Categorical Exclusions

The new Administration should restore the important role that robust public participation plays in informing and consequently improving key decisions on how valuable ecological resources are to be managed. Categorical exclusions authorized by Section 390 of the Energy Policy Act should not be authorized when, as required by the Council on Environmental Quality rules at 40 C.F.R. 1508.4, "extraordinary circumstances," are found to be present. The Department of the Interior's Departmental Manual (Chpt. 2, Appendix 2) lists a number of extraordinary circumstances in which a normally excluded action may have a significant environmental effect, thus requiring additional analyses and action, precluding use of a categorical exclusion. Current BLM policy in implementing Sec. 390 of EPACT is to ignore the applicability of the relevant CEQ and DOI rules in this regard.

Responsible Officials: Assistant Secretary for Land and Minerals Management and BLM Director

4. Convene Oil Shale Task Force

The final rule implementing Sec. 369 (d) and (e) of the Energy Policy Act of 2005, found at 43 CFR Parts 3900, 3910, 3902, et seq., authorizing commercial oil shale leasing and development is severely deficient in many respects. For example, the BLM is required by statute to ensure a fair market value return to taxpayers for resources it leases but cannot do so under these rules. Moreover, these rules include inadequate environmental standards for the conduct of commercial oil shale operations on future federal leases. Because the Bush Administration intends to issue a final rule governing the oil shale program, the new Administration should convene a senior-level Departmental task force to review the new rule's defects and implement the necessary steps for rectifying them.

Responsible Officials: DOI Secretary; Assistant Secretary, Policy, Management and Budget; Assistant Secretary for Land and Minerals Management; BLM Director

5. Withdraw Teshekpuk Lake Special Area

The new Administration should withdraw the Teshekpuk Lake Special Area, which contains internationally significant wetlands and habitat for migratory birds, from additional oil and gas leasing. Currently part of the area is "deferred" from leasing. Instead, the entire special area should simply be closed to leasing.

Responsible Officials: DOI Secretary; Assistant Secretary, Policy, Management and Budget; Assistant Secretary for Land and Minerals Management; BLM Director

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Repeal Clean/Safe Water Exemptions in the Energy Policy Act**

   Sections 323 and 322 of Energy Policy Act of 2005 exempted the oil and gas industry from key aspects of the Clean Water Act (storm-water permits for construction activities) and the Safe Drinking Water Act (hydraulic fracturing). The new Administration should seek the repeal of these provisions of EPACT and ensure compliance with these statutes which are of critical importance to maintaining safe water supplies in arid western states.

   Responsible Officials: Assistant Secretary, Land and Minerals Management; Director, Office of Congressional and Legislative Affairs

2. **Study NPRA Surface Values**

   The new Administration should urge Congress to enact legislation which (a) withdraws the Teshekpuk Lake Special Area from oil and gas leasing and (b) requires the Secretary of the Interior to study the wildlife, subsistence, wilderness, and other surface values in the National Petroleum Reserve-Alaska and make recommendations to Congress on how to provide maximum protection for these values.

   Responsible Officials: Assistant Secretary for Lands and Minerals Management; BLM Director

THE FIRST 100 DAYS

- The BLM has a very aggressive schedule for oil and gas lease sales for calendar year 2009 (e.g. Montana on January 27; Wyoming, Colorado and Utah in February; Nevada, Oregon and California in March; and Wyoming, Montana, and New Mexico further out in 2009). The new Administration should issue a new policy requiring additional reviews of proposed tracts within areas proposed for legislative protection, within Western Governors' Association recommended wildlife habitat corridors, and within inventoried roadless National Forest areas as soon as possible after January 20, 2009.

- The BLM issued a Record of Decision (ROD) for a revised activity and leasing plan in the Northeast National Petroleum Reserve-Alaska in July of 2008. This ROD includes the deferral of oil and gas leasing north and east of Teshekpuk Lake for at least 10 years. While the NEPA documents are still current, BLM should revisit this decision and close the entire Teshekpuk Lake Special Area to additional leasing. This action would not affect valid existing leases.

ISSUE 2
PRESERVING LANDS IN NATURAL CONDITION

BACKGROUND

The BLM is the steward of hundreds of millions of acres of land containing some of the nation's most spectacular ecological and cultural values which are deserving of conservation. Over the least eight years there has been a concerted effort by the Bush Administration to disregard the BLM's multiple-use mandate to protect and improve these public lands. Regrettably, inappropriate policies implemented by the Bush Administration have resulted in polluted watersheds, ruined soil, despoiled riverbanks, damaged wildlife habitat, and destroyed archaeological sites.

Manifestations of the Bush Administration's abandonment of BLM's obligation to conserve lands are plentiful. In Utah, the Bush Administration has made millions of acres of lands that were inventoried as having "Wilderness Character" in the Clinton Administration available for oil and gas development. In another example of errant stewardship, the BLM issued oil and gas leases on the entire 55,000-acre Roan Plateau in Colorado, an island of fragile ecological values, valued for its hunting and fishing and other outdoor recreation opportunities. Finally, under the Bush Administration, BLM has chronically under-funded the conservation portion of its multiple-use mandate. While the BLM's oil and gas budget has doubled over the past seven years, its stewardship programs have mostly stagnated or declined. This budgetary inequity is perhaps best illustrated by the dispersion of funds across agencies for the Land and Water Conservation Fund. The BLM, entrusted with the management of more acres of public land than any other federal agency, received just $8.6 million in FY 06 compared to $28 million for FWS, $34.4 million for NPS and $41.8 million for USFS.
In Section 102 (a)(8) of the Federal Land Policy and Management Act of 1976, Congress declared it was the policy of the United States to, "where appropriate, preserve and protect certain public lands in their natural condition." This policy has been subverted, maligned and blatantly ignored over the past eight years. The next Administration should restore the agency's land conservation mandate, and signal that restoration with the reallocation of necessary funding towards that goal.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Reverse Sweetheart "No Wilderness" Court Settlements and Policies**

   A settlement agreement entered into with the State of Utah by then Secretary Norton improperly abrogated the BLM's responsibility to identify and administratively protect lands harboring wilderness characteristics, as required by Sections 201 and 202 of FLPMA. The new Administration should rescind the Utah settlement agreement, in recognition of the BLM's legal responsibility to identify and administratively protect lands harboring wilderness characteristics, and initiate the process to revise all RMPs that precluded wilderness study area designation and protection on the basis of that agreement. Moreover, the new Administration should reassert the "Babbitt policy", also rescinded by Secretary Norton, that allowed the BLM to perform reviews of Alaska BLM lands to determine their suitability for wilderness protection, as provided for under Sec. 1320 of ANILCA and more indirectly under Sec 201 and 202 of FLPMA. Further, BLM should complete all existing wilderness and wild and scenic rivers studies within three years, consider potential wilderness and wild and scenic rivers with each new generation of land planning, and send completed studies to Congress through the President as required by law.

Responsible Officials: Secretary of the Interior and BLM Director

2. **Review Leasing Decision at Roan Plateau in Colorado**

Given the significant controversy and pending lawsuit surrounding the August 2008 Roan Plateau lease sale in Colorado, the new Secretary should promptly agree to revisit the Roan Planning Area Resource Management Plan Amendment. The Secretary should also suspend or vacate the leases issued pursuant to that Plan amendment until BLM has prepared an analysis of additional Plan alternatives, including alternatives that offer strong protections to the base and top of the Plateau.

Responsible Officials: Assistant Secretary for Land and Minerals Management and BLM Director

3. **National Monuments and Off-road Vehicles**

The new Administration should impose a planning time-out for BLM national monuments pending the development and issuance of guidance that requires such plans to prioritize protection of monument objects. It should also include a stringent definition of a road akin to the one used in agency wilderness review process in order to limit/eliminate ORV damage. In addition, such guidance should address deficiencies in completed monument plans which fail to prioritize the protection of monument objects.

Responsible Official: BLM Director

4. **Review Leasing Decision at Otero Mesa in New Mexico**

Oil and gas leasing on Otero Mesa in New Mexico went forward against the strong objections of the governor and was based on an environmental impact statement (EIS) that never analyzed the aggressive oil and gas plan that the BLM ultimately adopted. The next Director of BLM should review the RMP amendment and associated leasing decisions and prepare a new or supplemental EIS, in which BLM considers adopting broader protections which would prevent habitat fragmentation in this unique Chihuahuan grassland and protect the Salt Basin aquifer, by reconsidering the Preferred Alternative set out in the Draft RMP Amendment and designating an area of critical environmental concern.

Responsible Officials: Assistant Secretary for Land and Minerals Management; BLM Director

5. **Rescind Secretary Norton's R.S. 2477 policy**

The next Secretary of the Interior should issue new department policy, including instructions to the BLM, which (a) limit agency R.S. 2477 right-of-way determinations to emergency situations, thereby requiring claimants to bring quiet title suits against the US, and (b) bar the use of recordable disclaimers for R.S. 2477 claims. The new Secretary should also limit BLM's scope of authority for reviewing R.S. 2477 emergency claims to claims affecting BLM lands only. The National Park Service and U.S. Fish and Wildlife Service should once again be re-delegated the authority that they previously had for addressing R.S. 2477 claims on park and refuge lands.

Responsible Officials: Secretary of Interior and BLM Director

6. **Review Leasing in Utah's Red Rock Landscapes**

Six Resource Management Plans and Records of Decision covering Utah's iconic Red Rock BLM lands were issued in October and November 2008 and are fatally flawed in a number of ways. These plans must be reviewed and revised in order to provide appropriate protection for millions of acres of sensitive lands currently targeted for destructive development activities. The BLM should not offer any lease tracts

for sale on any land within these planning areas that would be protected by America's Red Rock Wilderness Act as introduced in the 110th Congress. In addition, any leases in such areas that may be sold or issued during the lease sale currently scheduled for December 19, 2008, must be cancelled.

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Support National Landscape Conservation System Act**

If it is not passed in the Lame Duck session of Congress, the new Administration should support passage of the National Landscape Conservation System Act, a bill to codify the administratively-created National Landscape Conservation System, covering 26 million acres of BLM land, and other legislative initiatives such as wilderness designations to protect sensitive BLM lands from irresponsible development activities.

Responsible Officials: Assistant Secretary for Lands and Minerals Management, Director, Office of Congressional and Legislative Affairs, and BLM Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Sustaining the National Landscape Conservation System**

The new Administration should increase funding for the National Landscape Conservation System to $75 million to prevent additional irreparable damage to the System's outstanding cultural and natural resources. BLM should also establish dedicated budget categories for all Conservation System units.

Responsible Officials: Assistant Secretary for Lands and Minerals Management and BLM Director

THE FIRST 100 DAYS

- **Review Leasing Decision at Roan Plateau in Colorado** - The new Administration should immediately revisit the Roan Plateau leases issued in August of 2008. The case of the Roan Plateau offers a unique opportunity for the incoming administration to distance itself from the past eight years, which took a "drill everywhere now, ask questions about local communities, wildlife and the environment later" attitude. Revisiting these deeply flawed leases would assure the public that responsible domestic production can be part of a balanced energy agenda, provided that it is done in a way that respects local communities, imperiled wildlife, and irreplaceable natural values. A federal judge has indicated that a decision on a lawsuit, filed against BLM for moving forward with a leasing plan that does not protect air, water, wildlife or local communities, will be reached in June of 2009. Should the judge erroneously rule in BLM's favor, the leasing plan will go forward and the wishes of the Colorado Governor, multiple members of the Colorado Congressional delegation, and numerous local communities will be ignored. The Secretary should suspend or vacate the leases issued pursuant to the Plan amendment until BLM has prepared an analysis of additional Plan alternatives, including alternatives that offer strong protections to the base and top of the Plateau.

- **Review Oil and Gas Leasing Decisions for Otero Mesa in New Mexico** - The next Director of BLM should immediately begin a review of the RMP Amendment and associated leasing decisions and announce the reopening of the NEPA process in order to consider broader protective measures for this critical area. The Bush Administration's decision to move forward with this leasing proposal despite the strong opposition from the State Governor and local citizens makes it a poster child for all that has gone wrong with oil and gas leasing on our western lands.

- **Immediate Halt to Processing R.S. 2477 Claims under the Disclaimer Process** - Except in extremely limited situations, the next Secretary of the Interior should immediately direct BLM to stop processing R.S. 2477 claims under the highly controversial "Disclaimer" regulations issued under Secretary Gale Norton, and require that such claims to be pursued through quiet title actions. Prompt action is required on the part of the Secretary in order to insure that no spurious claims are approved before the senior leadership for the new Administration are on board at the Interior department.

- **Review and Revise Six Resource Management Plans and Records of Decision in Utah** – Immediate review of the six Resource Management Plans and Records of Decision affecting Utah's Red Rock landscapes is needed to address a number of fatal flaws. These plans must be reviewed and revised in order to provide appropriate protection for millions of acres of sensitive lands currently targeted for destructive development activities.

ISSUE 3
RESTORE SCIENCE IN AGENCY PLANNING

BACKGROUND

For the past eight years the Bush Administration has actively suppressed, ignored or manipulated science in the federal lands management policy arena, particularly on the multiple-use lands of the Forest Service and BLM. Despite the fact that FLPMA calls for the use of "a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic and other sciences"[1], the outgoing Administration has heavily favored narrow resource-extraction values over other multiple-use values, disregarding the use of critical science-based analytical and procedural tools that lead to high quality, publicly credible, and legitimate land management decisions.

Given the enormous land management challenges of the coming decades— including our land management agencies' response to climate change and the complex natural resource dilemmas associated with climate change (i.e. species adaptation, extreme variability in natural processes)—it is imperative that the new Administration

[1] U.S. Department of the Interior, Bureau of Land Management and Office of the Solicitor (editors). 2001. The Federal Land Policy and Management Act, as amended. U.S. Department of the Interior, Bureau of Land Management Office of Public Affairs, Washington, D.C. 69 pp.

restore agency credibility and public confidence in agency mission and professionalism by reaffirming science-based planning, analysis and decision-making processes for BLM and other federal lands management agencies.

The effective application of science to land management planning and decision-making requires three "essential ingredients":

- Well-defined, measurable standards (i.e. wildlife population or habitat condition targets), developed via a robust public involvement processes.
- The employment of science-based analytical tools to evaluate compliance with the standards (e.g. population viability analysis, or the spatially explicit Decision Support System recommended by the Western Governor's Association).
- Consistent utilization of science-based analysis and decision-making which will be dependent upon dedicated funding for monitoring and science-based adaptive management processes.[2]

The incoming Administration should consider these essential elements as it moves forward with efforts to restore public confidence and apply science-based analysis to BLM decision-making processes.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Western Governors Association's Wildlife Habitat Corridors Initiative

In 2007, the Western Governors' Association (WGA) approved a resolution—Protecting *Wildlife Migration Corridors and Crucial Wildlife Habitat in the West.* The resolution maps out a science-based interagency strategy to identify and conserve key wildlife corridors and crucial wildlife habitats in the West. The new Administration should direct the BLM to support the initiative, and to coordinate policy development with the WGA, including the use of spatially explicit Decision Support Systems (DSS) and state wildlife information (from State Wildlife Action Plans) in BLM planning and decision-making processes.

Responsible Official: BLM Director

2. Study Surface Values Throughout NPRA

The new Administration should conduct a new study of wildlife, wilderness, subsistence, cultural and other values in the National Petroleum Reserve-Alaska, including but not limited to designated special areas. It should also initiate a new planning process to fulfill the requirement of the National Petroleum Reserve Production Act [NPRPA, 42 U.S.C. §§ 6504(b), 6508] to assure maximum protection of significant surface values consistent with the purposes of the act. Current activity Plans do not cover all of NPRA, are based on outdated or incomplete science, and do not fully address cumulative effects or climate change.

Responsible Official: BLM Director

[2] Rohlf, D.J. 2004. Science, Law, and Policy in Managing Natural Resources: Toward a Sound Mix Rather than a Sound Bite. Pages 127-142 *in* K. Arabas and J. Bowersox, editors. *Forest futures: science, politics, and policy for the next century.* Rowman and Littlefield, Lanham, Maryland, USA.

3. Direct BLM to conduct standards-based planning

Using existing authorities, the new Administration should instruct the BLM to implement planning and decision-making processes (including data collection, analysis, and monitoring) that employ measureable planning objectives at multiple biological scales (i.e. fish and wildlife populations, habitat and ecosystem conditions). This recommendation is strongly echoed by the Western Governors Association's *Wildlife Corridor Initiative* (www.westgove.org/wga/initiatives/corridors) and the Sportsmen for Responsible Energy Development's *Recommendations for Responsible Oil and Gas Development* (www.sportsmen4responsibleenergy.org).

Responsible Official: FWS Director

4. Direct BLM to conduct meaningful landscape-level planning

BLM's Healthy Landscape Initiative (HLI), while at this point completely inadequate to support needed landscape-level, interagency planning, never-the-less has the potential to serve as a basis for meaningful planning. The new Administration should take steps, including substantive increases in funding, to bolster the utility of HLI and to integrate Resource Management Plans into that framework.

Responsible Official: BLM Director

5. Provide substantive direction on climate change planning

The new Administration should provide substantive direction to land management agencies on the incorporation of climate change in federal planning and decision-making processes, provide guidance on NEPA processes, and articulate the nature of federal cooperation with other federal agencies, state agencies, Western Governors' Association, Tribes and other landowners on critical climate change planning processes.

Responsible Official: Chair of CEQ

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Support the America's Wildlife Heritage Act

The America's Wildlife Heritage Act, introduced by Rep. Ron Kind (D-WI) in the 110th Congress, modernizes the Forest Service wildlife population viability standard and monitoring requirements and codifies them into law. The proposal also should apply to BLM. Authorizing these requirements in statutes is an important to avoid the type of large regulatory swings proposed by the Bush Administration and this legislative proposal should be strongly supported by the new Administration.

Responsible Officials: Assistant Secretary for Lands and Minerals Management, Director, Office of Congressional and Legislative Affairs, and BLM Director

2. Support revenue streams for climate adaptation

The new Administration should support climate change legislation that establishes permanent revenue streams out of cap and trade auctions to support coordinated multi-jurisdictional planning and decision making processes that address wildlife adaptation and connectivity management.

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Responsible Officials: Assistant Secretary for Lands and Minerals Management, Director, Office of Congressional and Legislative Affairs and BLM Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Sustainable funding for science-based planning**

   The new Administration should establish a source for sustainable funding for coordinated, interagency science-based planning, analysis, monitoring and decision-making processes, including support for policy relevant climate change science. Specifically, BLM and other land managers need usable, decision-scale tools and information that estimate how wildlife, habitats and ecosystems will respond to climate change.

   Responsible Officials: Secretary, Assistant Secretary for Lands and Minerals Management, Assistant Secretary for Policy, Management and Budget, BLM Director, OMB PAD for Natural Resources, CEQ

2. **Promote USGS policy relevant research**

   The new Administration should promote and support a significant increase in funding for USGS policy-relevant research that supports the application of science-based tools to land management planning and decision-making processes, including investments in the Gap Analysis Program, the Status and Trends Program, the National Biological Information Infrastructure, and Cooperative Fish and Wildlife Research Units. Funding also needs to be made available to the BLM to incorporate such analyses and use of such tools in its land use planning program.

   Responsible Officials: Assistant Secretary for Lands and Minerals Management and BLM Director

THE FIRST 100 DAYS

- To achieve coordinated planning, and to ensure that wildlife adaptation and corridor management is considered in BLM planning processes, the new Administration should issue substantive guidance to land management agencies on the incorporation of climate change in federal planning and decision-making processes. In addition, CEQ should provide guidance on how to incorporate consideration of climate change into NEPA processes and should articulate the most effective way that federal agencies should interact with each other, state agencies, Tribes and private landowners on critical climate change planning processes.

- The new Administration should support legislation that establishes permanent revenue streams to support coordinated multi-jurisdictional planning and decision-making processes that address wildlife adaptation and connectivity management.The new administration should prevent from going into effect, or propose regulations that would undo, the changes in the regulations implementing Section 7 of the ESA that were proposed on August 15, 2008. Over 100,000 citizens filed comments objecting to the Bush Administration's proposed section 7

rollbacks. Blocking these regulations would send a clear and popular signal that the new administration is reversing the harmful policies of the previous administration.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

TOP THREE ISSUES

1. MANDATE FOR THE 21st CENTURY

The Bureau of Reclamation (Reclamation) needs a new mandate for the 21st Century—one that recognizes the West's limited and unevenly distributed fresh water resources are used inefficiently and ineffectively. If inefficient use and water contamination continue unabated, they will impoverish this and future generations, destroy the limited remaining aquatic ecosystems, and threaten our future food supply.

2. RESPONDING TO CLIMATE CHANGE

A national strategy to integrate climate into water management and planning at all levels is required. Particular emphasis must be given to two simultaneous efforts: reduce greenhouse gas emissions associated with our water system, and help local communities and water dependent ecosystems adapt to the unavoidable impacts of climate change.

3. TRANSITION FROM A CUSTOMER SERVICE AGENCY TO A PUBLIC SERVICE AGENCY

The Bureau currently operates for the benefit of water and power contractors at the expense of natural resources and other values. Reclamation must transition from a customer service to a public service agency and in addition become more sensitive to its international obligations along the Canadian and Mexican borders.

KEY APPOINTMENT POSITIONS

- Assistant Secretary of Water and Science (ASWS)
- Deputy Assistant Secretary of Water and Science
- Commissioner of Reclamation (BOR)
- Commissioner, International Boundary and Water Commission (Department of State)
- Solicitor
- Associate Solicitor for Land and Water

ISSUE 1
MANDATE FOR THE 21st CENTURY

BACKGROUND

Safe and adequate fresh water resources are central to the economy, foreign policy, and security of the United States. The next Administration will face several key national and international challenges related to fresh water within the domain and authority of the Bureau of Reclamation. Failure to address them will have economic, political, environmental, public health and diplomatic ramifications.

Reclamation has acknowledged that the 21st century brings different challenges and tasks than those originally contemplated. Born in the development needs of the last century, Reclamation has an evolving role in the West based on the interstate nature of western rivers, national commitments to Indian tribes and environmental protection, and the expertise it can provide to communities. The new Administration should insure that Reclamation elevate the importance of these values in decision-making, project management and stakeholder relations.

Reclamation also can no longer act as if these values do not exist or apply to them. The agency's delay in responding to legitimate environmental, Native American and international water needs and its refusal to budget for existing needs do not in fact avoid crisis but postpone and worsen the predicament.

A new mandate for Reclamation must include:

- Recognizing that the agency has a powerful role – and vested interest – in water use and management that it cannot relinquish to the states and local water users;
- Moving its organizational philosophy away from crisis avoidance and toward environmentally sustainable management;
- Improving the inclusivity of decision making processes, providing for openness and full participation by all stakeholders, including local governments, tribal entities, and community interests;
- Empowering regional officials in stakeholder processes and decision-making; and
- Making water issues and the management protection and restoration of Western rivers more accessible to the public.
- Moving away from traditional water development and subsides and toward a greater emphasis on cost-effectiveness, efficiency, reuse and cost-sharing.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Streamline and coordinate federal water responsibilities

The new Administration should insure that Reclamation participate fully in the reorganization and streamlining of the diverse and uncoordinated federal water responsibilities and expand the collection of water-use and water-quality data. Far greater coordination with the Army Corps and US EPA is essential to manage water resources in a coordinated manner.

Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

2. Conserve water for the environment

Reclamation is looking at increased efficiencies in water supply infrastructure as the cheapest and least controversial "new" source of water. While preferable to new storage projects, efficiency projects are not without environmental impacts. Many of the riparian areas and wetlands in the West are sustained by anthropogenic water sources – slop in the system. Leaky dams, unlined canals and irrigation return flows often are a significant source of water to rivers and wetlands. The new Administration should insure that Reclamation dedicate a percentage of the water conserved by these projects (e.g., in proportion to the federal cost) to the river system for the benefit of the environment.

Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

3. Review existing contracts

The new Administration should direct Reclamation to review existing and proposed irrigation contracts in the context of best available technology to ensure beneficial use of water.

Responsible Officials: ASWS, Commissioner of BOR, Solicitor, Associate Solicitor for Land and Water

4. Identify management flexibilities

Reclamation survey of its facilities for operational flexibilities will assist the agency in balancing water needs, coping with climate change, and educating stakeholders. Currently, management flexibility is limited by lack of understanding and agreement among agencies, beneficiaries and other stakeholders as to legal, regulatory, and operational constraints and opportunities among Reclamation facilities. The new Administration should direct Reclamation to conduct such a survey of its facilities in order to enhance its understanding of the full range of possible operational flexibilities at its disposal.

Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

5. Establish adequate river flows

Reclamation projects impact virtually all major river systems in the Western United States. The new Administration should seek to establish flow standards in partnership with appropriate state authorities to ensure that adequate flows are maintained to support instream and associated aquatic ecosystem values.

Responsible Officials: ASWS, Commissioner of BOR, Solicitor, Associate Solicitor for Land and Water

6. **Prioritize ecosystem restoration**

Reclamation has largely disappeared as a pro-active voice for conservation in the California Bay-Delta, Central Valley, the Rio Grande, the Klamath Basin and the Salton Sea among other important system. The new Administration needs to insure that the agency will re-engage in its operations with a broader, conservation oriented ethic in order to bring creative long term solutions forward in these and other systems.

Responsible Officials: Secretary, ASWS, Commissioner of Bureau of Reclamation

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Create bipartisan Water Commission for the 21st Century**

The new Administration should establish a new national, bipartisan Water Commission for the 21st Century to evaluate and recommend changes to national water policy.

Responsible Officials: Secretary, ASWS, Commissioner of Bureau of Reclamation

2. **Manage watersheds on a coordinated, systems basis**

The new Administration should work with Congress to establish a multi-agency, multi-jurisdictional approach to managing watersheds in a coordinated fashion to better recognize ecosystem benefits, flood protection and water supply reliability in a changing climate. As snowpack diminishes but rain may increase, the new Administration needs to strive to eliminate the traditional inter-agency disputes. Changes to Army Corps authority may be needed as well.

Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

3. **Refine existing laws to ensure efficient water use**

The new Administration should work with Congress to establish incentives for improving water efficiency and reducing wasteful use of water, such as through the Farm Bill, water pricing, trade laws, plumbing codes, and tax code revisions.

Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

POLICY RECOMMENDATIONS - BUDGETARY

1. **Spend the money that Congress appropriates**

Current Reclamation management often resists fully funding key programs for which the Congress appropriates funds. For example, Reclamation is very resistant to the $126 million appropriated by the House for water recycling program support. The new Administration should insure that Reclamation expends all of the appropriations that it receives for environmentally oriented programs.

Responsible Official: Commissioner of Bureau of Reclamation

ISSUE 2
RESPONDING TO CLIMATE CHANGE

BACKGROUND

Global climate changes are already affecting vital sectors across the U.S. and these impacts will likely intensify. Changing climate conditions affect the supply of and demand for water resources, with adverse consequences for the reliability and quality of the nation's water supply, hydroelectric generation, food security and natural resources. The nation is also beginning to see changes in the magnitude, frequency, and costs of extreme events like floods and drought. The failure to update our knowledge on climate impacts or to take actions to reduce their consequences will put further pressure on the nation. This must be remedied early in the new Administration through the development of a national strategy to integrate climate into water management and planning at all levels. Particular emphasis must be given to two simultaneous efforts: reduce greenhouse gas emissions associated with our water system, and help local communities adapt to the unavoidable impacts of climate change on water availability and quality.

The Bureau of Reclamation has been dangerously slow in acknowledging climate change and its impacts on water resources. Virtually all aspects of water management – from timing and availability to supply and demand – are based on past conditions. With regards to climate change, however, past conditions are no longer a reliable predictor of future conditions.

The new Administration needs to insure that Reclamation abandons the scientifically unsound position that historical data provides the best basis for analyzing ongoing and future river management activities and their effects. Reclamation must incorporate climate change into every aspect of its decision-making. This will require fundamental changes in how Reclamation analyzes future projects and challenges. Strategies to address these challenges are included in the following report – http://www.nrdc.org/globalwarming/hotwater/contents.asp

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Climate change information**

   The new Administration should direct Reclamation to update all of its decision support systems in eighteen months with best available climate change information and ensure that the systems will be in place to continue to update these tools as new information is developed.

   Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

2. **Modernize hydrologic modeling**

   The new Administration should direct Reclamation to develop and implement strategies for enhanced use of climate information in BOR river system modeling and river operations, thereby improving predictive capacity and reducing system vulnerability for the Colorado River system, including the river ecosystem.

   Responsible Official: Commissioner of Bureau of Reclamation

3. **Assess drought vulnerability**

   The new Administration should direct Reclamation to work with states and local water suppliers to develop updated drought vulnerability assessments that reflect evolving knowledge on the likely effects of climate change.

   Responsible Official: Commissioner of Bureau of Reclamation

4. **Adaptation strategies for climate change**

   The new Administration should direct BOR to update the 2000 National Assessment on the impacts of climate change on U.S. water resources by developing adaptation strategies for responding to unavoidable impacts. Given budget constraints, this effort should focus on cost-effectiveness, efficiency, reuse and cost-sharing.

   Responsible Official: Commissioner of Bureau of Reclamation

5. **Climate impact planning**

   The new Administration should direct Reclamation to integrate climate change into all of its federal water decisions, planning, and management, including new construction and the operation of existing water systems and reservoirs.

   Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

6. **Reduce greenhouse gas emissions**

   The new Administration should set specific targets for Reclamation to achieve in reducing greenhouse gas emissions associated with water systems. Such reductions should be achieved by, among other things, reducing the energy cost of providing, treating, delivering, using, and cleaning water.

   Responsible Officials: WSAS, Commissioner of Bureau of Reclamation

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Drought mitigation**

   The new Administration should assess whether new legislation is needed to give BOR flexibility to develop interstate drought mitigation tools.

   Responsible Officials: ASWS, Commissioner of BOR, Solicitor, Associate Solicitor for Land and Water

2. **Flood protection**

   The new Administration should assess whether new legislation is needed to give BOR flexibility to address flood capacity in existing projects, such as reoperation based on real time weather and snow pack data.

Responsible Officials: ASWS, Commissioner of BOR, Solicitor, Associate Solicitor for Land and Water

THE FIRST 100 DAYS

The new Administration needs to direct BOR to promptly launch a series of cross-agency actions noted above that are associated with water resources and climate change. Adapting our existing water infrastructure and management assumptions to accommodate present-day needs is long overdue and can be highlighted at climate change events and conferences focusing on water and drought.

ISSUE 3
TRANSITION FROM A CUSTOMER SERVICE AGENCY TO A PUBLIC SERVICE AGENCY

BACKGROUND

Reclamation's management leans too much towards accommodating the entities that hold contracts to its projects, its "clients." Because most of the large federal water supply projects are still only authorized for flood control, hydropower and irrigation, this inherent lack of flexibility in these authorizations has been a significant barrier to achieving ecosystem reliability as well as water supply reliability for urban areas. As agriculture shrinks in proportion to the overall economy of the West, Reclamation's historic and current approach will fall increasingly further behind in contributing to the emerging and evolving economies of the West. In fact, by focusing nearly exclusively on agriculture, Reclamation policies will fail to keep pace with the changing economic structure of Western states. Action is needed to revisit existing project authorizations to insure that they can accommodate 21st century realities of climate change and brisk population growth in the urban West.

Biologically, Reclamation is managing a vast proportion of rivers in the arid West where biodiversity is largely a function of river health. Reclamation's long-time relationships with consumptive water users has led the agency at times to ignore the interests of stakeholders advocating for the health of the rivers themselves. This relationship has at times led Reclamation to ignore the clear requirements of state and federal law—thus leading to increased judicial intervention in the management of Reclamation projects.

Reclamation has significant management obligations for many facilities in river basins that the U.S. shares with Mexico and Canada. This management has had, and continues to have, severe environmental consequences for our neighbors. Reclamation has too frequently turned a blind eye to the impacts of its activities on other countries forcing both Mexico and Canada to turn to the courts for redress for environmental harms in their countries. Reclamation must abandon this short-sighted practice and view its portfolio with a wider lens.

Other agencies have significant influence over Reclamation's behavior in this arena. Policies that govern our international relationships are established in the U.S. State Department. The International Boundary Water Commission is another agency whose views are relevant to Reclamation policies but whose frame of reference has not kept pace with the rapidly evolving understanding of ecological principles and climate change.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Assess ecosystem needs**

   The new Administration should direct Reclamation to assess the needs of freshwater ecosystems associated with its projects and identify actions to meet these needs.

   Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

2. **Section 417 Determinations**

   As part of existing mandates for water allocations in river systems, especially 43 C.F.R. Part 417 (Procedural Methods for Implementing Colorado River Water Conservation Measures with Lower Basin Contractors), the new Administration should direct Reclamation to review existing irrigation contractors, as well as proposed contracts, in the context of best available technology to ensure beneficial use of water.

   Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

3. **Departmental guidance for transboundary impacts**

   The new Administration should develop and implement a Secretarial Order affirming the obligation to consider transboundary environmental impacts of actions that Departmental agencies undertake in this country.

   Responsible Officials: Secretary, Assistant Secretary of Fish, Wildlife, and Parks, ASWS, Solicitor

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Water subsidies**

   The new Administration should analyze alternatives to traditional water subsidies, including a beneficiary pays approach.

   Responsible Officials: ASWS, Commissioner of Bureau of Reclamation

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fully fund Reclamation obligations for ecosystem improvements**

   As an example of the need to meet existing legal obligations, the new Administration should direct Reclamation to aggressively pursue funding to securing water supplies mandated by the Central Valley Project Improvement Act for national wildlife refuges affected by that project.

   Responsible Officials: Secretary, ASWS, Commissioner of Bureau of Reclamation and OMB PAD for Natural Resources

DEPARTMENT OF THE INTERIOR

U.S. FISH AND WILDLIFE SERVICE

TOP THREE ISSUES

1. REINVEST IN, AND REFORM THE MANAGEMENT OF, THE NATIONAL WILDLIFE REFUGE SYSTEM

The National Wildlife Refuge System is the nation's premier system of lands dedicated to wildlife management and conservation. Reinvesting in refuge infrastructure and reforming management to meet challenges such as global warming is necessary to maintain the System's world-class natural resources and conserve imperiled wildlife, plants, and habitats.

2. RESPOND TO CLIMATE CHANGE

Climate change seriously threatens American wildlife and habitats, which clearly strikes to the very core of the FWS mission. Fortunately, the current dilemma presents not only difficult challenges but also great opportunity. The Refuge System should be a leader in understanding the impacts of climate change and in developing the tools necessary to maintain the nation's fish, wildlife and plants for future generations.

3. RESTORE AND IMPROVE IMPLEMENTATION OF THE ENDANGERED SPECIES ACT

The Bush administration has undermined and starved implementation of the Endangered Species Act, one of our most important conservation laws. Among other things, the Administration has issued a number of regulations, proposed regulations, opinions, and guidance documents that substantially weaken protections afforded to listed species under the ESA. A top priority for the new administration should be to strengthen the Act by: (1) reversing these decisions; (2) strengthening the implementation of the ESA through ensuring prompt listing and critical habitat decisions and the creation and implementation of effective recovery plans; and (3) working with Congress to renew and strengthen the ESA for the 21st century.

KEY APPOINTMENT POSITIONS

- Assistant Secretary, Fish, Wildlife and Parks
- Director, U.S. Fish and Wildlife Service
- Deputy Assistant Secretary, Fish, Wildlife and Parks
- Associate Solicitor, Fish, Wildlife and Parks
- Special Assistant to the Secretary for Alaska

ISSUE 1

REINVEST IN, AND REFORM THE MANAGEMENT OF, THE NATIONAL WILDLIFE REFUGE SYSTEM

BACKGROUND

Unique among federally managed lands, the National Wildlife Refuge System, administered by the U.S. Fish and Wildlife Service, recognizes that certain special areas should be reserved for wildlife—for its own sake but also to provide enjoyment for all Americans. From humble beginnings at Pelican Island, Florida, today more than 547 wildlife refuges and thousands of small prairie wetlands totaling nearly 100 million acres have been established across all U.S. states and territories. They provide essential habitat for migratory birds and other wildlife, a safe haven for endangered species, protection for imperiled ecosystems, and recreational opportunities such as fishing, hunting, wildlife watching and environmental education for nearly 40 million annual visitors. Without doubt, the Refuge System is the nation's premier system of lands dedicated to wildlife management and land conservation.

Unfortunately, our national wildlife refuges are not immune from the threats facing wildlife and natural areas everywhere. Wildlife refuges not only face encroachment from housing and commercial development on their borders, but increasingly from invasive species, impacts from a rapidly changing climate, threats to maintaining adequate water quality and quantity, oil and natural gas drilling and other energy development such as wind turbines, and a sharply reduced workforce. In addition, the Refuge System faces a $3.5 billion backlog of unmet needs to repair infrastructure and manage its world-class natural resources. In a world with ever-shrinking natural areas, America must act quickly to strategically reinvest in the Refuge System, to revitalize and restore it, and safeguard our unique natural resources for the benefit of wildlife and millions of present and future Americans.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Promulgate regulations governing mineral extraction on refuges**

   New regulations should be promulgated establishing a precautionary approach to approval and management of mineral activities on refuges. Collection of fees will allow for immediate mitigation, restoration and monitoring of sites; deadly open reserve pits should be banned; and a new Mineral Resources Team should provide technical expertise to managers.

   Responsible Official: FWS Director

2. **Develop policies on wilderness, water resources, invasive species, and habitat protection for the Refuge System**

   The Bush administration recently published an inadequate wilderness protection policy for the National Wildlife Refuge System. The policy should be reviewed, revised, and resubmitted for additional public comment. Among its shortcomings, the policy failed to address climate change in wilderness reviews and precludes wilderness study in Alaska. Moreover, a Wilderness Review Handbook for refuge

managers should be completed. Refuge mangers should receive training in conducting wilderness reviews, and identify and conduct studies of potential areas for wilderness designation during every generation of refuge planning. Refuge managers should send all areas identified as suitable for wilderness to the Secretary for transmittal to the President and Congress.

Climate change, invasive species, increasing water demand, and adjacent development all threaten refuges. Policies should be developed that standardize the assessment and management of these threats, and promotes strategic land acquisitions and easements to reduce the threats.

Responsible Official: FWS Director

3. **Reevaluate compatibility determinations on refuges**

The previous administration improperly injected political considerations in some compatibility determinations under the Refuge Improvement Act or initiated improper land exchanges to avoid making compatibility determinations. The new administration should block actions that allow incompatible uses on refuges, such as the Yukon Flats land exchange, and reevaluate any tainted compatibility determinations made under the previous administration.

Responsible Official: FWS Director

4. **Develop an environmental education strategy for the Refuge System**

Wildlife refuges are uniquely positioned to educate the public on wildlife conservation and threats to it, particularly global warming. The new administration should develop and implement an environmental education strategy for refuges to cultivate new and diverse constituencies supportive of wildlife and land conservation.

Responsible Official: FWS Director

5. **Develop Refuge Science Initiative**

Many wildlife refuges in the system have gone years without even basic scientific information such as the presence or absence of endangered species. The new administration should initiate an immediate effort, using partnerships and citizen science, to complete consistent and comparable basic inventories of refuge resources.

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Funding for natural resources adaptation to global warming**

Protecting refuge wildlife and habitats from the impacts of global warming will require a substantial investment in developing and implementing a national strategy to assist natural resources adaptation. The new administration should support the inclusion of a dedicated revenue stream for natural resources adaptation in any comprehensive climate change legislation.

Responsible Official: Assistant Secretary, Fish, Wildlife and Parks

2. **Block the Izembek National Wildlife Refuge land exchange**

   Legislation authorizing a land exchange within designated wilderness on the Izembek National Wildlife Refuge in order to permit the building of a road through the refuge is unnecessary to ensure public safety and an abuse of both refuge and wilderness protection laws. The new administration should oppose any legislation authorizing the Izembek land exchange.

   Responsible Officials: Assistant Secretary, Fish, Wildlife and Parks and FWS Director

3. **Support the strongest possible protection for the Coastal Plain of the Arctic National Wildlife Refuge**

   The new administration should support the strongest possible protection for the Coastal Plain of the Arctic National Wildlife Refuge, including wilderness designation as a means of putting an end to the decades-long fight over the Arctic National Wildlife Refuge.

   Responsible Officials: Assistant Secretary, Fish, Wildlife and Parks and FWS Director

4. **Support designation of wilderness areas on national wildlife refuges**

   The new administration should urge the House Natural Resources Committee and the Senate Energy and Natural Resources Committee to consider and adopt pending National Wildlife Refuge wilderness proposals.

   Responsible Officials: Assistant Secretary, Fish, Wildlife and Parks and FWS Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Make a renewed commitment to funding the Refuge System**

   The greatest service that could be provided to America's wildlife refuges is a commitment to funding the Refuge System at a level commensurate with its disproportionately beneficial mark upon the landscape. Based on recommendations from the Cooperative Alliance for Refuge Enhancement, the Refuge System needs $765 million per year by FY 2013 to properly administer its nearly 100 million acres.

   Responsible Official: FWS Director

2. **Increase funding for strategic land acquisitions**

   Due to steep declines in land acquisition appropriations and requests under the previous administration, expansion of the National Wildlife Refuge System has not kept pace with needs. The new administration should seek to acquire priority properties identified for refuge acquisition, beginning with the FY 2010 budget request.

   Responsible Official: FWS Director

Announce a Refuge Budget Initiative
The greatest service that could be provided to America's wildlife refuges is a commitment to funding the Refuge System at a level commensurate with its disproportionately beneficial mark upon the landscape. Based on recommendations from the Cooperative Alliance for Refuge Enhancement (which includes a broad range of conservation and sportsmen organizations), the Refuge System needs $765 million per year by FY 2013 to properly administer its nearly 100 million acres. This announcement would establish a clear administration initiative that can be carried out throughout the first four years, would set a clear priority for protecting wildlife, biodiversity, and opportunities for outdoor recreation, and would be supported by members of Congress on both sides of the aisle.

ISSUE 2
RESPOND TO CLIMATE CHANGE

BACKGROUND

Climate change poses the most significant threat to the natural world seen in the course of human history. Through the ages the Earth has undergone climatic changes but for the most part, at a rate apace with species' adaptability. Changes accelerated by human activity are now occurring too rapidly for species to keep up. Reports from the Intergovernmental Panel on Climate Change and the U.S. Climate Change Science Program confirm what natural resources managers, hunters, anglers, and other outdoor recreationists already know: global warming is causing serious damage and disruptions to wildlife and ecosystems. Furthermore, climate scientists predict that such harmful disturbances will accelerate and worsen. These impacts include: changes in seasonal events that disrupt fish and wildlife populations and ecological communities; melting of polar ice caps; acidification of the oceans; declining snowpack; increased drought; warming of rivers, streams, lakes and estuaries; increased threat from invasive species; habitat shifts northward and upward in elevation; and more frequent catastrophic fires.

Each of these impacts poses a serious threat to the natural resource base that supports both people and wildlife and clearly strikes at the core of FWS's mission. The natural systems that provide us with drinking water, flood protection, food, medicine, timber, recreational opportunities, scenic beauty, jobs, and numerous other services are at great risk. Our children and grandchildren deserve the same opportunities as previous generations have had to fish, explore pristine forests, and see polar bears in the wild. But these opportunities will rapidly decline unless we take decisive action now.

Fortunately, the current dilemma presents not only difficult challenges but also great opportunity. Regrettably, FWS has only scratched the surface in planning for climate change, and is currently mired in relative inaction with neither the operational capacity nor the technical capability to properly address the challenge. To remedy this, a large infusion of federal funding is needed to restore FWS's scientific capacity and to develop strategies, even in the face of considerable uncertainty, which address the impacts of climate change and implement science-based management responses.

Of all the federal land agencies, the FWS is perhaps best positioned to adapt to changing land-uses and climatic conditions, in part because of its stewardship of the Refuge System. The Refuge System should be a leader in understanding the impacts of climate change and in developing the tools necessary to maintain the nation's fish, wildlife and plants for future generations. The Refuge System enjoys broad public support, has great flexibility in acquiring and restoring select habitats, is nested within an agency that wields the essential tools for conserving wildlife across jurisdictional boundaries, and has a long history of active management that may become increasingly necessary.

The country needs a cohesive national strategy for maintaining plants, fish, wildlife and habitat in the face of climate change. The current absence of a national strategy, however, should not delay thoughtful action at the regional or field level. It is imperative for land and wildlife managers to begin biological monitoring and conservation planning at various scales to address the impacts of climate change on species and ecosystems.

Other federal agencies also playing a critical role: Bureau of Land Management, U.S. Geological Survey, Environmental Protection Agency, NOAA, U.S. Army Corps of Engineers, USDA-Forest Service.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Implement Climate Change Strategic Plan**

   The FWS should finalize and implement the FWS strategic plan on climate change and coordinate such efforts with the wildlife action plans of state and tribal wildlife agencies.

   Responsible Official: FWS Director

2. **Ensure Integrity of Climate Change Science in Policies**

   The FWS must re-examine its policies and require that the best available climate change science is a priority when making decisions, including issuing guidance directing wildlife refuge managers to incorporate climate change impacts and plans for wildlife adaptation in all CCPs and at all stages of ESA implementation. Specifically, the new administration should withdraw the May 14, 2008 FWS guidance memo and October 3, 2008 Solicitor opinion finding that the ESA's requirements do not apply to greenhouse gas emissions.

   Responsible Officials: FWS Director, Assistant Secretary Fish, Wildlife and Parks, Solicitor

3. **Refuge Planning and Climate Change**

   Refuge comprehensive conservation plans (CCP) should serve as the vehicle for downscaling national climate strategies and address many of the needed climate change-related actions, such as gathering inventory and monitoring data, restoring habitat, forming cooperative partnerships, and conducting public outreach. CCPs should also include detailed plans for reducing existing or projected non-climate stressors to wildlife, such as mineral extraction, unnecessary roads, or pollution.

   Responsible Official: FWS Director

4. **Training for Resource Professionals**

To expedite much-needed interagency cooperation at the landscape level, the FWS should create a platform for ongoing professional-level training workshops that involves relevant decision-makers, land owners and managers, and researchers.

Responsible Official: FWS Director

5. **Create Regional Climate Advisory Teams**

Create regional Climate Advisory Teams of expert scientists to assist refuge managers and ecological services staff in completing CCPs, prioritizing conservation efforts, and making ESA implementation decisions in accordance with the best available science on climate change impacts.

Responsible Official: FWS Director

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Wildlife Adaptation in Climate Legislation**

Any comprehensive climate change legislation proposed by the Administration or supported by it in Congress must allocate a portion of revenue from the sale of emissions allowances to support adaptation of wildlife and habitat to global warming impacts. Providing a dedicated portion of funding will be necessary to ensure that important public values and resources will be addressed in the context of a comprehensive approach to climate change.

Responsible Officials: Secretary of the Interior; Assistant Secretary for Fish, Wildlife and Parks; FWS Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fund natural resource adaptation planning**

The effects of climate change are occurring now and agencies must begin planning to ensure that they are addressing climate change impacts. It will take an increase in resources for the FWS to create a long term implementation plan for maintaining the viability of the National Fish and Wildlife Refuge System, and more generally for protecting wildlife and the habitats on which they depend from global warming.

Responsible Official: FWS Director

2. **Fund natural resource adaptation implementation**

To protect our natural resources from global warming will take a dedicated resource stream from cap-and-trade legislation. However, even before this occurs, Congress must increase FWS funding to ensure that resource managers begin on-the-ground adaptation projects.

Responsible Official: FWS Director

Congressional leaders and the presidential candidates have identified global warming legislation as a top priority in the coming year. Protecting wildlife and other natural resources from global warming is a critical piece of global warming legislation. As global warming legislation is debated in Congress and the public, we have the opportunity to highlight the need for natural resource adaptation at FWS.

ISSUE 3
RESTORE AND IMPROVE IMPLEMENTATION OF THE ENDANGERED SPECIES ACT

BACKGROUND

Thirty-five years ago, Congress enacted the Endangered Species Act (ESA), and put in place the world's most farsighted and important protection for imperiled wildlife and plant species and the ecosystems on which they depend. The ESA has helped rescue hundreds of species from extinction. But the even greater achievement of the Act has been the efforts it has prompted to recover species to the point at which they no longer need special protections. It is because of the Act that we have wolves in Yellowstone, manatees in Florida and sea otters in California. The new administration has an opportunity to significantly strengthen protections for endangered species while setting a new tone for the Fish and Wildlife Service and creating distance from the Bush administration's most unpopular decisions.

During the last eight years the outgoing administration largely abandoned, and in many cases actively undermined, our longstanding bipartisan commitment to protect imperiled species. For example, the Bush Administration has issued a number of regulations, proposed regulations, opinions, and guidance documents that substantially weaken protections afforded to listed species under the Endangered Species Act.

In addition to these regulatory rollbacks, the ESA's listing program has languished for the last 8 years. The Bush Administration listed fewer species than any administration before it. The backlog in listing means that many species may vanish while waiting for the protections they deserve under the ESA. The net result has been to thwart protection for more than 280 species deserving protection under the Act and to hamstring recovery of those species already listed. Chief among the reasons why the listing program has suffered is that the four ESA programs administered by the FWS (Candidate Conservation, Listing, Consultation, and Recovery) all have severe and chronic funding shortfalls.

The new administration has the opportunity to provide a fresh start for imperiled species. We should renew our nation's courageous 35-year commitment to protect the wealth of our living natural resources by: (1) undoing the damage caused during the past eight years through withdrawing, freezing, or reversing Bush administration policies that undermine the ESA; (2) issuing new regulations and guidance that strengthen and clarify listing, critical habitat

designation, and recovery planning for imperiled wildlife; (3) increasing the federal budget for implementing ESA; and (4) and reauthorizing and strengthening the Endangered Species Act.

Additional federal agencies involved include the National Marine Fisheries Service (NOAA Fisheries).

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Rescind the Bush administration's changes to the ESA's implementation**

   The new administration should freeze and withdraw the Bush Administration's August 15, 2008, proposal (or initiate new rulemaking if the regulation is finalized before January 20, 2009) to weaken federal agency consultation requirements under Section 7 of the Endangered Species Act. The new administration should also withdraw a Solicitor's Opinion dated March 16, 2007, which changed the previously unvarying understanding of how the ESA applies to species that have been designated as "endangered" or "threatened." In conjunction with withdrawal of the March 2007 Solicitor's Opinion, the new administration should prevent from going into effect, or propose regulations that would reverse if previously finalized, the amendments to the format of the Lists of Endangered and Threatened Species, which were proposed on August 5, 2008. The new administration should also withdraw a guidance memo, issued by FWS on May 14, 2008, stating that the ESA's requirements do not apply to greenhouse gas emissions, as well as an October 3, 2008, Solicitor's memorandum concurring with this guidance. Finally, the new administration should reverse a guidance document issued by FWS's Southwest Region barring agency scientist from considering any information of a species' genetic diversity discovered after its initial listing when determining the relative risk of extinction.

   Responsible Officials: Assistant Secretary, Fish, Wildlife and Parks; FWS Director; Solicitor

2. **Make recovery plans the focus of endangered species conservation**

   Independent studies have repeatedly shown a positive correlation between the preparation of recovery plans for listed species and those species conservation status. There a number of steps the new administration can take to improve recovery planning. These include: (1) produce a Handbook that requires that recovery plans are effective in promoting species recovery, protecting habitat, are science-based, and adequately monitored to ensure progress toward recovery; (2) require FWS to establish a schedule to prepare recovery plans for all listed species that currently lack one and mandate that all newly protected species have a recovery plan in place within three years of listing; and (3) issue guidelines requiring FWS personnel to consider recovery plans in Section 7 consultations with federal agencies.

   Responsible Officials: Assistant Secretary, Fish, Wildlife and Parks; FWS Director

3. **Climate Change and ESA planning**

   In addition to withdrawing the FWS guidance on global warming (and concurring Solicitor opinion) discussed above, the new administration should promulgate policies through guidance or regulation to ensure that the biological analyses and actions taken by the FWS and NMFS under the ESA properly consider the direct, indirect and cumulative impacts of global warming on threatened and endangered species and their habitat. Listing decisions, biological opinions, critical habitat designations, recovery plans, and habitat conservation plans should be required to identify the potential effects of climate change on covered species and to integrate climate change adaptation strategies as necessary for such species.

Additionally, the new administration should finalize and implement FWS's strategic plan on climate change and coordinate such efforts with the wildlife action plans of state and tribal wildlife agencies and should initiate a study with independent scientists to determine which species will be most threatened by climate change and recommend policies to address ecological impact of climate change on imperiled species in ecosystems of the United States and make recommendations.

Responsible Official: FWS Director

4. **Improve listing and critical habitat regulations**

There are several steps the new administration can take to improve the listing process and the protections afforded to listed species critical habitat. These include: (1) respond to recent court decisions by promulgating a new regulation defining what constitutes an "adverse modification" of critical habitat to prohibit federal actions that prevent or otherwise impede species recovery; and (2) revise the "Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act," 61 Fed. Reg. 4722, to allow protection of United States populations of vertebrate species that are in danger of extinction in the United States but may be more common outside its borders.

Responsible Officials: Assistant Secretary, Fish, Wildlife and Parks; FWS Director

5. **Ensure scientific integrity in ESA decision making**

In light of the demonstrated pervasiveness of political interference in ESA decisions during the past several years, FWS should engage in a systematic review of all Bush administration decisions (including listing decisions, critical habitat designations, and biological opinions under Section 7 and Section 10) to ensure that the science behind those decisions was not altered or distorted. At the very least, there should be an immediate reevaluation of decisions where political interference has been exposed.

Responsible Official: FWS Director

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Provide Tax Incentives for Species Recovery**

Provisions of the Endangered Species Recovery Act (ESRA), enacted as part of the 2008 Farm Bill, allowed landowners to deduct the cost of measures taken to implement species recovery plans on their property. The administration should work with Congress to secure enactment of the remaining incentives, not included in the 2008 Farm Bill, which would make tax credits available to taxpayers who take voluntary measures to aid the recovery of species either listed as threatened or endangered under the ESA or deemed by the Secretary of the Interior or Commerce to be warranted for protection under the ESA.

Responsible Official: Assistant Secretary, Fish, Wildlife and Parks

2. **ESA Reauthorization**

At an appropriate time, the new administration should propose legislation to reauthorize and strengthen the ESA and work with the Congress to enact it.

Responsible Officials: Assistant Secretary for Fish, Wildlife and Parks; FWS Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Substantially increase endangered species program funding**

   There is a pressing need to restore and increase endangered species funding. To adequately implement the endangered species program, staffing levels must be increased by 30 percent to offset seven years of erosion in the number of FTEs and to begin to enhance program integrity. In conjunction with this re-building of staff, funding must gradually increase for the four main accounts to at least $305.8 million by Fiscal Year 2013, an increase of $155.3 million over the FY 2008 level.

   Responsible Officials: Assistant Secretary for Fish, Wildlife and Parks; FWS Director

THE FIRST 100 DAYS

The new administration should prevent from going into effect, or propose regulations that would undo, the changes in the regulations implementing Section 7 of the ESA that were proposed on August 15, 2008. Over 100,000 citizens filed comments objecting to the Bush Administration's proposed section 7 rollbacks. Blocking these regulations would send a clear and popular signal that the new administration is reversing the harmful policies of the previous administration.

The new administration should also withdraw a Solicitor's Opinion from March 16, 2007, which changed the previously unvarying understanding of how the ESA applies to species that have been designated as "endangered" or "threatened." In conjunction with withdrawal of the March 2007 Solicitor's Opinion, the new administration should prevent from going into effect, or propose regulations that would reverse, the amendments to the format of the Lists of Endangered and Threatened Species, which were proposed on August 5, 2008 The new administration should also withdraw a guidance memo, issued by FWS on May 14, 2008, stating that the ESA's requirements do not apply to greenhouse gas pollution, as well as a October 3, 2008, Solicitor's memorandum concurring with this guidance. Withdrawal of the Solicitor's opinions and the FWS Guidance requires neither legislative action nor official rulemaking. As such, it can be easily accomplished in the Administration's first 100 days.

Similarly, issuing a guidance document requiring FWS personnel to consider recovery plans during section 7 consultations could be accomplished immediately and without the need for any official legislative or regulatory action. This guidance would be hard to object to (i.e., taking a planning document into account), provide immediate benefits to listed species, and would be a powerful signal that the new administration is committed to better and more holistic planning and consideration of wildlife conservation needs.

Finally, initiating a study with independent scientists to determine which species will be most threatened by climate change and to recommend policies to address ecological impact of climate change on imperiled species could also easily be accomplished in the new administration's first 100 days.

DEPARTMENT OF THE INTERIOR

MINERALS MANAGEMENT SERVICE

TOP THREE ISSUES

1. MMS OUTER CONTINENTAL SHELF LEASING PROGRAM WITHDRAWLS

Using an Executive Order, the new President should reinstate, on an interim basis, the Presidential Withdrawals of those specific offshore lands set side for protection by Presidents George H.W. Bush and Bill Clinton. This would provide sufficient time for the National Academy of Sciences to assess current environmental baseline information and the impacts of leasing, exploration, and development on ocean ecosystems, to determine if continued withdrawals are justified. The current program has been irrationally expedited beyond the prudent level of known resources and impacts, has not properly taken into account public views and interests, and is not integrated into an overall national energy policy.

2. INSUFFICIENT SCIENTIFIC KNOWLEDGE AND RESEARCH

Much additional scientific study and research is needed on marine ecosystems, the impacts of oil and gas activities, spill prevention and clean-up, and best available technology in order to make better choices about if, when, where, and how industrial activities are permitted.

3. FISCAL AND ORGANIZATIONAL REFORM

MMS, which is tasked with collecting and managing the second largest revenue source to the Federal government (oil and gas royalties), has been wholly unable to manage these resources in a transparent, accountable and fiscally prudent manner. The accounting and collecting of back royalties, and the correcting of still-flawed royalty relief provisions must be undertaken prior to further leasing.

KEY APPOINTMENT POSITIONS

- Assistant Secretary of the Interior for Lands and Minerals
- Deputy Assistant Secretary for Lands and Minerals
- Deputy Assistant Secretary for Lands and Minerals
- Special Assistant for Lands and Minerals
- Director, Mineral Management Service
- Special Assistant to Director, MMS
- Special Assistant to the Secretary for Alaska

ISSUE 1

MMS OUTER CONTINENTAL SHELF LEASING PROGRAM WITHDRAWLS

BACKGROUND

On October 1, 2008 the 26 year-old bipartisan, bi-coastal annual Congressional moratorium on expansion of offshore drilling expired when the continuing resolution that funds the federal government until March left the moratorium language out. Democrats left the moratorium language out of the continuing resolution in order to neutralize the moratorium as a campaign issue and to avoid a threatened Presidential veto of the resolution. The issue of extending the moratorium therefore remains unresolved, though the Congressional Democratic leadership did commit to a resolution once the new Congress comes back. Loss of the moratorium over the long term would expose nearly 400 million acres of ocean, thousands of miles of beaches, and billions of dollars of coastal tourism on the Atlantic and Pacific coasts to chronic pollution from drilling and occasional catastrophic oil spills. These areas contain some of the world's most productive fishing grounds and many unique and sensitive marine ecosystems that would be threatened by exploration, drilling and production activities.

During the summer, the Bush Administration began a process to revise the five year drilling plan (2007-2012) that specifies where and when new offshore areas are to be leased for oil and gas drilling. The Bush Administration's expressed purpose in reopening the five year plan completed in 2007 was to further additional leasing in new areas if the moratorium was allowed to expire. The goals of this effort should be reviewed and revised.

The new Administration can and should reinstate Presidential protections for the areas covered by the former Congressional moratorium by issuing an Executive Order that reinstates what were called Presidential Withdrawals. President Bush rescinded those withdrawals during the summer battle over the moratorium. These Presidentially protected areas were first designated by Presidents George H. W. Bush and Bill Clinton. Last designated to run until 2012, the withdrawals were justified by the lack of information about impact of drilling on sensitive marine ecosystems and an understanding that cleaning up spills in many marine environments is virtually impossible.

While the Presidential protections are in place, the National Academy of Sciences should be asked to study the impact of oil and gas and renewable energy production on a variety of marine ecosystems, the impact of these activities on coastal economies including fishing and tourism, and identify places in the ocean which are simply too unique, too sensitive or too economically valuable because of other sustainable activities like fishing, to risk pollution from offshore oil and gas production. The General Accounting Office should simultaneously be asked to assess the impact of additional drilling and renewable ocean energy on the supply and price of energy.

When these two studies are complete the new Administration and Congress should jointly decide what to do about the offshore drilling moratorium-Presidential withdrawals. This process of joint studies by the National Academy of Sciences and the GAO should be revisited periodically.

The current five-year plan was developed in the absence of critically needed research and information on the ocean resources and impacts involved in leasing, exploration, and development in off-shore waters. This has been particularly true in the Arctic Ocean and Bering Sea.

While impacts of potential OCS development are little understood in many areas subject to further leasing, the potential additional domestic oil supplies from these OCS areas are far from clear, would involve 10-15-year potential development time frames, and do not fit into an overall national energy policy.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Reinstate Presidential Withdrawals (i.e. Moratoria)**

   Using an Executive Order the new President should reinstate, on an interim basis, the Presidential Withdrawals of all offshore lands done by Presidents Bush and Clinton to allow the National Academy of Sciences to assess current environmental baseline information and the impacts of leasing and development on ocean ecosystems, to determine if continued withdrawals are justified.

   Responsible Officials: White House Executive Staff (CEQ, OMB), Secretary of Interior, Assistant Secretary for Land and Minerals Management, Director of MMS, Dept. of Justice, Office of Legal Counsel

2. **Review and Revise the Objectives and timeframe of the new Five Year Plan**

   The new Administration should revise the goals and timeframe of the proposed Bush Administration rewrite of the current five-year plan (2007-2012). This new planning effort should be utilized to carefully and thoughtfully review the five-year plan to insure that environmentally sensitive areas are protected and that technologies are adequate to prevent and address all potential adverse impacts.

   Responsible Officials: Secretary of Interior, Assistant Secretary for Land and Minerals Management, Director of MMS

3. **Temporarily Suspend leasing, exploration and development in Alaska Arctic Ocean and Bering Sea**

   For offshore Alaska, the new Administration should impose a temporary ban on exploratory activities and new leasing in Bristol Bay, the Chukchi Sea and Beaufort Sea to allow for a complete assessment of the health, biodiversity, and functioning of the marine ecosystem, including the impacts of oil and gas drilling and oil spill containment in broken ice conditions. The study should also assess the impacts of oil and gas drilling on subsistence and commercial fishing and other economic activity in these areas. The study would guide decisions about if, when, where, and how to allow further industrial activities.

   Responsible Officials: Secretary of Interior, Assistant Secretary for Land and Minerals Management, Director MMS

4. **NAS and GAO Studies**

   The new Administration should work with and through Congress in asking the National Academy of Sciences and the Government Accounting Office should assess current environmental baseline information and the impacts of leasing and development on ocean ecosystems and the economy, and price and supply of oil and gas, to determine if continued withdrawals are justified.

   Responsible Official: Director of MMS

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **The new Administration should support the reenactment of Congressional Moratoria on previously withdrawn OCS areas**

2. **The new Administration should support Congressional action to temporarily halt leasing in Arctic Ocean and Bering Sea**

THE FIRST 100 DAYS

- The new Administration should reinstate the previous Presidential withdrawals (executive moratoria) of OCS areas from oil and gas leasing.
- The new Administration should review and revise the goals and timeframe for the proposed Bush Administration rewrite of the current five-year OCS plan.
- The new Administration should suspend exploration and development activities, and further leasing in the Alaska Arctic Ocean and Bering Sea.
- A unique opportunity in the first 100 days is the anniversary of the Exxon Valdez oil spill in Alaska (March).

ISSUE 2
INSUFFICIENT SCIENTIFIC KNOWLEDGE AND RESEARCH

BACKGROUND

The U.S. Commission on Ocean Policy stated unequivocally, "Ocean managers and policy makers need comprehensive scientific information about the ocean and its environment to make wise decisions." The Commission's report went on to note that, for many areas of our oceans—and, in particular, for species that are not targeted by commercial fisheries—there is a substantial lack of necessary information. This lack of information is particularly acute in the Arctic Ocean, which the U.S. Arctic Research Commission described as "least well known ocean on the planet"..,

This lack of baseline information is compounded by the fact that ocean ecosystems are being altered by climate change, ocean acidification, toxic pollutants, nutrients, power plant heat pollution and vast amounts of marine debris. Little is known about how the impacts of oil and gas activities on oceans add to these cumulative burdens.

Nonetheless, the federal government has moved ahead to authorize oil and gas activities in large swaths of the ocean. For example, the federal government's current 5-year plan (2007-2012) makes available for oil and gas development more than 75 million acres of land underlying the Beaufort and Chukchi seas and Bristol Bay in the Aleutian Basin of the Bering Sea. And the expiration of the offshore drilling moratorium on September 30, 2008 has expose about 400 million acres of the Atlantic and Pacific coasts to drilling. Some of these areas are among the most productive fishing grounds in the world and many contain unique and sensitive ecosystems.

MMS is almost exclusively oriented towards encouraging offshore oil and gas drilling. But in order to move our economy towards sustainable, renewable energy to achieve global warming pollution reductions, we will need to safely utilize the vast wind and wave energy resources available in the ocean much of which is available relatively close to coastal population centers. To accomplish this, we need to reorient some of the agency's science, technical and permitting capacity away from oil and gas drilling and towards renewable energy.

Rather than this push to drill or site renewable energy facilities in the absence of complete information, we must have a comprehensive scientific assessment of the health, biodiversity, and functioning of marine ecosystems, especially those in the Arctic, including the benefits and consequences of carrying out specific industrial activities, in order to determine, based on a precautionary approach, if those activities should be conducted and, if so, when, where and how.

This process begins with a gap analysis to determine what is known and what information must be gathered to make informed decisions. Using that gap analysis, a research plan should be developed. Ideally, the necessary gap analysis and research plan would be developed by a group of independent scientists such as the National Research Council. MMS and other federal agencies, such as NOAA, EPA, FWS, would participate in this process by providing information, existing studies, and expertise.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Identification of knowledge gaps**

   MMS should participate in the process of identifying gaps in necessary information about the marine ecosystems. A thorough gap analysis and research plan is necessary.

   Responsible Officials: Director MMS, Director of USGS

2. **Baseline Assessment**

   A complete assessment of the health, biodiversity, and functioning of the marine ecosystem is necessary to make informed decisions about oil and gas leasing. The new Administration should direct MMS to participate in the development and execution of this assessment.

   Responsible Officials: Director MMS, Director of USGS

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Outer Continental Shelf Lands Act Amendment**

   The new Administration should seek to amend the OCSLAA to mandate a more thorough scientific understanding of the marine environment and affects to it from oil and gas activities prior to leasing decisions.

   Responsible Officials: Assistant Secretary for Lands and Minerals, Director of MMS

2. **Requirement of NAS/NRC study**

   The new Administration should seek to have Congress require and fund an independent study by National Research Council (NRC) or other credible scientific entity to assess the health, biodiversity, and functioning of the marine ecosystem as well as the impacts of industrial activities such as oil and gas drilling and infrastructure. This study would help guide decisions about if, when, where, how to allow industrial activities.

   Responsible Officials: Assistant Secretary for Lands and Minerals, Director of MMS

3. **Government Accountability Office study**

   As note above in the discussion of the first issue, the Administration should seek to have Congress direct the GAO to conduct a study to gauge the impact drilling would have on oil supply and prices.

   Responsible Official: Assistant Secretary for Lands and Minerals

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fund science**

   Agency funding should be re-directed to support greatly increased scientific studies.

   Responsible Official: Assistant Secretary for Lands and Minerals

THE FIRST 100 DAYS

While most of the above recommendations should be initiated during the first 100 days of the new Administration, none of them could be completed within that time frame.

ISSUE 3
FISCAL AND ORGANIZATIONAL REFORM

BACKGROUND

The MMS is a beleaguered agency. In 2006, the *New York Times* began publishing a series of investigative articles exposing gross mismanagement of the Department's royalty program that could cost taxpayers billions. These articles spurred Congressional oversight and attention to the issue of royalties paid by oil and gas companies for the privilege of exploring and drilling on federal lands and waters. The articles and subsequent Congressional investigations have uncovered a pervasive culture of ineptitude that has put at risk tens of billions of royalty dollars. The failure to collect royalties means that millions of acres of public lands and waters are being put at environmental risk without the fair return to taxpayers required by law. These royalties provide needed funding to the Land and Water Conservation Fund, the Historic Preservation Trust Fund, the oil-producing states, and the general treasury.

The Interior Department itself first revealed the problem in the 2006 budget, which noted that "royalty relief" would allow companies to avoid paying royalties on more than $65 billion worth of revenues from oil and gas drilled in the deep waters of the Gulf of Mexico over the following five years, costing the federal government approximately $9.5 billion over that period.[3] It was later discovered that a large share of the losses resulted from the failure to include price thresholds capping royalty relief in leases issued in 1998 and 1999.[4] According to a draft report by the Government Accountability Office, losses to the treasury over 25 years could reach a staggering $20 billion due to a combination of the missing price thresholds and a recent federal court decision that changed the methodology by which royalty relief is calculated. If the oil industry is successful in a recent legal challenge, these losses could balloon to $80 billion over the same period.[5]

Unfortunately, the missing price thresholds are only the tip of the iceberg. Following the discovery the erroneous 1998 and 1999 leases, media, Congressional, and departmental investigations and whistleblower actions have highlighted the failure of MMS to audit royalty payments or to seek payment of underpaid royalties and interest on the royalties. In addition, recent media attention and an Inspector General report has shown improper relationships between the agency and oil company personnel.

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[3] Mineral Management Service. Fiscal Year 2007 Budget Justifications and Performance Information, page 169. http://www.mms.gov/PDFs/2007Budget/FY2007BudgetJustification.pdf

[4] "Andrews, Edmund L."U.S. Has Royalty Plan to Give Windfall to Oil Companies." *New York Times.* Feb. 14, 2006. http://www.nytimes.com/2006/02/14/business/14oil.html?pagewanted=1&ei=5088&en=87dc413fa6add582&ex=1297573200&partner=rssnyt&emc=r

[5] Government Accountability Office Draft Briefing on Oil and Gas Royalties. March 27, 2006. http://www.nytimes.com/packages/pdf/business/29lease.pdf

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Establish Independent Auditing

MMS has lost the confidence of members of Congress and the American public, and cannot be trusted to fully and fairly collect royalties from oil and gas companies on behalf of the American public. Indeed, MMS is plagued by a culture of ineptitude and conflicts of interest that make it unfit to manage the nation's royalty collection program. The new Administration should restore confidence in the integrity of the royalty collection programs by reorganizing their administration within the Interior Department and subjecting them to independent auditing by the Inspector General or other outside auditors.

Responsible Officials: Secretary of the Interior, DOI Inspector General, Assistant Secretary for Land and Minerals Management, Director of MMS

2. Increase Transparency

As investigations by the Department's Inspector General and the Government Accountability Office have progressed, one common theme continues to reappear: the lack of readily available and verifiable information regarding oil and gas royalty payments. The new Administration must insure that royalty payments and contracts between the federal government and companies are accessible and understood by the general public. In addition, the public must be notified about when a company is being audited, the results of the audits, and any penalties/rewards levied after the completion of an audit.

Responsible Officials: Secretary of the Interior, DOI Inspector General, Assistant Secretary for Land and Minerals Management, Director of MMS

3. Collect Royalties from the 1998 and 1999 leases

Between 1996 and 2000, the Interior Department awarded offshore drilling leases to companies drilling for oil and natural gas in the Gulf of Mexico. Leases awarded in 1998 and 1999 failed to include "price thresholds," a critical safety valve that ensures royalty relief will end when prices rise above a certain amount. The Minerals Management Service, which manages royalties at the Interior Department, estimates that over the next five years oil and gas companies in drilling in the Gulf of Mexico will receive approximately $9.5 billion in royalty relief. The new Administration should immediately conduct a thorough legal review of all of its options for eliminating the windfall profits accruing to the affected oil and gas companies and to the maximum extent allowable under law the contracts should be amended, rescinded or restrictions otherwise be placed on the companies precluding them from bidding on future leases in the Gulf of Mexico. MMS should also properly account for, and to the maximum extent allowed by law, collect, all due back royalties.

Responsible Officials: Secretary of Interior, Solicitor, Assistant Secretary for Land and Minerals Management, Director of MMS

4. Alaskan royalty relief repeal

The Bush Administration's Minerals Management Service began a rule-making to implement Section 346 of the Energy Policy Act of 2005 which extended the Interior Secretary's discretionary authority to grant royalty relief beyond the Deepwater Gulf of Mexico to leases offshore of Alaska (30 CFR Parts 203 and 260; 72 FR 28396-28423, May 18, 2007). The new Administrations should suspend use of this authority and support repeal of this subsidy for Alaska.

Responsible Officials: Secretary of Interior, Assistant Secretary, Lands and Minerals Management, Director of MMS

5. Conflicts of Interest

Further administrative policies need to be adopted to prevent MMS employees from entering into improper relationships and activities with oil companies and their employees that give even the appearance of impropriety or conflict-of-interest. Moreover, the new Director of MMS needs to make the strict enforcement of a tougher Code of Ethics one of his or her top priorities.

Responsible Officials: Secretary of the Interior, DOI Inspector General, Assistant Secretary for Land and Minerals Management, and Director of MMS.

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Eliminate Oil Royalty Relief Programs

At a time of record oil and gas prices, it is clear that companies do not need these incentives. H.R. 6, the CLEAN Energy Act of 2007 repealed royalty relief provisions enacted in the 2005 energy bill, and the Senate should follow suit. Congress should repeal additional royalty relief provisions such as sections 343 and 353 of the Energy Policy Act of 2005 dealing with new royalty relief for Alaskan waters, for marginal well production and for methane gas hydrates, including special provisions governing Alaskan OCS.

Responsible Officials: Secretary of Interior, Assistant Secretary, Lands and Minerals Management, Director of MMS

2. Collect Royalties from the 1998 and 1999 leases

Between 1996 and 2000, the Interior Department awarded offshore drilling leases to companies drilling for oil and natural gas in the Gulf of Mexico. Leases awarded in 1998 and 1999 failed to include "price thresholds," a critical safety valve that ensures royalty relief will end when prices rise above a certain amount. The Minerals Management Service, which manages royalties at the Interior Department, estimates that over the next five years oil and gas companies in drilling in the Gulf of Mexico will receive approximately $9.5 billion in royalty relief. If the new Administration is unable under existing law to alter the terms of the existing leases in the Gulf that do not include price thresholds, the Administration should work with the appropriate Committees of Congress in seeking new legislative authority that would resolve this problem.

Responsible Official: Director of MMS

THE FIRST 100 DAYS

- The new Administration should insure that a new independent program for auditing of royalties is established.

- The new Administration should insure that a tougher set of Conflict of Interest policies are adopted and rigorously enforced.

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

TOP THREE ISSUES

1. PROTECTING AND REVITALIZING OUR HERITAGE WITH AMERICAN JOBS

In times of crisis as well as times when America could invest in its infrastructure, our nation built a better future for our national parks. With billions of dollars of backlogged infrastructure and maintenance needs, parks can, once again, help address some of our nation's pressing economic challenges. Every dollar invested in national parks produces at least $4 in direct economic benefit to surrounding communities, with substantial additional indirect benefits to the economy.

2. ENSURING SOUND MANAGEMENT AND LEADERSHIP

The National Park System includes celebrated locations held in the highest regard by the public. Even so, the Bush Administration has undermined the Park System's mission in several ways-suppressing science, dismissing public input, refusing to follow laws and policies, and even attempting to reinterpret the mission of the system. The new Administration must reverse this trend and rebuild a workforce in the Park System that is trained to meet present-day challenges.

3. PROTECT AND RESTORE NATIVE BIODIVERSITY AND ADAPT TO CLIMATE CHANGE

Park lands, particularly back country areas, serve as biodiversity incubators and preserves. In many locations, our national parks are wellsprings of abundant fish and wildlife. The scientific resources dedicated to the Park System must be greatly enhanced to provide the necessary expertise to protect the biodiversity of our national parks from the threat of global warming. In addition, federal policy should promote the movement of wildlife in a manner that fosters long term population viability while stemming the assault on park ecosystems caused by pollution, climate change and the degradation and fragmentation of natural systems.

KEY APPOINTMENT POSITIONS

- Director, National Park Service
- Deputy Director, National Park Service (there are 2 deputies—one political and one career)
- Director, Office of Congressional/Legislative Affairs
- Assistant Secretary for Fish, Wildlife and Parks (above NPS)
- Deputy Assistant Secretary for Parks
- Special Assistant to the Secretary for Alaska
- Interior Secretary

ISSUE 1
PROTECTING AND REVITALIZING OUR HERITAGE WITH AMERICAN JOBS

BACKGROUND

The National Parks are inherently optimistic places, with a commitment to stewarding America's most special treasures for future generations of Americans. For too long, however, the parks have been allowed to wither from neglect, and have not been cared for as the American public has the right to expect. In past times of crisis, as well as at times when America needed to invest in its infrastructure, our nation built a better future for the parks—from the WPA/CCC in the 1930s and early '40s, through the "Mission 66" Initiative from 1956 to 1966. The next President may possibly preside over the 100th birthday of the National Park System, and polls show tremendous support for revitalizing our parks by then and for better usage of parks to address core societal challenges.

The National Park System has a maintenance backlog of $8.5 billion (half facilities and half roads/bridges), an annual operations shortfall exceeding $750 million, and a $2 billion backlog in land acquisitions necessary to eliminate inholdings in parks. There is also a substantial "media" backlog, related to outdated interpretive materials, films, etc. Our national parks are poster children for our nation's lack of investment in its infrastructure. We can choose to invest and improve them or gradually allow them to deteriorate. An initiative to reinvest in park infrastructures, if targeted effectively, will not only provide critically needed assistance to parks, but also help stimulate the economy and provide badly needed jobs.

Hundreds of millions of dollars worth of needed repairs to park facilities, roads, and trails are "ready to go" and can quickly produce good American jobs as the result of accelerated and higher transportation and construction funding. A new National Park Service Corps, through AmeriCorps, can also provide low-cost labor to remove invasive species, replant native vegetation (the CCC reforested millions of acres in the 1930's), and help foster experiential educational opportunities that will strengthen our future economy. Finally, important opportunities exist to address critical park transportation needs while providing jobs through the upcoming rewrite of SAFETEA-LU, and by enacting legislation to facilitate public-private partnerships in addressing national park needs.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Executive Order—National Park Job and Education Opportunities**

   The new Administration should issue an Executive Order that would: reaffirm the core conservation/non-derogation principles of the National Park Service Organic Act and its subsequent amendment under the so-called Redwoods Act. The Executive Order should: (1) Direct NPS to report to the Secretary within 90 days with (a) an inventory of critical needs, such as the preservation of historic and cultural resources and the removal of invasive species, (b) an assessment of the appropriate roles that local economies can play in helping to meet these needs without outsourcing NPS jobs) (c) an estimate of the jobs that could be created in addressing the identified needs and (d) the resources needed to create those job opportunities; (2) Direct NPS and the Department of Education to develop a program that provides education-related employment while identifying ways to use the Park System to educate kids.

Responsible Officials: Secretary of Interior; Solicitor, Director of NPS; Department of Justice Office of Legal Counsel; CEQ; OMB PAD for Natural Resources; White House General Counsel's Office; Secretary of Education

2. Cooperative Agreement with Americorps

The new Administration should establish cooperative agreements with the Corporation for National and Community Service and with Americorps to help the National Park Service recruit and train paid and unpaid volunteers for: backlog and restoration projects in parks, to help educate kids using experiential learning techniques, to help develop new updated interpretive materials, and to provide translation services for non-English speaking park visitors.

Responsible Officials: Director, NPS; Director, Corporation for National and Community Service, Director of Americorps

3. Analysis Confirming NPS Transportation Funding Needs

NPS has identified $825 million in annual needs under the most recent transportation bill. The new Administration should re-affirm this need and include this analysis in all transportation reauthorization recommendations it makes to Congress. The Administration's recommendations should include an effort to begin to address this shortfall, which will take many years to eliminate.

Responsible Officials: Director, NPS; Assistant Secretary for Fish, Wildlife and Parks; Federal Highway Administration OMB PAD for Natural Resources

4. Everglades Restoration Czar at CEQ

The Everglades are hugely significant to the South Florida economy and public water supplies and particular projects there are also green job creators. The Everglades are also the sight of the largest ecological restoration effort ever undertaken within this country. Over the last decade, the National Park Service and other federal and state agencies have spent millions of dollars in a somewhat stalled and to date largely ineffective effort to restore the watershed at the Everglades. The Clinton Administration recognized that this park has unique and complicated needs that have demanded unique solutions and oversight. Unfortunately, the Bush Administration has dramatically underfunded the Federal side of the restoration effort and the senior leadership of the Army Corps of Engineers has chronically failed to make the success of this project a priority. The combined negative effect of these two factors has left parts of the Everglades at a tipping point where the opportunity for successful restoration may soon be lost forever. Two things need to happen to avoid this disaster from occurring. First, there needs to be a new Federal leadership structure to oversee the overall restoration effort for the Obama Administration. The project lead should be taken away from the Army Corps and pulled into the White House at CEQ. CEQ should appoint a person with the major responsibility of pulling the agencies together to overcome obstacles or agency disagreements (like Tamiami Trail). The second thing that needs to happen is that the new Administration needs to dramatically increase Federal funding for Everglades restoration work. Senator Obama endorsed this idea during the campaign and now President Obama should make the delivery on this promise a priority. Wetlands restoration sequesters far more carbon from the air than reforestation and Congress and the President-elect are now actively discussing an economic stimulus package designed to jump start the sagging economy. It would be a classic win-win solution if some of that stimulus money were channeled into Everglades restoration work: jobs would be created, the effects of climate change would be ameliorated and long stalled restoration benefits would finally be felt on the ground.

Responsible Officials: Secretary of DOI: Director of NPS, Chairman of CEQ, OMB PAD for Natural Resources; political appointee over the Army Corps of Engineers

5. Partnership to Restore our National Parks

The new Administration should develop and announce a new large scale partnership initiative that includes organized labor, the U. S. Chamber of Commerce, AARP, National Park Friends Groups, preservation and national volunteer organizations, and that launches a cross-cutting national effort to create jobs by restoring the national parks through maintenance and construction funding, volunteerism and philanthropy.

Responsible Officials: Interior Secretary, Labor Secretary, Director of NPS, OMB PAD for Natural Resources

6. Establish National Park Service Corps

A new National Park Service Corps should be created to complement the anticipated expansion of Americorps and provide employment and volunteer opportunities directed at restoring our national parks. In the 1930's, thousands of young Americans worked to renew our national inheritance by planting trees to prevent soil erosion and by building roads and other facilities to help families access the national parks. President-elect Obama has proposed a substantial expansion of "national service" opportunities. We propose that 10,000 of the new positions under the Obama proposal or the Serve America Act be dedicated to the Corps. The NPS would administer the Corps and deploy new volunteer coordinators in national parks, and the new positions would be funded with living stipends and education awards through the Corporation for National and Community Service. Half the slots will be devoted to each of two successful models based on the current AmeriCorps program. The AmeriCorps State and National program "provides financial support through grants to public and nonprofit organizations that sponsor service programs around the country….These groups recruit, train and place AmeriCorps members to meet critical community needs in education, public safety, health, and the environment." The other model, the National Civilian Community Corps is a federally administered, full-time 10-month residential program for young men and women who receive intensive training and are deployed as teams for projects that range from disaster response to environmental protection. Projects using the NCCC model could include trail reengineering and repairs, erosion control, hiking bridges, "green" initiatives like reforestation and wetlands restoration, eradication of invasive species, rehabilitation of structures, etc. Projects using the State and National grant model could include enhanced services in parks, the design of service-learning projects to engage disadvantaged youth in learning history, biology, and other subjects, etc.

Responsible Officials: Secretary of the Interior; Director of the Corporation for National and Community Service; Director of NPS, OMB PAD for Natural Resources

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Roads to Somewhere

With 90 percent of park roads in poor or fair condition, and with the need for connected and appropriate trails infrastructure, the new Administration should recommend that Congress phase in a doubling of the $240 million annual funding the parks received under SAFETEA-LU, over the period of the new

reauthorization. Even doubling current funding would leave parks short by nearly $400 million annually. In preparation for the reauthorization of SAFETEA-LU, the Park Service has identified an $825 million annual funding need for park transportation systems. The new bill needs to address multiple transportation and transit needs in the parks, advance green alternatives, authorize the funding of maintenance of park roads through Federal Highways, and facilitate safe, enjoyable and appropriate access to our national parks (including trails and other enhancements), and provide the necessary funding to do so. This funding and structure should be part of a plan to significantly address NPS backlog needs by 2016, the Park Service's 100th anniversary.

Responsible Officials: Secretary of Interior; Director of NPS, OMB Director; Secretary of Transportation

2. Enact Centennial Challenge legislation

The National Park Service will celebrate its 100th anniversary in 2016. Now is the time to demonstrate an investment in these national treasures. Legislation authored by Reps Grijalva and Rahall and Senator Salazar should be supported, enacted and funded, to facilitate public-private efforts to restore the national parks, at $100 million per year for 10 years in mandatory spending. The bill was included in Senator Reid's economic stimulus proposal in September 2008. Rehabilitating and restoring areas of our National Park System would be a positive investment both in protecting these areas and in the economy, and many are ready to go.

Responsible Officials: Interior Secretary; Director, NPS, OMB PAD for Natural Resources

POLICY RECOMMENDATIONS - BUDGETARY

1. Adding Parks into the Economic Recovery (Stimulus) Legislation

The Economic Recovery Package provides a tremendous opportunity to front load job-producing investments in the national parks that must be made at a later date if they are not made now. In July, the NPS produced a list of potential "ready-to-go" economic stimulus projects exceeding $800 million. These include roughly $430 million in road and bridge projects, additional facility, trail, energy conservation, high risk abandoned mine sites, and other projects that both would address genuine needs in the national parks and put people to work. With every dollar invested in the parks generating at least $4 in direct economic benefits and many more dollars in indirect benefits, parks are an effective investment in an economic stimulus package.

Responsible Officials: Secretary of DOI, Director of NPS, OMB PAD for Natural Resources

2. National Park Service Corps

Funding for the Corps should be phased in until it reaches $200 million per year. This cost would constitute a small percentage of the overall expansion of Americorps, and would comprise only 10,000 of the 175,000 new slots already proposed in "Serve America." The phase-in would ultimately provide $110 million for positions in two different Americorps models—5,000 slots using the model of highly trained NCCC members and 5,000 slots using the State and national grant model. $50 million would be necessary for Segal Education Awards at the conclusion of NPSC Service, and $40 million to place full-

time volunteer coordinators at National Parks and provide for the costs of managing the program and optimizing its effectiveness.

Responsible Officials: Secretary of DOI, Director of NPS, OMB PAD for Natural Resources

3. **Support House Interior FY 09 Funding Levels (and build on this in FY '10 budget proposal)**

The bill passed by the House Interior Appropriations Subcommittee is the only specific Congressional marker to date that is related to funding FY '09 appropriations. Those levels were excellent for park operations, and at a minimum, the new Administration should support those amounts. The FY '10 proposal should continue the commitment to add $100 million annually to park operations and should significantly increase the amount of funding for park land acquisitions (the last Bush Administration budget for park land acquisition slashed this account by 92% compared to the amount proposed for park acquisitions in the last budget proposed by the Clinton Administration).

Responsible Officials: Secretary of DOI, Director of NPS, OMB PAD for Natural Resources

THE FIRST 100 DAYS

Announce a National Heritage Restoration Initiative that includes:

- A National Park Service Corps proposal
- Include a substantial national park component in any Economic Recovery (stimulus) plan, focusing on "ready to go" projects in national parks to restore historic sites, roads and trails, as well as fund energy conservation projects and purchases that reduce greenhouse gas emissions and reduce energy consumption.
- The appointment of a new Everglades Restoration Czar in CEQ and the inclusion of the Everglades in an economic stimulus package
- An Executive Order on National park job and education opportunities, with appropriate funds then proposed in the Administration's first presented budget
- Announce support for the Centennial challenge program in the Administration's budget and for moving the Grijalva and Salazar bills.

Many or all of these elements would comprise an appealing initiative to restore the parks while also creating jobs and facilitating economic recovery. Such an announcement could take place at a well-known park where past CCC or Mission 66 work employed Americans while providing a better future for our parks.

ISSUE 2
ENSURING SOUND MANAGEMENT AND LEADERSHIP

BACKGROUND

The National Park Service has a clear mission to "conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." This time-tested mission governs 391 national parks, preserves, seashores, battlefields, monuments, and heritage areas. Collectively, in one system, these are celebrated locations held in the highest regard by the public. Even so, the Bush Administration has undermined this mission in many ways- suppressing science, dismissing public input, refusing to follow laws and policies, and even attempting to reinterpret the mission of the system. In addition, years of neglect towards the NPS training regimen and needed management systems make it very difficult for many park managers to employ modern personnel management techniques, build a workforce that is trained to meet present-day challenges, and handle delicate situations related to the needs and desires of surrounding communities.

Many decisions in the last eight years have contributed to the degradation and commercialization of our National Park System. Furthermore, many decisions were designed to weaken the major tenets of Park Service law by allowing harmful activities and development under the guise of "agency discretion." In addition, years of neglect have stretched NPS management systems to the brink and have left NPS personnel without the critical training they will need to deal with the challenges of the 21st century.

Fortunately, the most egregious policy initiative proposed by the Bush Administration, a massive overhaul of the National Park Service Management Policies, failed. Even with this victory, however, several important management decisions and proposals at the park and national level are at odds with the Management Policies that sparked concern from every living former Park Service Director. From planning winter use in Yellowstone to a failure to sufficiently address the air pollution problems plaguing much of the park system to uranium mining adjacent to Grand Canyon, the Bush Administration has made illegal or ill-advised decisions that do not comport with science or the public interest. These decisions must be corrected in the Obama Administration, with new initiatives undertaken to accomplish what is needed.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Moratorium on Implementing Regulations

The Bush Administration plans to complete several regulations just before they leave office. As a matter of general policy, these regulations should be reviewed by the new Administration to ensure they are legally sound, and any that are not finalized and effective by January 20th, should be postponed, withdrawn or rewritten. Examples include the proposed regulation allowing concealed weapons in National Parks that was initiated without any study on wildlife impacts such as poaching. The new Administration should conduct an expedited review of any harmful Bush Administration regulations affecting the Park System that have not become effective as of January 20th and to the maximum extent allowed by law, either withdraw or rewrite those regulations.

Responsible Officials: Executive Office of the President, Director of NPS

2. Settle Outstanding Lawsuits and Other Major Issues

NPS is currently defending many lawsuits that are directly related to detrimental Bush Administration policies. Efforts should be undertaken to settle as many of those lawsuits as possible in order to realign Park Service polices as quickly as possible with the environmentally protective policies of the Obama Administration. The new Administration should also reverse Departmental regulations on recordable disclaimers of interest to ensure that R.S. 2477 "highway" claims cannot be given away in parks through the administrative disclaimer process.

Responsible Officials: DOI Solicitor; Assistant Secretary of Fish, Wildlife and Parks, Director of NPS, Director of BLM, Assistant Secretary for land and Minerals, Assistant Attorney General for Natural Resources at DOJ

3. Enforcing National Park Clean Air Protections

Bush Administration political appointees prevented numerous adverse impact determinations from being made by NPS in cases where NPS analysis established that a proposed coal-fired power plant would cause significant adverse air quality impacts in a national park. The NPS permit review process needs to be de-politicized by creating, through regulation, numerical standards for visibility impairment, sulfur deposition, and nitrogen deposition in national parks and other "Class I areas". These regulations should also authorize enforcement by the public through Clean Air Act citizen suits should NPS fail to fulfill its legal duties to protect national park air quality.

Responsible Officials: Assistant Secretary for Fish, Wildlife and Parks (as the Federal Land Manager), Director of NPS, EPA Assistant Administrator for Air and Radiation, Chairman of CEQ

4. Sound Management, Not A-76 Outsourcing

From the perspective of agency morale and its effect on the future of the Federal workforce, one of the of the most destructive initiatives launched by the Bush Administration was its attempt to privatize many DOI career positions, including those in the Park Service. Congress pushed back against many of these initiatives, and they have slowed in recent years, but the overall initiative has not stopped. NPS has hemorrhaged many positions over the years as a result of this ill-guided initiative. A consequence of the Bush Administration's outsourcing push and its failure to invest in NPS personnel, is that NPS employees rated the Park Service 160th out of 222 federal agencies in the bi-annual federal employee survey on the Best Places to Work. This begs for initiatives that address this problem and ensure national parks are models of excellence, exemplars of green design and world class in community outreach and education. It is also imperative that park managers receive improved training and development and that NPS management systems be refined. In addition, the new Administration should issue an order exempting national parks from A-76 competitive sourcing requirements.

Responsible Officials: Assistant Secretary for Fish and Wildlife and Parks, Assistant Secretary for Policy, Management and Budget, Director of NPS, OMB PAD for Natural Resources

5. National Parks Reflecting Society's Diversity

The Bush Administration rejected out-of-hand many candidate areas for national park status, because it argued the federal government had insufficient resources to add them to the System. Not only did it keep

superb natural areas out of the system, but it also prevented or delayed the addition of cultural sites that would help the Park System become more fully representative of our evolving history and culture. The new Administration should reverse this policy and seek out the addition of Park System quality units that would expand the diversity and cultural relevance of our nation's parks.

Responsible Officials: Secretary of the Interior; OMB PAD for Natural Resources; Assistant Secretary for Fish, Wildlife and Parks; Director of NPS

6. Prevent Uranium Mining Adjacent to the Grand Canyon

The new Secretary of Interior should immediately respond to Congressman Grijalva's mining withdrawal resolution pursuant to section 204(e) of FLPMA and withdraw more than 1 million acres adjacent to Grand Canyon from the threat of uranium mining. Late last year, the Administration authorized a permit for exploratory uranium drilling on federal land just two miles from Grand Canyon—risking this national treasure. The Secretary should take all legal measures at his or her disposal to block mining on the claims which might already exist and prevent the future filing of new claims in the future.

Responsible Officials: Secretary of the Interior; Solicitor, Director of BLM; Director of NPS, Chief of the Forest Service

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Properly Implement Air Tour Management Act

No air tour management plans have been completed due to the FAA consistently challenging the authority of the Park Service to determine the significance of noise impacts from air tours over national parks. The FAA needs to be directed to stop delaying the completion of such management plans authorized under prior landmark legislation regarding air tours and our national parks. In addition, when the FAA reauthorization bill is considered by Congress, the original intent of the National Parks Air Tour Management Act should be reaffirmed in statute—that the NPS has the final say regarding resource impacts on the ground.

Responsible Officials: Secretary of the Interior; Secretary of Transportation, FAA Administrator; OMB Director, Chairman of CEQ, Director of NPS

POLICY RECOMMENDATIONS - BUDGETARY

1. The Road to Nowhere Settlement for the Great Smokies

The 65 year dispute about whether to build this notorious road through the heart of Great Smoky Mountains National Park is on the verge of being settled if the next Administration plays a constructive role and provides for an enforceable settlement. The new Administration should support and seek funding for achieving a final resolution of this controversy at the level negotiated with Congressional representatives of this region of North Carolina.

Responsible Officials: Interior Solicitor; Director of NPS, OMB PAD for Natural Resources

2. Fund New Parks and Park Additions

Additions to and the expansion of the National Park System require that significant additional financial resources be made available for important land acquisitions. With the decline in land values, now is the time for an acceleration in acquisitions.

Responsible Officials: Secretary of the Interior; Director of NPS; OMB PAD for Natural Resources

THE FIRST 100 DAYS

- The new Administration should issue on January 20th a memorandum modeled after the one issued by Andrew Card on January 20, 2001 establishing a freeze or moratorium on finalizing the outgoing Administration's regulations that have not yet been finalized and made effective.
- The new Administration should immediately begin a review of ongoing litigation and seek to settle cases in those instances where it believes that its interpretation of the law is similar to that of a given set of plaintiffs.
- The new Administration should issue an order exempting national parks from A-76 competitive sourcing requirements
- NPS should prepare a new management initiative to train NPS employees and develop/update management systems
- The Secretary should withdraw more than 1 million acres adjacent to the Grand Canyon from mining or mineral entry in order to stem the threat of uranium mining.

ISSUE 3
PROTECT AND RESTORE NATIVE BIODIVERSITY AND ADAPT TO CLIMATE CHANGE

BACKGROUND

The degradation of national park ecosystems is one of the most critical challenges facing the Park System. A solution will require the Park Service and other federal agencies to work together to achieve the highest protection for natural systems within our parks. Park lands, particularly back country areas, serve as biodiversity incubators and preserves. The scientific resources available to the Park Service must be greatly enhanced to provide the necessary expertise to fully protect the plants and wildlife in these park based natural systems. In addition, federal policy should promote the movement of wildlife in a manner that fosters long term population viability while stemming the assault on park ecosystems caused by pollution, climate change and the degradation and fragmentation of natural systems.

This means enhancing the ability of NPS to work with those outside its borders on initiatives that foster wildlife movement, allowing wildlife to adapt to climate change. It means developing forward looking response plans for minimizing or mitigating the affects of climate change, and conducting biodiversity policy reviews to ensure that park policies are maintaining biodiversity. And it means ensuring that federal agencies be required to engage in eco-region level coordination and collaboration in the management of all ecosystems, including those containing national parks.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **System-Wide All Taxa Inventory**

   Protecting national park and surrounding ecosystems depends on understanding what is there to protect. The NPS should conduct a low-cost, system-wide, citizen All-Taxa Biodiversity Inventory modeled after the All-Taxa Biodiversity Inventory for Great Smoky Mountains National Park and others that are beginning to be funded through the Centennial Challenge. The ATBI in the Smokies discovered 4,467 newly found species living in the park and 612 species new to science altogether.

   Responsible Official: NPS Director

2. **Biodiversity Policy Reviews**

   All national park units with significant natural resources should review their policies and plans and adjust as necessary to ensure full protection of native biodiversity. This review should include the monitoring of wildlife migration patterns for shifts due to climate change and identification of impediments to the free flow of plants and animals. It should also include additional science staff in significant natural areas of the parks.

   Responsible Official: NPS Director

3. National Park Climate Adaptation Plan

NPS should develop an adaption plan that includes administrative actions and recommended legislative and other policy changes necessary to help park wildlife adapt to climate change. This should include connecting parks with the newly created USGS National Climate Change and Wildlife Science Center, as well as enhanced capacity for the Park Service to lead adaptation efforts within the Interior Department. http://nccw.usgs.gov

Responsible Officials: Director, NPS; Assistant Secretary for Fish, Wildlife and Parks

4. Continuing the Park Service's Wilderness Legacy

Since the inception of the 1964 Wilderness Act, the NPS has made a clear commitment to study all of the lands under its management for wilderness designation suitability, but many recommendations have languished. In addition, the Alaska National Interest Lands Act of 1980 designated 32.4 million acres of wilderness in NPS units in Alaska, and directed the NPS to study the wilderness suitability of an additional 21 million acres. The NPS found 18 million acres of these additional lands suitable for wilderness. Designating wilderness can be a valuable tool to protect land, air, and water to stem the impacts from global warming.

The Park Service Director must conduct necessary wilderness studies and forward her recommendations to the Assistant Secretary. For those studies that have sitting in limbo, the Director with the help of Regional Directors, must finalize them and forward them to the Assistant Secretary. Furthermore, the Interior Secretary must forward wilderness recommendations to Congress.

Responsible Officials: Park Service Director; Assistant Secretary of Fish Wildlife and Parks; Interior Secretary

5. Federal Agency Cooperation—Executive Order

An E.O. should require federal agencies to engage in eco-region level coordination and collaboration in all ecosystems where it is necessary to preserve national park fish and wildlife populations and other natural resources. DOI should have lead responsibility to identify eco-regions. Management of each eco-region project should be undertaken by an interagency working group, and the Park Service should have lead responsibility where a major national park is involved. In addition, the administration should also assert the primacy of Interior/NPS in Everglades restoration, given frequent disputes with the Army Corps of Engineers that have tended to impede progress in restoring the Everglades.

Responsible Officials: Executive Office of the President; DOI Solicitor; Interior Secretary

6. Public Climate Adaptation Education Initiative

NPS is uniquely positioned to educate the American public about wildlife adaptation needs and the necessity of enabling wildlife movement. NPS must reach out and work with neighboring landowners to develop cooperative agreements that foster wildlife movement, as well as acquire easements and in-fee land acquisition for wildlife corridors from willing sellers.

Responsible Officials: Director, NPS; Secretary of the Interior

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Protecting Native Habitats

Propose legislation that promotes the prevention, control and eradication of invasive species that occupy lands and waters within and adjacent to units of the National Park System. This can be free-standing legislation, but the National Park Service Corps should also have as its charge the removal of invasive species and the restoration of native species by a massive volunteer corps led, in part, by volunteers from the millennial and baby boomer generations.

Responsible Official: NPS Director

2. Federal-State Climate Adaptation Partnership

Propose federal legislation that provides significant new funding for state and federal agencies to coordinate a national strategy that will assist national park fish and wildlife to successfully adapt to the impacts of climate change.

Responsible Official: NPS Director

3. Wildlife Adaptation Funding in Climate Change Legislation

Any climate change legislation proposed by the Administration should also propose that a portion of any generated funds be provided to foster the adaptation of wildlife and natural systems to a changing climate. Such adaptation should prioritize ecosystems with the most potential to be resilient, and include the means to foster wildlife migration between parks and other natural areas. This should include the creation of a special subcategory of the Land and Water Conservation Fund similar to the in-holdings fund for corridor easements and acquisition allowing for greater flexibility.

Responsible Officials: Director, NPS; Director, EPA; Executive Office of the President

4. Educating the Next Generation

Support/Propose legislation to create a vibrant Park Ranger-School partnership as proposed by Senator Salazar and Represent Holt. Their legislation can be expanded well beyond last year's important but modest proposal. This should also be done while supporting the enactment of "No Child Left Inside", and ensuring that legislation capitalizes on the educational power of the national parks.

Responsible Officials: Assistant Secretary for Fish, Wildlife and Parks; Director, NPS; Secretary of Education

5. Increase Science Education Funding for Climate Friendly Parks

With their core education mission and more than 270 million annual visitors, national parks can play a powerful role in educating Americans about climate change and inspiring us to take action to stop it. Dozen's of "Climate Friendly Parks" are developing education programs to help visitors, gateway communities, and schools understand how climate change threatens the cultural and biological treasures protected by our National Park System. National parks like Glacier, Yosemite, the Smokies, and the Everglades are showing visitors how melting glaciers, sea level rise, increasing wildfires, disappearing wildlife, and other effects of climate change are diminishing some of America's most treasured landscapes and wildlife sanctuaries. And they are asking each visitor to "Do Your Part" to reduce

greenhouse gas emissions, and guiding visitors in easy actions they can take in their homes, businesses and schools to help reduce the threat of climate change.

Responsible Official: Assistant Secretary for Fish, Wildlife and Parks

POLICY RECOMMENDATIONS - BUDGETARY

1. National Park Climate Data Collection Initiative

The Park Service needs the funds to gather and analyze the data necessary to make wildlife management decisions that would ensure the protection of wildlife and the systems on which they depend. Adequate baseline data will be invaluable to park managers in protecting natural systems and in leading the Department of Interior's efforts. If data do not exist, management actions can sometimes be a "best guess." The current lack of data underscores the funding shortfalls that affect the entire National Park System.

2. National Park Wildlife Migration Initiative

NPS should have a fund to facilitate the acquisition of land or interests of land, as well as provide grants to adjacent landowners, which facilitate the movement of wildlife and the elimination of harmful invasive species that compete with park wildlife. NPS should take all necessary steps to connect their key habitats to those on other public and private lands. More and more critically important habitat adjacent to parks is being lost and corridors are being severed by actions at the state and local level as well as actions by other federal land management agencies. Parks cannot function as ecological islands because they are constantly being threatened by outside influences. If parks are to serve as the backbone of many natural systems, they need to be connected to those systems.

Responsible Official: NPS Director

3. Climate Change Legislation Adaptation Funding

Climate Change legislation should fund wildlife adaptation needs for national parks and other ecosystems. The adaptation funding should focus on the need to build resilient ecosystems that have significant protected areas at their core, and seek ways both to fund federal, state, and private ventures to foster wildlife adaptation.

THE FIRST 100 DAYS

- Announce an expanded Climate Friendly Parks Initiative
- Issue an order requiring Other Interior agencies to cooperate with NPS in management decisions that could impact wildlife and other park resources
- Announce a citizen partnership to inventory species in national parks through the All Taxa Biological Inventory effort
- Continue the National Park System commitment to ecosystem protection by forwarding wilderness recommendations to Congress.

DEPARTMENT OF THE INTERIOR

U.S. GEOLOGICAL SURVEY

TOP THREE ISSUES

1. ACCELERATE RESEARCH ON CLIMATE CHANGE IMPACTS AND ADAPTATION

Significantly greater resources are needed to ensure that the National Climate Change and Wildlife Science Center can respond to the research needs of federal and state agencies by conducting climate change vulnerability assessments for fish and wildlife, forecasting future conditions, and supporting other high priority research and tool development.

2. RESTORE AND ENHANCE THE COOPERATIVE RESEARCH UNIT PROGRAM

The Cooperative Research Unit program is crucial to successfully addressing the natural resources management challenges posed by global warming, energy development, and imperiled species conservation. Unfortunately, steady erosion in funding since 2001 has resulted in nearly a quarter of all research scientist positions now being vacant.

3. BIRDS AS INDICATORS OF ENVIRONMENTAL HEALTH

Promotion of the upcoming state-of-the-birds report and increased funding to support USGS research and monitoring capacity will improve understanding of the large-scale drivers of migratory bird populations and habitat change.

KEY APPOINTMENT POSITIONS

- Assistant Secretary, Water and Science
- Director, U.S. Geological Survey
- Deputy Assistant Secretary, Water and Science

ISSUE 1
ACCELERATE RESEARCH ON CLIMATE CHANGE IMPACTS AND ADAPTATION

BACKGROUND

The fiscal year 2008 Department of the Interior, Environment, and Related Agencies appropriations bill established the National Global Warming and Wildlife Science Center. Increased funding and other support will be needed to make it possible for the Center to conduct the important functions described below.

A primary function of the Center will be use of the wide array of biophysical data collected and managed by USGS to conduct climate change vulnerability assessments for fish and wildlife, habitats, and ecosystems at multiple scales. These assessments will involve simulations to evaluate which specific populations and habitats would be most likely to change, and what key components in the landscape need to be managed. The need for such information has been identified broadly by state fish and wildlife agencies and NGOs. It is a critical component needed for adaptation and adaptive management. Particular attention needs to be paid to the profound impacts of climate change on aquatic systems, where changes in snow and rain patterns, wetlands, baseflows in rivers and temperature will accelerate the research challenge.

The Center also will play an important role in combining physical change, ecological and population modeling approaches with stronger standardized monitoring across biomes to forecast future conditions. This will include development of biological carbon sequestration alternatives depending on management of natural systems, fire regimes and risk potential for carbon sequestration.

In addition the Center will help identify landscape alternatives in an era of climate change to reduce the cumulative impacts of fragmentation due to human activities on wildlife populations, habitats, and ecosystems. This will build upon the databases assembled for climate change vulnerability and focus on alternative landscape scenarios that reduce impact of energy development and other types of human activity that cause habitat fragmentation.

Funding also is needed for the Center to support, based on a competitive review process, high priority global climate change research projects and the development of decision support tools in relation to: (1) identification of species and ecosystems at greatest risk; (2) identification and ranking, based on effectiveness, the best responses to assist species and ecosystems at greatest risk; (3) research related to wildlife adaptation; (4) refinement of climate change models to regional and local scales relevant for fish, wildlife, and land management; and (5) development of robust monitoring programs to detect changes in wildlife abundance, distribution, and behavior related to global warming for use in federal and state programs, including land management.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Recognize the Center's leadership role**

   In any carbon cap and trade legislation proposed by the administration or considered by the Congress, recognize, establish and fund the Center as a key means of implementing natural resources climate change adaptation science and information responsibilities.

Responsible Officials: Assistant Secretary Water and Science; USGS Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Focus on wildlife climate change adaptation**

   Request $10 million for fiscal year 2010 to continue establishment of the Center and ensure that it is responsive to research needs of federal and state agencies in conducting scientific research on issues relating to the impact of global warming on fish and wildlife and mechanisms to address those impacts.

   Responsible Officials: USGS Director; Assistant Secretary for Policy, Management and Budget

THE FIRST 100 DAYS

The new administration should give prominence to the crucial role the Center will play in maintaining the resilience of fish and wildlife and their habitats in an era of climate change by highlighting and publicizing a request to significantly increase funding for the Center in Fiscal Year 2010.

ISSUE 2
RESTORE AND ENHANCE THE COOPERATIVE RESEARCH UNIT PROGRAM

BACKGROUND

Each of the 40 Cooperative Fish and Wildlife Research Units (CRUs) located in 38 states is a true federal-state-university-private partnership among the U.S. Geological Survey, a State natural resource agency, a host university, and the Wildlife Management Institute. The CRUs build on these partner contributions to leverage more than three dollars for every dollar appropriated to the program by Congress.

The CRUs are crucial to successfully addressing the natural resource management challenges posed by energy development needs, invasive species, infectious diseases, wildfire, climate change, and increased demand for limited water resources. Solving these problems and others requires the CRU management-oriented, community-based approach to research, which relies on interdisciplinary efforts and fosters collaboration and accountability. CRUs also will play a critical role in meeting the challenge natural resources management agencies face in replacing the unprecedented number of scientists and other professionals who will be retiring over the next 10 years. CRUs have an established record of educating new natural resource professionals who are management-oriented, well-versed in science, grounded in state and federal agency experience, and able to assist private landowners and other members of the public.

Approximately one-fifth of all CRU scientist positions are vacant due to erosion of funding since fiscal year 2001. Seven years of CRU funding shortfalls have compromised the ability of USGS to maintain long-term research partnerships, train the next generation of biologists and assist in diversifying our federal workforce is compromised by this loss of funding. The erosion of funding has reached the point at which the very partnerships that are the strength of the CRU program are in jeopardy because USGS has failed to provide the federal scientist staffing it promised the program's nonfederal partners. As a result, the return on these partners' continuing investment in the CRUs is no longer being realized or fully leveraged. A commitment to provide the scientists needed in all CRUs is essential to addressing other identified USGS issues regarding climate change and fish and wildlife research.

Overall, the loss of CRU scientists is part of a broader issue of a serious decline in the numbers of BRD Research Grade (RGE) scientists since 2001. RGE scientists are the seed corn that develop new approaches, validate basic and applied science in the open literature and generally move forward efforts to model and address complex natural resources issues.

POLICY RECOMMENDATIONS - BUDGETARY

1. **Restore CRU integrity**

   Request $20 million for fiscal year 2010 to fill current scientist vacancies, restore seriously eroded operational funds for each CRU, and enhance national program coordination. This funding would restore necessary capacity in the CRU program for it to meet the nation's research and training needs.

   Responsible Officials: USGS Director; Assistant Secretary for Policy, Management and Budget

2. **Competitive, high priority research program**

   Establish a new competitive, matching fund program within existing CRU legislative authority that would make available up to $20 million annually in new funds beyond base operational costs. These new funds would support future cooperative high priority research efforts and essential training of new natural resource professionals.

   Responsible Officials: USGS Director; Assistant Secretary for Policy, Management and Budget

THE FIRST 100 DAYS

The new administration should highlight the need for rebuilding science capacity within BRD, particularly with the CRU program, through a request to significantly increase funding and scientist staffing for Fiscal Year 2010 and by highlighting the establishment of the new CRU competitive matching grant program for high priority cooperative research.

ISSUE 3
BIRDS AS INDICATORS OF ENVIRONMENTAL HEALTH

BACKGROUND

Birds have a long history as indicators of the health of the environment, beginning with the proverbial canary in the coal mine. Perhaps the most powerful indicator that something was amiss came when populations of bird-eating and fish-eating birds such as the peregrine falcon and the bald eagle declined precipitously because of exposure to DDT and related organochlorines.

A more recent trend in using birds as indicators involves state-of-the-birds-reports. Almost 10 years ago, the Royal Society for the Protection of Birds and the British Trust for Ornithology began an annual series of state of the birds reports for the United Kingdom (U.K.). At the heart of the U.K. and European state-of-the-birds reports is a series of bird indicators: annual indices that reflect population trends of all birds, wetlands birds, forest birds, and agricultural birds. In both the U.K. and Europe, governments have adopted these indicators as official and have adopted policies that promote stable or increasing bird populations.

With leadership from USGS and U.S. Fish and Wildlife Service (FWS), a number of organizations (federal, state, and nongovernmental) have come together to work on a United States state-of-the-birds report, which is expected in March of 2009 – within 100 days of the new administration. The intention is to include habitat-specific indicators similar to the U.K. and European indicators as the core of this report and to report on conservation challenges such as climate change, energy development, contaminants, direct mortality, and invasive species as they affect birds, biodiversity, and human health. USGS and National Audubon Society have already produced a grassland bird indicator using data from the Breeding Bird Survey (organized and analyzed by USGS) and the Christmas Bird Count.

The March 2009 state-of-the-birds report will give the new administration a chance to make a positive statement about an important environmental issue. Following this report, the administration should increase funding to USGS to increase the agency's research and monitoring capacity to better understand large-scale drivers of migratory bird populations and habitat change, such as those featured in the state-of-the-birds report and to prepare for future reports. Interior proposed a $1 million initiative in FY09 to support monitoring efforts in the Breeding Bird Survey (crucial to the state-of-the-birds and related reports), Strategic Habitat Conservation, and related activities critical to the conservation goals of USGS and its partners.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Promote state-of-the-birds report March 2009**

   USGS, FWS, other federal agencies, state wildlife agencies, and environmental NGOs are currently preparing a state-of-the-birds report for release in March of 2009. The administration should support this report at a high level to promote its message of conservation stewardship.

   Responsible Officials: USGS Director, FWS Director

2. **Schedule future state-of-the-birds reports**

   The administration should instruct USGS, FWS, and partners to prepare for future state-of-the-birds reports

   Responsible Officials: USGS Director, FWS Director

3. **Prioritize research to support birds as indicators**

   The science behind bird population monitoring is strong, but can always be improved. Establishing causes for bird population changes is always controversial and can be supported with supplemental research. The administration should prioritize this research within the Status and Trends of Biological Resources Program.

   Responsible Official: USGS Director

4. **Reduce human-induced avian mortality**

   In many cases, simple actions could be adopted to reduce human-induced avian mortality in others, additional research and testing are needed. Top causes of avian mortality not due to habitat loss are: collisions with windows, cell towers, wind turbines, transmission lines, and automobiles; pesticides; and cats.

   Responsible Official: USGS Director

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fund bird-related research and monitoring**

   Investment in research and monitoring of birds and large-scale drivers of bird populations and habitat change (such as deforestation, urbanization, climate change, collisions, cats) is cost effective. The new administration should expand the $1 million initiative proposed by Interior for FY09 to support such research and monitoring.

   Responsible Officials: USGS Director, Assistant Secretary for Policy, Management and Budget

THE FIRST 100 DAYS

The 2009 state of the birds report is scheduled for publication and distribution on or about March 16, 2009, in conjunction with the 74th North American Wildlife and Natural Resources Conference in Washington DC. Because the report will be issued under the sponsorship of the North American Bird Conservation Initiative (NABCI), a cooperative group of federal wildlife and land management agencies, state wildlife agencies, and conservation-oriented nongovernmental organizations, the report should be a strong consensus document promoting a proactive conservation agenda for the next four years. High-level administration support for this document at this venue is an easy way to launch the new administration on a strong cooperative conservation path.

The administration will also have the opportunity to support the $1 million initiative to fund research and monitoring of migratory birds, specifically work to strengthen the use of birds as indicators of the health of the environment.

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

TOP THREE ISSUES

1. REVISE POLICIES ON ACCESS TO THE COURTS, TRANSPARENCY AND LEGAL EXCELLENCE

Review and revise the approach of the Justice Department's Environment and Natural Resources Division (ENRD) on a range of issues related to access to the courts, integrity, and transparency and, if necessary issue guidance to address these issues.

2. ALIGN LITIGATION POSITIONS WITH POLICY DIRECTION

Review and evaluate litigation positions in ENRD cases to ensure consistency with priorities and positions of a new administration, including seeking stays or other schedule adjustments where necessary (e.g., where important decisions that may involve policy change are imminent) to allow for such review and adjustment.

3. LAUNCH ENVIRONMENTAL PROTECTION AND ENFORCEMENT INITIATIVES

Identify and commence priority environmental protection and enforcement initiatives in order to re-establish the Division as the premier advocate for the environment.

KEY APPOINTMENT POSITIONS

- Assistant Attorney General (AAG) for ENRD
- Deputy AAG
- Deputy AAG
- Counselor to the AAG
- Counsel to the AAG
- Counsel to the AAG
- Attorney Advisor (special assistant)

We would urge that the Associate Attorney General and/or at least one of her/his deputies have significant environmental experience or familiarity with the environmental laws.

ISSUE 1
REVISE POLICIES ON ACCESS TO THE COURTS, TRANSPARENCY AND LEGAL EXCELLENCE

BACKGROUND

For some time the Department and ENRD have taken an unnecessarily narrow view of the ability of environmental plaintiffs to bring their cases before the courts by raising procedural issues to significantly limit access to the courts. To ensure that American citizens have access to the courts, the goal should be to allow claims to be resolved on their merits except where there is a clear procedural or jurisdictional defect.

Efforts to expand limitations on access to the courts in environmental cases date from the Reagan era when conservatives sought to limit standing in cases like Lujan v. National Wildlife Federation, 497 U.S. 871 (1990), and continued, with a new focus on ripeness and jurisdiction as barriers to adjudication of citizens' claims, in cases like Ohio Forestry v. Sierra Club, 523 U.S. 726 (1998) and Norton v. Southern Utah Wilderness Ass'n, 542 U.S. 55 (2004). The efforts have flowered in the current administration in cases like Summers v. Earth Island Institute (pending before the Supreme Court). In the lower courts, opposing claims on standing, ripeness, finality, and other grounds, even where the arguments are weak, has become all too common. Indeed, in more than one recent case, the government has argued that the plaintiffs' claims were not ripe for review but if they were, they were barred as untimely. An open approach to review will encourage better agency decisions (because they will not be shielded by expansive procedural arguments) and ultimately reduce litigation by clarifying the substantive law.

Separately, the reputation of the Department and ENRD has been tarnished by controversy surrounding personnel decisions and the politicization of hiring decisions. See Schiffer & Lazarus, "The Environment and Natural Resources Division of the Department of Justice: Planning for the Transition to the Next Administration," 2 Harv. Law & Policy Rev. 269, 278-79 (2008). In addition, anecdotal reports of political considerations driving the Division's lawyers to adopt weak legal positions to defend agency actions taken in disregard of legal mandates are too frequent. Id. at 279-282 (providing examples). While the Division will always need to work with its client agencies to arrive at appropriate legal positions, the starting point for such efforts should be the best, most unbiased legal advice the lawyers in the Division can provide, backed up by the support of the Division's leadership. Any position ultimately advanced should have the soundest legal basis.

The Department and ENRD's policies regarding open government are also of concern. In recent years, the Department, through the Civil Division, has sought to limit responses to Freedom of Information Act requests, including fee-waiver requests, following the "Ashcroft Memo" that reversed a "Reno" memo. Similarly, the Department has failed to clearly limit the Supreme Court's decision in Buckhannon v. W. Va. Dept. of Health & Human Resources, 532 U.S. 598 (2001), holding that plaintiffs cannot recover attorneys fees under EAJA on the theory that their suit was a "catalyst" in forcing the government to take appropriate action, to EAJA and statutes with similar language. Finally, in a new administration, ENRD may be able to make better and more consistent use of ADR and settlement processes to resolve individual cases or groups of cases, especially those that have required extraordinary time commitments from ENRD staff but where the interests of all concerned may be better served by compromise and resolution.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Articulate consistent approach to opposing claims on justiciability grounds**

   The goal in all cases should be to allow claims to be resolved on their merits except where there is a clear procedural or jurisdictional defect. ENRD should issue guidance regarding assertion of defenses like standing, ripeness, finality, and similar justiciability grounds to avoid reflexive assertion of these arguments.

   Responsible Official: Assistant Attorney General for ENRD

2. **Restore commitment to integrity and legal excellence within ENRD**

   Make clear that ENRD will provide the best and soundest legal advice possible to clients without political flavor and affirm that lawyers who do so will prosper. Restore neutrality to hiring at both entry and senior positions and seek to attract the best and most able lawyers with interest and experience in the environment.

   Responsible Official: Assistant Attorney General for ENRD

3. **Encourage transparency and appropriate resolution of claims without litigation**

   Rescind the Ashcroft Memo for FOIA claims, restore the Reno Memo or promulgate similar guidance favoring responsiveness to FOIA requests, adopt a clear policy regarding recovery of attorneys fees, including limiting the effects of Buckhannon to EAJA, and explore better use of ADR/settlement processes to resolve individual cases or groups of cases, especially those that have required extraordinary time commitments or in which individuals or organizations with limited means or access to legal representation are involved.

   Responsible Official: Assistant Attorney General for ENRD and Assistant Attorney for the Civil Division

ISSUE 2
ALIGN LITIGATION POSITIONS WITH POLICY DIRECTION

BACKGROUND

Four environmental cases will have been briefed and/or argued before the U.S. Supreme Court by the time the next administration takes office: Winter v. NRDC (NEPA challenge to the Navy's use of sonar, decided November 12); Summers v. Earth Island Institute (challenge to agency rules on their face after settling site-specific claims); Entergy Corp. v. Riverkeeper, Inc. (whether EPA can consider costs in setting standards for discharges of cooling water), and Coeur Alaska Inc. v. SEAC (Clean Water Act permitting jurisdiction over mine tailings). Little can be done to affect most of these cases now but in Coeur Alaska, the Department should explore immediately with the Corps of Engineers the possibility of resolving the case by revoking the current permit and completing permitting for an available alternative site and seeking to withdraw the case from the Supreme Court's docket.

Going forward, the question of whether to seek Supreme Court review in additional environmental cases should be addressed by a new administration as soon as possible and any decision to seek review should be fully consistent with the new administration's priorities and policies. The Department should move quickly to review any environmental case where a cert petition is being considered, avoid petitioning where possible, and only petition to advance critical environmental goals of the new administration. The Department should also immediately seek to delay briefing and withdraw the government's petition for certiorari in State of New Jersey v. EPA (appealing from the D.C. Circuit's decision vacating EPA's mercury rule).

In the lower courts, there are numerous pending cases with imminent deadlines that raise significant issues regarding consistency with the new administration's policies. Among them are cases in the following categories: (1) climate change, including State of California v. EPA, challenging EPA's denial of California's request for a Clean Air Act waiver (government's brief due January 9, 2009); (2) endangered species, including new litigation likely to be filed prior to January 20 challenging DOI's renewed effort to delist the Northern Rockies wolf population and the Bush administration's hastily-promulgated new ESA regulations limiting required consultations with wildlife agencies; (3) natural resources, including two Roadless Rule cases, on appeal in the Ninth and Tenth Circuits, and the challenge to the Bush administration's forest planning regulations, now before a district court; and (4) EPA rules, including the Clean Air Interstate Rule (CAIR), vacated by the court of appeals.

Another important priority for ENRD should be to assist client agencies in properly rescinding, revising, and suspending agency actions taken by the Bush administration. Agencies will need legal guidelines on how to satisfy APA requirements because the consequences of noncompliance can be significant setbacks for a new administration trying to chart a new course. ENRD can also play a role regarding the applicability of the Congressional Review Act, under which Congress may adopt a resolution of disapproval regarding certain rules, after which the disapproved rules cannot take effect. For example, the ESA rule limiting consultations with wildlife agencies will likely be viewed as inconsistent with the new administration's environmental policies and will need to be rescinded properly if Congress does not disapprove it.

Further, ENRD should take a leadership role in: (1) settling cases in non-priority areas that drain resources and focusing resources on the highest priority matters; (2) re-evaluating legally-suspect policy positions such as preemption of state environmental initiatives; and (3) assisting in policy development, particularly before agency actions are proposed to assure that the positions taken are defensible.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Review of Supreme Court environmental cases

ENRD, with the Solicitor General's Office, should review and reconsider any case in which a cert. petition might be filed and, where there is no conflict, avoid filing where there is a significant risk of a decision that will not increase protection of the environment. The government, among others, filed a cert. petition to review the vacatur of EPA's mercury rule under the Clean Air Act in New Jersey v. EPA (No. 08-178). A delay of briefing should be sought to give the new administration an opportunity to review the case and then to withdraw the petition for certiorari.

Responsible Officials: Solicitor General, Assistant Attorney General for ENRD, EPA Assistant Administrator for Air

2. **CAA Waiver for California to regulate greenhouse gases**

After EPA denied California's request under the Clean Air Act for a waiver to regulate greenhouse gases, California sued, challenging that action. State of California v. EPA, No.08-1178, D.C. Cir. The government's opening brief will be filed on January 9, and so immediate action will be required to reverse course.

Responsible Officials: Assistant Attorney General for ENRD, EPA Assistant Administrator for Air

3. **New ESA rule limiting consultations**

Before the end of this term, the Bush administration plans to promulgate a final ESA rule to limit input from wildlife agencies on the impacts of federal actions and the types of impacts to be considered. ENRD should work with client agencies on resolving the litigation and suspending and rescinding the rule if Congress does not disapprove it.

Responsible Officials: Assistant Attorney General for ENRD, Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration

4. **Key natural resources cases**

The Bush administration has been working for years to overturn the national Roadless Area Conservation Rule, revise the NFMA planning regulations, and adopt a rule to allow more snowmobiles in Yellowstone, to the detriment of wildlife and their habitat. Each of these efforts is now before the courts in some form. After January 20, ENRD should seek a stay or take other steps on all three fronts to allow the relevant agencies to rescind the Bush rules or take other appropriate action.

Responsible Officials: Assistant Attorney General for ENRD, Assistant Secretary for Fish and Wildlife and Parks, DOI, Undersecretary for Natural Resources, Department of Agriculture, Chief, Forest Service

5. **Guidance to agencies on modifying, rescinding, and suspending rules**

ENRD should assist client agencies in properly rescinding, revising, and suspending agency actions taken by the Bush administration, including rules. Agencies will need guidance on the applicability of the Congressional Review Act and on how to satisfy APA requirements because the consequences of noncompliance with the APA can be significant setbacks for a new administration trying to chart a new course.

Responsible Official: Assistant Attorney General for ENRD

THE FIRST 100 DAYS

Items 1 through 4 above all should be initially addressed in the first 100 days even if all of them cannot be fully resolved within that period. In addition, ENRD, the Solicitor General, and the Corps of Engineers should immediately address opportunities to resolve the Coeur Alaska case and seek its removal from the Supreme Court's docket.

ISSUE 3
LAUNCH ENVIRONMENTAL PROTECTION AND ENFORCEMENT INITIATIVES

BACKGROUND

ENRD's pursuit of affirmative enforcement efforts to protect public health and the environment has languished in recent years. See Schiffer & Lazarus, "The Environment and Natural Resources Division of the Department of Justice: Planning for the Transition to the Next Administration," 2 Harv. Law & Policy Rev. 269, 282-83 (2008). ENRD should implement ambitious litigation initiatives in several high-priority areas to improve enforcement of environmental laws.

First, ENRD should revitalize enforcement of the Endangered Species Act, the Migratory Bird Treaty Act, and the Lacey Act by selecting high-profile, high-impact opportunities to affirm the importance of these laws and their role in environmental protection, including opportunities that could address global warming. As part of this initiative, ENRD should seek comprehensive resolution of pending ESA listing and other deadline cases in order to free up resources for affirmative cases. ENRD should also aggressively enforce the Lacey Act's new prohibition on import of illegally-taken plants, to help restrain illegal logging of rainforests.

Second, the recent Supreme Court decision in Rapanos v. United States, 547 U.S. 715 (2006), and implementing guidance issued jointly by EPA and the Army Corps of Engineers, have resulted in significant jurisdictional uncertainty under the Clean Water Act that undermines wetlands enforcement efforts. According to an internal EPA memo, Rapanos and the implementing guidance have negatively impacted hundreds of existing enforcement cases and have caused the agency not to pursue hundreds of others because of jurisdictional uncertainty. ENRD should work with EPA and the Army Corps to rescind and replace the current guidance memo, and should pursue wetlands enforcement litigation to the maximum extent permitted by Supreme Court precedent.

Third, ENRD should intensify efforts to limit emissions of hazardous air pollutants under the Clean Air Act. ENRD's enforcement initiative under the current MACT program should focus on protecting children, highest-risk communities, and communities of color, and should target pollution from the worst industrial emitters: chemical plants, oil refineries, cement kilns, incinerators, and industrial boilers.

Finally, ENRD should play a leading role in pursuing enforcement efforts regarding climate change. The Division should evaluate public trust and nuisance claims to combat sources of climate change, in cooperation with state attorneys general. ENRD should also renew and prioritize the Clinton Administration's initiative to combat illegal imports of banned CFCs and other ozone-depleting chemicals. The majority of these chemicals cause significant adverse climate impacts. ENRD should work with EPA, the U.S. Customs Service, the IRS, and the Commerce Department to prosecute illegal imports.

DEPARTMENT OF JUSTICE

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Wildlife enforcement initiative**

   Identify and pursue high-profile enforcement cases under the ESA, the MBTA, and the Lacey Act, including a focus on wildlife cases with global warming implications. Seek comprehensive resolution of pending ESA listing and other deadline cases. Enforce the Lacey Act's new prohibition on import of illegally-taken plants to combat illegal logging.

   Responsible Official: Assistant Attorney General for ENRD

2. **Wetlands protection initiative**

   Revitalize enforcement of clean water laws with a focus on wetlands protection and restoration. Work with EPA and the ACOE to re-tool Rapanos guidance, in order to protect headwater areas and "isolated" wetlands to the maximum extent possible under current case law and regulations.

   Responsible Officials: Assistant Attorney General for ENRD, EPA Assistant Administrators for Water and Enforcement, Assistant Secretary of the Army for Civil Works

3. **Hazardous air pollutants enforcement initiative**

   Review clean air enforcement docket and expand to address effects of air pollution on children and at-risk communities. Enforce current MACT program with a focus on hazardous air pollution from the worst industrial emitters. Continue and step up enforcement against power plants.

   Responsible Officials: Assistant Attorney General for ENRD; EPA Assistant Administrator for Air

4. **Climate change enforcement initiative**

   Evaluate public trust and nuisance claims to combat sources of climate change. Revive enforcement project to target illegal imports of ozone-depleting chemicals, like CFCs, that also have major adverse climate impact.

   Responsible Official: AAG for ENRD

POLICY RECOMMENDATIONS - BUDGETARY

1. **Expanded funding for hazardous air pollutants enforcement initiative**

   The New Source Review (NSR) cases against power plants have been very successful, and there are more cases in the pipeline that require additional funding to pursue. Increasing the number of MACT cases requires additional funding.

   Responsible Official: Assistant Attorney General ENRD

2. New funding for climate change enforcement initiative

Even in the absence of new legislation, ENRD can work to curtail greenhouse gases by developing cases based on theories such as public trust and nuisance, which are costly to pursue. Once legislation is passed, ENRD will need to be part of the compliance assurance effort, which will also require funding.

Responsible Official: Assistant Attorney General, ENRD

DEPARTMENT OF STATE

US AID

DEPARTMENT OF STATE

TOP THREE ISSUES*

1. THE PRESIDENT, THROUGH THE SECRETARY OF STATE, NEEDS TO RESTORE AMERICAN LEADERSHIP IN INTERNATIONAL CLIMATE POLICY

The President, through the Secretary of State, needs to restore American leadership in international climate policy by committing the U.S. to an equitable U.N. climate treaty that keeps global temperature increase below 2˚F above current levels if developed countries as a whole cut their emissions 25-40% from 1990 levels by 2020 and at least 80% by 2050. Within this timeframe, major developing countries as a whole must also act promptly to slow their emissions growth and then substantially reduce their emissions. To be within this range in 2020, the U.S. would have to reduce its emissions by 35% from current levels. Climate change should be incorporated as a diplomatic priority beyond the negotiations toward a global agreement on climate change and efforts to address climate change should be made a key component of American foreign policy, considered in all relevant multinational and bilateral discussion and be integrated into the planning, activities and budgets of all bureaus and offices with the Department.

2. REASSERT US LEADERSHIP IN CONSERVATION OF THE WORLD'S NATURAL RESOURCES

The President, through the Secretary of State, should reassert the United States as a leader in conserving the world's natural resources and biodiversity, by actively seeking ratification of, and implementing, key international agreements relating to natural resource management, by spearheading multilateral agreements and fora on other key issues such as freshwater management, high seas management, and Arctic governance, and through implementation of effective partnerships to deliver these actions on the ground in key countries.

3. REGAIN U.S. LEADERSHIP IN PROTECTING HEALTH AND THE ENVIRONMENT BY DEVELOPING AND PROMOTING A COHERENT INTERNATIONAL APPROACH TO THE SOUND MANAGEMENT OF CHEMICALS

The President, through the Secretary of State, should be a leader in achieving a coherent international approach to sound chemicals management, including with respect to heavy metals such as mercury and anthropogenic chemicals whose safety has not yet been tested.

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* *Note*: This report should be read in conjunction with the report regarding the U.S. Agency for International Development

DEPARTMENT OF STATE

KEY APPOINTMENT POSITIONS

- Deputy Secretary
- Legal Advisor
- Under Secretary for Global Affairs
- Senior climate negotiator
- Assistant Secretary for Oceans, Environmental and Scientific Affairs
- Assistant Secretary for International Organizations
- Science and Technology Advisor
- Assistant Secretary for Population, Refugees and Migration

ISSUE 1

THE PRESIDENT, THROUGH THE SECRETARY OF STATE, NEEDS TO RESTORE AMERICAN LEADERSHIP IN INTERNATIONAL CLIMATE POLICY

BACKGROUND

Sea levels are rising, the polar ice cap is melting and storms are becoming more intense and destructive. Climate change already impacts our lives and in the future it will pose increasingly grave threats to global food security, freshwater availability and our most precious natural assets. To mitigate these threats, the global community must dramatically reduce greenhouse gas emissions, in a way that allows for sustainable development to improve the quality of life for the world's poor people, from both fossil fuels and deforestation. Furthermore, to address the impacts of changes already occurring and will continue to occur, the global community must be prepared to adapt to changed environments and must improve resilience of vulnerable communities and natural systems.

In December 2007, the world agreed to negotiate a post-2012 international agreement to address climate change by the end of 2009 (in Copenhagen, Denmark). This agreement —the "Bali Roadmap"— outlines the key elements that will be a part of that agreement, including: further emissions reduction targets by developed countries; emissions reductions from developing countries in a measurable, reportable, and verifiable manner; technology, finance, and deforestation incentives for developing countries to support emissions reductions; and assistance for addressing the impacts of climate change for the most vulnerable. Negotiations have begun on the shape of that agreement and the first negotiation session of 2009 will occur in the early part of the year when early flesh to the agreement will begin to emerge. The U.S. will need to interject its proposals into the debate and outline its positions on key elements very quickly. The U.S. has an opportunity to restore American leadership by effectively engaging in those negotiations and working with Members of Congress to both shape and provide key U.S. contributions to helping deliver the global agreement.

While focus is placed on reaching agreement on a global deal on climate that will tackle mitigation, adaptation, and the other aspects directly relating to climate, it is critical that programs to address all of the contributing factors to global climate change in the developing world, be prioritized within American foreign policy, and that these factors be considered in all relevant multinational and bilateral discussions, and integrated into the planning, activities and budgets of all bureaus and offices with the Department.

DEPARTMENT OF STATE

The U.S. should take into account how climate change will affect its ability to carry out its responsibility under environmental treaties, especially treaties relating to marine and fisheries management, habitat and species management, natural resource conservation, and environmental protection. It should further consider how climate change will affect the goals of treaties to which it is a party, including human rights, health and welfare treaties. It should consider climate change in negotiating and implementing treaty terms and protocols.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Appoint climate negotiating team**

   The President should immediately designate a chief climate envoy in time to attend the next Conference of the Parties in Poland, December 2008, as an observer, without a formal role but to send a signal of change. Complementing such an appointment, the President should pledge to make climate change a priority for the next administration, with a commitment to keep warming below 2˚ F above today's levels.

   Responsible Official: Secretary of State

2. **Issue an executive order on climate change in US diplomacy**

   An executive order on climate change should provide how the U.S. Government will coordinate in developing the positions, policies, regulations and incentives to position the U.S. so that it will be prepared to sign a treaty in Copenhagen, and to coordinate the Federal government to work with Congress to develop and enact implementing legislation to be implemented by the federal government. This would include specific reference to the four building blocks that will form the foundation of a treaty. It would also include a directive to the Department of State to formally consider the impacts of climate change as it negotiates and implements treaties and to USAID to consider climate change in its foreign assistance programs, priorities and funding.

   Responsible Official: Secretary of State

3. **Support efforts to curb global deforestation**

   Because tropical deforestation accounts for up to 20 percent of all global CO_2 emissions, the President should use a broad range of policy incentives and bilateral assistance to support Reduced Emissions from Deforestation and Degradation (REDD) initiatives, with an emphasis on building strong forest measuring and monitoring systems and good governance capacities in key forested countries. As part of bilateral and multilateral efforts to reduce deforestation and greenhouse gas emissions, the Secretary should support programs that address the underlying causes of deforestation, poor forest governance, migration to ecologically sensitive areas, poverty, and unsustainable resource consumption.

   Responsible Officials: Assistant Secretary of State, Bureau of Oceans, Environment and Science USAID Administrator USAID Assistant Administrator, Global Health USAID Assistant Administrator, Program & Policy Coordination

DEPARTMENT OF STATE

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Enact cap-and-trade legislation

We must start cutting global warming pollution now. There is broad scientific agreement that keeping global average temperatures from increasing more than another 2° Fahrenheit from today's levels is necessary if we are to avoid the worst impacts of climate change. According to the Nobel Prize-winning Intergovernmental Panel on Climate Change, we have a reasonable chance of meeting this objective if developed countries as a whole cut their emissions 25-40% from 1990 levels by 2020 and at least 80% by 2050; within this time frame, major developing countries as a whole must also act promptly to slow their emissions growth and then substantially reduce their emissions. To be within this range in 2020, the U.S. would have to reduce its emissions by 35% from current levels.

Set mandatory limits that reduce US global warming pollution consistent with keeping further warming below 2° F, including ambitious domestic reductions targets for 2020 and 2050, a cap and auction program and other policies to make additional reductions at home and abroad, and a prompt science-based review to accelerate reductions if necessary. Such legislation should have programs to revitalize the economy and secure its energy future, including auctioning emission allowances to allow for investing the fair US share in global efforts to deploy clean energy, adapt to climate change, and reduce emissions from deforestation.

Responsible Officials: Secretary of State and Administrator of EPA

2. Undertake a legislative initiative to comprehensively address the elements of an international treaty

In addition cap-and-trade legislation, Congress needs to consider establishing the framework now to implement a treaty that is signed and ready for ratification in 2009. This is a complex treaty with building blocks relating to mitigation, adaptation, forest conservation, technology transfer, and financial mechanisms; legislation to implement the treaty would cut across many committee jurisdictions and Congress should begin to consider how it can jump-start the development of legislation immediately.

Responsible Official: Secretary of State and Administrator

POLICY RECOMMENDATIONS - BUDGETARY

1. Appropriations for assistance to developing countries

Request appropriations to support near-term efforts to support developing countries in adapting to the impacts of climate change, deploying clean technologies, and reducing deforestation by contributing to the adaptation funds within the United Nations Framework Convention on Climate Change and other mechanisms.

Responsible Officials: Secretary of State; Director, Office of Management and Budget

- UNEP ministerial to be held in Nairobi, February 16-20, 2009.
- CBD Expert Group on Biodiversity and Climate Change, to be held in Helsinki, March 30-April 3, 2009.
- UN climate negotiating session in Bonn, March 29- April 8, 2009
- US-EU Climate meeting, April

ISSUE 2

REASSERT US LEADERSHIP IN CONSERVATION OF THE WORLD'S NATURAL RESOURCES

BACKGROUND

There are a large number of treaties relating to natural resource management that have been negotiated, but to which the U.S. is not yet a party. Some of these treaties are controversial for political more than substantive reasons. Indeed, the U.S. has played an instrumental role in several of them, such as the Convention on the Law of the Sea, and yet these too have not been advanced to ratification. The President should make a concerted effort during the next Congress to see the Senate consent to ratification of the following treaties:

- Convention on Biological Diversity and its Cartagena Protocol on Biosafety
  Opened at Rio in 1992, entered into force in 1993, and now with 191 parties, CBD seeks to develop national conservation and sustainable use strategies for biological diversity. The Biosafety Protocol (147 parties) entered into force in 2003, a treaty governing the movements of living modified organisms (LMOs) resulting from modern biotechnology from one country to another. The US signed CBD in 1993, and Senate Foreign Relations Committee acted favorably on it in 1994, but it has yet to be ratified. The Biosafety Protocol was never signed by the U.S.

- Convention on the Law of the Sea
  Entered into force in 1994 and now with 157 parties, LOS is the constitution for the world's oceans, establishing oceans governance, promoting standards consistent with U.S. law and practice, and supporting US interests on security, sovereignty and sustainability. The U.S. did not sign or ratify the treaty. In 1994, the U.S. signed the agreement on part IX which addressed many of the U.S. concerns regarding deep seabed mining, and while the Senate Foreign Relations Committee has favorably acted twice, the Senate has not considered it on the floor.

- Convention on the Non-Navigational Uses of International Watercourses
  With only 16 parties but needing 35 to enter into force, the Convention applies measures for protection, preservation, and management related to the uses of international watercourses and their waters for purposes other than navigation. The U.S. did not sign or ratify the treaty.

- Convention on the Conservation of Migratory Species of Wild Animals (CMS).
  The CMS entered into force in 1983 and aims to conserve terrestrial, marine and avian species throughout their migratory ranges, such as sea turtles, sea birds, sharks and many others. Countries that are parties to

CMS collaborate through formal regional agreements and memoranda of understanding (MoUs) to conserve species that migrate across national jurisdictional boundaries. It has 109 Parties and 116 participating countries, as even non-parties can participate in the regional agreements and MoUs. Despite not yet ratifying it, the U.S. participates in the MoU for marine turtle conservation in the Indian Ocean and South-East Asia and is considering other agreements, such as the Agreement for Conservation of Albatrosses and Petrels.

- Agreement for the Conservation of Albatross and Petrels
  With 11 parties, this multilateral agreement seeks to coordinate international activity to alleviate threats to these vulnerable species. George Bush signed the treaty and transmitted to the Senate in October 08, and the enacting legislation is currently with OMB awaiting transmission to the Senate once in session.

- MARPOL Annex IV: Regulations for the Prevention of Pollution by Sewage from Ships (2004). Annex VI prohibits the discharge of raw sewage into the sea within 12 nautical miles of land, and prohibits the discharge of treated sewage within three nautical miles of land. This annex has been neither signed by the President nor ratified by the Senate.

- International Convention for the Control and Management of Ships' Ballast Water and Sediments (2004). The Ballast Water Convention provides technical standards and regulations for the control and management of ships' ballast water and sediments to prevent the transfer of harmful aquatic organisms. It has been neither signed nor ratified.

- International Convention on Civil Liability for Bunker Oil Pollution Damage (2001). This Convention ensures that adequate, prompt, and effective compensation is available to cover pollution damage caused by spills of oil, when carried as fuel in ships' bunkers. It has been neither signed nor ratified.

- UNECE Convention on Access to Information, Public Participation in Decision Making, and Access to Justice in Environmental Matters (Aarhus Convention)

In addition to the US joining those important treaties, the US can reassert critical global leadership on key conservation issues. There are four highlighted:

- High seas management: The high seas – waters beyond the 200 mile limits of national jurisdiction -- comprise 45% of the planet's surface. Marine biodiversity in these waters is under increasing threat from overfishing, noise and chemical pollution, habitat destruction and now ocean warming and ocean acidification related to climate change. Even if UNCLOS is ratified, there is still a need for a specific management framework to govern human activities on the high seas, e.g., for creating multi-sector marine protected areas, addressing overfishing, or coordinating assessment and management of cumulative impacts across sectors.

- Arctic governance: see the discussion of American Arctic and the Circumpolar Arctic herein, at 1-3.

- Freshwater management: Approximately 1 billion people lack access to safe drinking water, while another 2.5 billion lack sanitation, resulting in water-borne diseases that annually claim the lives of more than 2 million people – the vast majority of them children – a figure that is increasing. Freshwater species and ecosystems are also at risk, with freshwater species among the most endangered on Earth.

- Desert management: The US should fully implement the Convention to Combat Desertification, to address desertification and drought, especially in Africa, through the promotion of sustainable development. Countries are required to complete national strategies, and such planning is more essential than ever with increased desertification due to climate change.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Sign, adopt and transmit to the Senate key treaties

The Administration should support the U.S. joining the following treaties: (1) the Convention on Biological Diversity and Cartagena Protocol on Biosafety; (2) Convention on the Non-Navigational Uses of International Watercourses; and (3) MARPOL Annex IV; (4) International Convention for the Control and Management of Ships' Ballast Water and Sediments; (5) International Convention on Civil Liability for Bunker Oil Pollution Damage (2001); (6) UNECE Convention on Access to Information, Public Participation in Decision Making, and Access to Justice in Environmental Matters (Aarhus Convention); (7) Convention on the Conservation of Migratory Species of Wild Animals (CMS). OMB also should complete inter-agency consultation on the enacting legislation for the Agreement for the Conservation of Albatross and Petrels and transmit the finalized legislation to the Senate Committee on Foreign Relations.

Responsible Officials: Secretary of State and Director of Office of Management & Budget

2. High seas management

Begin negotiation of a new implementing agreement under Law of the Sea to establish a specific management framework to govern human activities on the high seas, e.g., for creating multi-sector marine protected areas, addressing overfishing, and coordinating assessment and management of cumulative impacts across sectors.

Responsible Official: Assistant Secretary for Oceans, Environmental and Scientific Affairs

3. Freshwater management

The Secretary should formulate a comprehensive and integrated global water policy with the aim of ensuring enough clean water for people and ecosystems. This would entail: (1) convening an international panel of experts to assess the status and trends of global water resources, and to develop science-based tools to predict where water scarcity is likely to arise, how long it will last, who will be affected; (2) convening a series of regional river-basin-wide water strategy forums to address water needs for people, food production, and biodiversity across international boundaries and on the scale of river basins and aquifers, starting with priority water basins under imminent threat (major rivers of south Asia and the major rivers of sub-Saharan Africa); (3) working with Congress to enact legislation on global water security that would establish a program to assist in sustainable water management across the globe, complementing the Water for the Poor Act by addressing basin-wide water management.

Responsible Official: Under Secretary for Global Affairs

4. **Protect environmental human rights**

   Encourage international human rights institutions to recognize the relationship between environmental harm and human rights and use existing institutions and processes to protect and remedy human rights violations caused by environmental harm, including climate change impacts.

   Responsible Official: Under Secretary for Global Affairs

5. **Ensure transparency and opportunity for public participation in international dispute settlement**

   International disputes, including those over environmental protection and natural resources, raise important public interest issues. It is thus essential that international dispute settlement processes and mechanisms be transparent and allow public input. However, many international dispute settlement processes and mechanisms, e.g., those involving investments and trade, are non-transparent and do not allow a meaningful opportunity for public input. The US should be a leader in remedying this democracy deficit, and the Department should take the lead in accomplishing this across the entire range of international dispute settlement.

   Responsible Official: Under Secretary for Democracy and Global Affairs; Legal Advisor

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Ratify Law of the Sea Treaty**

   The Senate Foreign Relations Committee (SFRC) should hold a business meeting to consider the treaty, and the Senate should consider it on the floor with current understandings and declarations approved by SFRC. It is not recommended that there be hearings.

   Responsible Officials: Deputy Secretary; Assistant Secretary for Oceans, Environmental and Scientific Affairs

2. **Ratify Convention on Biological Diversity**

   The Senate Foreign Relations Committee (SFRC) should hold a business meeting to consider the treaty, and the Senate should consider it on the floor with current understandings and declarations approved by SFRC. It is not recommended that there be hearings.

   Responsible Officials: Deputy Secretary; Assistant Secretary for Oceans, Environmental and Scientific Affairs

3. **Ratify the Agreement for the Conservation of Albatross and Petrels**

   The Senate Foreign Relations Committee should hold a business meeting to consider the treaty and its enabling legislation, and the Senate should consider it on the floor.

   Responsible Officials: Deputy Secretary; Assistant Secretary for Oceans, Environmental and Scientific Affairs

4. **Develop and enact legislation on global water security**

Congress should hold hearings and develop legislation on global water security that would establish a program to assist in sustainable water management across the globe, complementing the Water for the Poor Act by addressing basin-wide water management.

Responsible Officials: Deputy Secretary; Assistant Secretary for Oceans, Environmental and Scientific Affairs

POLICY RECOMMENDATIONS - BUDGETARY

1. **Funding for conservation programs within the International Organizations and Programs (IO&P) Account: $12 million for FY10**

The IO&P Account supports cooperative approaches to conservation challenges through technical expertise, capacity building, exchange of information, and technology transfer between countries, often with leverage from non-federal funds. The account supports the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which monitors and regulates the international trade in threatened and endangered species; the World Conservation Union (IUCN), the foremost scientific forum for the advancement of conservation and sustainable development objectives; the Ramsar Convention on Wetlands of International Importance, which acts as the global framework for action to conserve and sustainably manage wetland resources; the International Tropical Timber Organization (ITTO), which brings together producing and consuming countries of tropical timber to address all aspects of the tropical timber economy, including market transparency and sustainable management; and the United Nations Convention to Combat Desertification (UNCCD), which addresses the fundamental causes of famine and food insecurity by bringing government representatives, local communities, and NGOs into more effective partnerships and encouraging the sharing of information and new technology. The IO&P account also includes funding for the UN Environment Programme and the World Heritage Convention, both of which support nature conservation in developing countries.

Responsible Official: Assistant Secretary for International Organizations

2. **Funding for U.S. Contribution to the Convention on Biological Diversity: $2.4 million for FY10:**

$2.4 million in FY2010 budget for US Contribution to the Convention on Biological Diversity

Responsible Official: Assistant Secretary for Oceans, Environmental and Science Affairs

THE FIRST 100 DAYS

- World Wetlands Day is February 2, 2009, and marks the anniversary of the signing of the Convention on Wetlands (Ramsar Convention). World Water Day is March 22, 2009, and got its start through the Rio summit in 1992. Both can be used to highlight the need for improved global freshwater management.

- UNEP ministerial to be held in Nairobi, February 16-20, 2009.
- CBD Expert Group on Biodiversity and Climate Change, to be held in Helsinki, March 30-April 3, 2009.

ISSUE 3

REGAIN U.S. LEADERSHIP IN PROTECTING HEALTH AND THE ENVIRONMENT BY DEVELOPING AND PROMOTING A COHERENT INTERNATIONAL APPROACH TO THE SOUND MANAGEMENT OF CHEMICALS

BACKGROUND

Over the past decade, the growing international concern about the serious adverse effects of chemicals and wastes on human health and the environment has been reflected in a number of important multilateral environmental agreements, many of which were negotiated with the active participation of the United States. However, the United States has yet to ratify any of the following international agreements concerning chemicals:

- The Stockholm Convention on Persistent Organic Pollutants (POPs);
- The Rotterdam Convention on Prior Informed Consent (PIC);
- The Basel Convention on the International Transport of Hazardous Waste, and the BAN Amendment

In addition, the United States has been an active participant in a nonbinding international agreement, the Strategic Approach to International Chemicals Management (SAICM), although the Bush Administration has vigorously sought to weaken the provisions of the agreement during negotiations.

In 2003, UNEP acknowledged mercury as a global pollutant that requires global action and recognized that no country, including the United States, can solve its own mercury problems without addressing sources worldwide. A vast majority of countries now favor the negotiation of a legally binding instrument (LBI) to control mercury. However, under the Bush administration, the U.S. delegation has consistently opposed this position, and has instead advocated only voluntary measures, which to date have been grossly ineffective.

The new Administration needs to use several important upcoming international events to demonstrate to the world that the United States is committed to contributing to solutions to these pressing global challenges in chemicals management. These include:

The 25th meeting of the United Nations Environment Programme Governing Council (February 16-20, 2009) will take up the question of international action on mercury as a primary issue. At this meeting the USG needs to change its current position on mercury and support an effective legally binding instrument for global mercury pollution control. The fourth Conference of the Parties (COP-4) of the Stockholm POPs Convention will convene May 4-8, 2009 and consider adding nine new chemicals to the original “dirty dozen” POPs covered by the Convention. The second International Conference on Chemicals Management (ICCM-2) will meet May 11-15,

2009 and consider a range of important issues to advance the SAICM process and ensure global progress toward the goal of sound management of chemicals by the year 2020.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Adopt constructive approach in global mercury talks**

   Come to the UNEP Governing Council meeting in February 2009 prepared to support a legally binding instrument to reduce anthropomorphic sources of mercury exposure. A legally binding instrument is necessary to reduce the global supply and trade of mercury, to phase out mercury in products and processes, to reduce air emissions from sources such as coal fired power plants and to provide resources to developing countries to address these issues.

   Responsible Officials: Secretary of State (Under Secretary of State for Democracy and Global Affairs)

2. **Strengthen SAICM process for sound chemicals management**

   Develop a U.S. negotiating position for ICCM-2 in May 2009 that reflects U.S. strategic interests in global progress in managing dangerous chemicals, particularly by developing countries and countries with economies in transition. This should include effective financial mechanisms to ensure adoption of policies and practices worldwide.

   Responsible Official: Secretary of State (Assistant Secretary of State for Oceans, Environment and Science)

3. **Public commitment on global chemicals**

   Prepare for a high-profile, public statement recommitting the United States to the goals of these existing multilateral agreements on chemicals and pledging continued support to global and national progress on these issue.

   Responsible Official: President of the United States (or Secretary of State)

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Advocate for the adoption of POPs, PIC implementing legislation**

   Work through the interagency process and in concert with Congressional leaders and others to develop appropriate implementing legislation and amend existing federal statutes on industrial and agricultural chemicals (i.e., TSCA and FIFRA) to ensure that the Environmental Protection Agency has the authority to ensure that the United States can meet its obligations under the Stockholm POPs Convention and the Rotterdam PIC Convention.

   Responsible Officials: Secretary of State and/or Under Secretary of State for Democracy and Global Affairs

2. **Support ratification of the POPs and PIC treaties**

The Administration should encourage the U.S. Senate to provide advice and consent to enable the United States to become a full party to these multilateral agreements.

Responsible Official: Secretary of State (Under Secretary of State for Democracy and Global Affairs)

POLICY RECOMMENDATIONS - BUDGETARY

1. **Support negotiating process for a mercury LBI**

Following the UNEP Governing Council meeting, the US should resume global leadership by contributing generously to support the negotiating committee for the mercury LBI and to support interim activities needed to implement effective international action (such as reducing demand for mercury in small scale gold mining, phasing out primary mining in Kyrgyzstan, etc).

Responsible Official: Secretary of State or Under Secretary of State for Democracy and Global Affairs

THE FIRST 100 DAYS

The UNEP Governing Council meeting will be held in February 2009, and it is crucial that the US delegation be prepared by then to support the LBI – and encourage other countries to do so as well. The meeting will provide a new US administration with its first opportunity at an international venue to demonstrate a substantive change in approach to international environmental issues, an approach that embraces cooperation and leadership, rather than obstruction and inaction.

Other important international meetings in May 2009 provide excellent opportunities for the new administration to demonstrate its commitment to strong leadership on the global problems of chemicals management.

Earth Day 2009 might provide a perfect chance for the president to make a bold statement of U.S. support for international solutions to chemicals that threaten health of children and other vulnerable populations around the world. Ideally, this statement would be coordinated with legislative progress on necessary implementing legislation and other concrete actions by EPA and other relevant federal agencies.

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

DEPARTMENT OF STATE

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

TOP TWO ISSUES*

1. REFORM AND REVITALIZE FOREIGN ASSISTANCE

The President, through the Administrator, should reform and revitalize foreign assistance in order to address the most pressing needs of the world's poor, and to promote economic growth in a sustainable manner, by integrating biodiversity, resource conservation, and greenhouse gas emissions reductions with other foreign assistance strategic objectives, and elevating conservation as a priority for developing nations significantly dependent on natural resources.

2. LEAD GLOBALLY ON CLIMATE CHANGE ADAPTATION AND RESILIENCE

The Administrator should incorporate adaptation and resilience strategies into all project design and implementation and should develop strategies, legislative proposals, and budgetary requests to provide substantial support for vulnerable communities in developing countries and the natural systems on which they depend to prepare for and adapt to the effects of climate change.

KEY APPOINTMENT POSITIONS

- Director of OMB
- Deputy Director of OMB
- Deputy Director of OMB for Management
- Administrator of the Office of Information and Regulatory Affairs
- Program Associate Director for Natural Resources, Energy and Science
- Program Associate Director for General Government

* *Note*: This report should be read in conjunction with the report regarding the Department of State

ISSUE 1
REFORM AND REVITALIZE FOREIGN ASSISTANCE

BACKGROUND

Throughout the developing world, natural resource depletion, biological degradation, and climate change are major drivers of hunger, poverty and instability, and must be addressed across all aspects of foreign assistance. The comparatively minor role that conservation has played here needs to be expanded and fully integrated into all relevant aid programs in order to promote prosperity that is lasting, through development that is truly sustainable.

Within the context of broad reform, these are priorities:

- Biodiversity: Landscapes throughout the world that are richest in natural resources that provide water, food, timber, minerals, and ecosystem services are the same habitats that support some of the world's most endangered species. The vast majority of United States foreign assistance for on-the-ground conservation is delivered through USAID Biodiversity Conservation Programs
- Agriculture: U.S. assistance for agricultural development has been cut in half since the 1980s and now represents only4% of our Official Development Assistance. The focus should be on the development of environmentally friendly, sustainable methods of production and on the creation of policies and market institutions benefiting small farmers and the rural poor. The administration should also review its trade policies and work with its partners in the World Trade Organization (WTO) and elsewhere to promote trade rules that support sustainable farming in the developing world.
- Water: Around the world, 1.0 billion people are without access to safe drinking water and 2.5 billion are left without basic sanitation. Each day, 5,000 children die due to water-borne diseases stemming from lack of safe water and adequate sanitation. In 2005, the Simon Water for Poor Act of 2005 was enacted, and recognizes the global water crisis, the need for greater U.S. involvement in solving it, and directs the U.S. government to develop a strategy to provide safe water and sanitation to the countries in greatest need, as a cornerstone of U.S. foreign aid. However the Act suffers from insufficient funding and leadership.
- Population health: Population growth, lack of public health education and the emergence of infectious diseases pose increasing challenges in ensuring sustainable health and livelihoods globally. Many of these diseases move between animals and humans. Factors include globalization, increased drug resistance, a burgeoning and often illegal global trade in wildlife, incursions into natural habitats by people and their livestock, and climate and weather changes contribute to the increased threat. More than 60 percent of the more than 1400 infectious diseases currently known to modern medicine are shared between humans and animals, including SARS, Ebola, monkeypox and avian influenza. The United States has for much of the past four decades been the global leader in efforts to slow population growth and improve health, but that record of leadership has recently been undermined.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Overall reform

Cross-cutting themes and global goods such as biodiversity and ecological services need to be recognized, and need to be addressed as foreign assistance is reformed. Staff numbers, capacity,

expertise and training all need to be improved; the global development commons initiated by the current Administration should be continued in its broad purpose. All foreign assistance programs across the federal government should be more coordinated and formally connected so as to ensure efficiencies and synergies.

Responsible Official: US AID Administrator

2. Biodiversity conservation

Establish greater interagency and intra-agency coordination of federal agencies delivering US foreign assistance directed to environmental programs. Ensure that US foreign assistance directed to environmental programs are matched and leveraged by other countries and contribution to multilateral institutions whose mission include biodiversity conservation.

Responsible Officials: Secretary of State, Administrator of US AID

3. Agriculture

Sustainability needs to be incorporated into foreign assistance agricultural policy, rather than seeking to increase productivity as the primary goal. This can be done through research and innovation, partnering, technology transfer, and training. Specific programs and projects that support agriculture that may lead to conversion of forested lands or to ethanol production for biofuels should be reviewed.

Responsible Official: Assistant Administrator for Economic Growth, Agriculture and Trade

4. Water assistance

(1) Ensure implementation of the Water for Poor Act by developing the US Government strategy for drinking water and sanitation which would include plans to focus on aid effectiveness and areas of "greatest need" defined by indicators that include the poverty level, and by recognizing that water access requires upstream and basin-level management; (2) Strengthen the focus of US foreign assistance to the drinking water sector on the poorest and most vulnerable populations; invest in building the capacity of relevant USAID missions to achieve this goal. (3) Develop a monitoring and evaluation framework to assess the impact of US foreign assistance and integrate monitoring and evaluation into the US government strategy development process. (4) integrated river-basin management; (5) disaster relief assistance to ensure access to clean water after disasters.

Responsible Officials: Administrator US AID; Deputy Director for Foreign Assistance

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Overall reform

Reauthorize the Foreign Assistance Act to reflect new development goals and programs, recognizing the themes mentioned above and ensuring a new integrated approach to development. Consolidate legislation enacted over 45 years; reorganize international affairs functions; and improve management capabilities of US AID.

Responsible Officials: Secretary of State; Administrator of US AID

2. **Biodiversity conservation**

Revitalize and strengthen sections 117, 118 and 119 of the FAA, which relate to natural resource conservation, forestry conservation and species conservation, respectively. Specifically, these sections should be strengthened to better integrate biodiversity and natural resource conservation into the mission and goals of foreign assistance, and to better recognize the essential link of biodiversity and natural resource management to economic growth and political stability.

Responsible Official: Administrator of US AID

3. **Agriculture**

Congress should seek to amend agricultural subsidies that negatively impact sustainable, subsistence farming.

Responsible Official: Assistant Administrator for Economic Growth, Agriculture and Trade

4. **Water assistance**

Introduce and pass legislation that would catalyze action in both the Department of State and USAID to improve access to and coordination of activities to address the lack of access to safe water and sanitation in developing countries, specifically establishing an Office of Water in USAID to focus on providing safe, affordable, and sustainable drinking water, sanitation and hygiene, and establishing a Bureau of International Water in the Department of State to oversee and coordinate the diplomatic policy of the US Government to support efforts that address not only safe water and sanitation, but also broader freshwater issues.

Responsible Officials: Assistant Administrator of Economic Growth, Agriculture and Trade; Assistant Administrator for Global Health

5. **Health and Population**

Enact the Wildlife Global Animal Information Network for Surveillance Act: To ensure the US government has a coordinated program across federal agencies to monitor emerging infectious diseases before they spread to people in pandemic proportions; establish a global surveillance program for emerging wildlife diseases and make information available on a publicly accessible map-based website.

Responsible Official: Assistant Administrator for Global Health

POLICY RECOMMENDATIONS - BUDGETARY

1. **Overall reform**

The International Affairs Budget is funded at the present FY08 base level of $34.3 billion; this funding should be both increased and reprioritized to development assistance. This funding must address a variety of essential elements of U.S. foreign policy that strengthen our nation's human resource capacity, meet key strategic challenges, including post-conflict demands, respond to multilateral commitments, and advance efforts to protect the environment, reduce poverty and promote economic growth globally. At a mere 1.31% of the entire federal budget, the International Affairs Budget is essential to protecting our national security, advancing economic prosperity and demonstrating our moral leadership.

Responsible Officials: Secretary of State, USAID Administrator

2. **Biodiversity conservation**

   $275 million for biodiversity conservation

   Responsible Official: Assistant Administrator for Economic Growth, Agriculture and Trade

3. **Agriculture**

   Recommend $750 million for fiscal 2010 agricultural development, as identified in the Lugar-Case Food Security bill.

   Responsible Official: Assistant Administrator for Economic Growth, Agriculture and Trade

4. **Water assistance**

   $500 million for Water for the Poor Act, to be spent as authorized, without additional restrictions imposed by appropriators.

   Responsible Official: Assistant Secretary for Oceans, Environmental and Scientific Affairs

5. **General Sustainable Development**

   $1 billion for population assistance. Since 1995, U.S. aid for family planning in the developing world has been cut by nearly 40 percent when adjusted for inflation. The number of women in these countries has grown by 300 million in the same time period. The lack of access to modern family planning is a key driver of the more than 60 million annual unintended pregnancies worldwide and the resulting yearly net increase in global population of 80 million people. Population growth in the developing world remains a contributor to deforestation, desertification, the degradation of oceans and waterways and climate change. Investment in family planning is critical to the protection of the global environment.

   Responsible Official: Secretary of State and USAID Administrator

ISSUE 2
LEAD GLOBALLY ON CLIMATE CHANGE ADAPTATION AND RESILIENCE

BACKGROUND

Though least responsible for climate change, developing countries are facing climate change impacts, including reduced water availability, natural resources and crop yields, severe weather-related disasters and exacerbated disease, and rising sea levels create new, destabilizing risks. As a result, climate change poses a serious and immediate threat to poverty reduction, sustainable economic development, stability and security around the world. As the United Nations Intergovernmental Panel on Climate Change (IPCC) recently stated, developing countries have the least capacity to cope with these consequences.

Security experts have warned that the impacts of climate change will heighten security threats by increasing impoverishment and leading to migration and refugee crises and conflicts over scarce natural resources such as water. Meanwhile, working with developing countries to adapt to and prepare for climate impacts should be an essential part of a broader strategy of renewed global engagement and will be essential to reaching a global climate agreement

Providing funding, capacity building and appropriate technologies for climate adaptation and preparedness can also be vital to economic development. For example, according to an analysis by the World Bank and the U.S. Geological Survey, an investment of $40 billion to reduce disaster risk is capable of saving $280 billion. Moreover, climate resilience strategies can generate new economic opportunities as communities develop innovative water technologies, build more resilient buildings, invest in infrastructure and public health, and restore natural barriers to storms and floods.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Executive Order on Climate Resilience Needs and Strategy**

   The President should issue an executive order establishing an interagency task force chaired by USAID that will report annually on the climate adaptation and preparedness needs of developing countries and develop a strategy to address those needs, including budget proposals. The task force should also examine the activities of federal agencies to ensure that they support and do not impede the enhancement of climate resilience in developing countries.

   Responsible Officials: President, Administrator of US AID

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Overall reform: Substantial support for developing country adaptation and resilience activities**

2. **Comprehensive climate legislation proposals should include substantial funding for international climate adaptation of at least 5% of emission allowance value**

3. **Energy legislation proposals should include substantial funding for clean energy technology deployment in developing countries in ways that enhance climate adaptation and resilience**

   Responsible Officials: Secretary of State, US AID Administrator

POLICY RECOMMENDATIONS - BUDGETARY

1. **Adequately Fund Agency FOIA Processes**

   The President should request that Congress appropriate increases in the budget of federal agencies to the extent necessary to ensure that they have the resources to fulfill FOIA requests. As a general trend, the number of FOIA requests the government receives increases each year. Because the FOIA backlog is so

significant, and because FOIA requests are likely to increase each year, agencies will eventually require more funds if they are to make progress in reducing the FOIA backlog and to promptly handle new FOIA requests.

ISSUE 3
ROBUST SCIENTIFIC INPUT INTO DECISION MAKING

BACKGROUND

The United States has enjoyed prosperity and health in large part because of its strong and sustained commitment to independent science. As the nation faces new challenges at home and growing competitiveness abroad, the need for a robust federal scientific enterprise remains critical. Unfortunately an epidemic of political interference in federal science threatens this legacy, promising serious and wide-ranging consequences. For nearly 90 documented examples across over 20 agencies and departments see www.ucsusa.org/atoz.

There are a set of actions taken by the Bush OMB that undermine sound science and should be withdrawn to restore scientific integrity to the regulatory process, as outlined below.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Withdraw OMB Policies that Undermine Sound Science**

   The new administration should rescind OMB's Risk Assessment Bulletin, which created a new definition of risk assessment that conflicts with long-established concepts and practices and creates unnecessary delays in the rulemaking process. The National Research Council reviewed the Bulletin strongly recommended that the Bulletin be completely withdrawn.

   OMB's Final Information Quality Bulletin for Peer Review should also be withdrawn because it improperly interjects politics into science and is expensive to implement with little added benefit. OMB holds very little scientific or peer review expertise and should not play any supervisory role in implementing scientific peer review.

   Responsible Officials: Director of OMB, OIRA Administrator

2. **Prevent Inappropriate Interagency Review**

   The administration should clarify which agencies have primary authority in various areas of scientific expertise, and limit any review of scientific information by other agencies to advice and comment. Each agency has authorizing legislation and a mission that describe its particular duty to the people of the United States. Cases such as the DOD review of toxicology profiles in the EPA's IRIS database reveal the perils of allowing other entities to direct an agency's scientific investigations, or to limit that agency's dissemination of scientific information to the public.

   Responsible Officials: Director of OMB, OIRA Administrator, other agency heads

3. **Exclude OMB from purely scientific determinations**

   Ensure that OMB review of agency guidance documents does not permit inappropriate political review of scientific documents**.** The OMB plays an important role in coordinating and overseeing the process of crafting regulations. However, the OMB does not have the expertise to credibly review the scientific findings underlying policy decisions across multiple federal agencies. The regulatory process should construct a firewall between scientific decision-making and OMB review.

   Responsible Officials: Director of OMB, OIRA Administrator

4. **Regulatory solutions and analysis should be consistent with statutory provisions**

   If a statute directs agencies to promulgate regulations according to standards of best available technology or with an adequate margin of public health protections, for example, the regulatory options should reflect that statutory mandate. This fundamental principle must be followed if the president decides he wishes OIRA to continue transactional reviews of individual significant regulations

   Responsible Officials: Director of OMB, OIRA Administrator, heads of agencies

THE FIRST 100 DAYS

Consistent with policies announced under issues 1 and 2 to restore confidence in the integrity and transparency of government, the President should announce measures taken immediately to restore the integrity of science in government decisionmaking, including immediate withdrawal of OMB guidances on Risk Assessment and Peer Review, and policy guidance to ensure OMB does not intrude upon agencies' assessment of scientific issues.

DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

TOP THREE ISSUES

1. CLEAN TRANSPORTATION TECHNOLOGIES AND FUELS

Cars, trucks and airplanes are major sources of climate and air pollution. Cleaner technologies and fuels for these vehicles have a critical role to play in reducing the environmental footprint of our transportation system. DOT should spur development and market dissemination of low and no carbon technologies and fuels.

2. SURFACE TRANSPORTATION POLICY REFORM

For decades, growth in miles driven has spurred steady growth in climate emissions from the transportation sector. Fundamental reform is needed to create a balanced system that provides a diverse and environmentally responsible mix of mobility choices with smarter system management, pricing, and incentives.

3. CLIMATE: CROSS-DEPARTMENTAL PRIORITY

The transportation sector is a top source of climate emissions and the dominant driver of America's oil dependence. DOT needs to establish climate emissions reduction as an urgent priority and integrate it throughout the Department. This includes setting goals, establishing accountability mechanisms and restructuring the Department to meet the climate challenge.

KEY APPOINTMENT POSITIONS

- Secretary
- Deputy Secretary
- Administrator, Federal Highway Administration (FHWA)
- Administrator, NHTSA (National Highway Traffic and Safety Administration)
- Administrator, FTA (Federal Transit Administration)
- Administrator, FAA (Federal Aviation Administration) Associate Deputy Secretary, Office Intermodalism
- Undersecretary of Transportation for Policy
- Associate Administrator for Planning, Environment and Realty, FHWA
- Administrator, FRA (Federal Railroad Administration)

ISSUE 1
CLEAN TRANSPORTATION TECHNOLOGIES AND FUELS

BACKGROUND

The transportation sector is 97% dependent on petroleum as a source of primary energy and emits one-third of the nation's greenhouse gases. This dependence on oil threatens our national security and high and volatile oil prices drain billions of dollars each year from our economy. The Department of Transportation has specific authority to regulate the fuel economy of road vehicles to conserve oil and can therefore play a vital role in reducing global warming pollution and improving energy security. DOT must effectively use its authority to transform vehicle and fuel systems for maximum efficiency and carton reductions.

Under the 1975 Energy Policy and Conservation Act (EPCA), DOT is obligated to set the maximum feasible fuel economy standards to reduce America's dependence on oil. For decades, the fuel economy of the car and light truck fleet stagnated, dropping below the fuel economy high reached in 1988. In December Congress passed the Energy Independence and Security Act of 2007, directing DOT to raise the new passenger car and light truck fleet fuel economy to at least 35 miles per gallon by 2020. And, for the first time, Congress directed DOT to set fuel economy standards for work trucks and medium- and heavy-duty trucks. The statute directs DOT to prioritize the "need to conserve energy" and to ensure that all standards are set at the maximum feasible level. The proposed car and light truck standards for MY 2011-2015 fail this test and must be reevaluated and the methodology for setting standards must be revised to reflect the potential for shifts in vehicle trends. The processes for work truck and medium- and heavy-duty truck standards are off to a slow start and should be expedited.

Efficiency should also be a priority for other transportation modes, especially in aviation where fuel consumption is expected to grow more than 55 percent from today's level by 2030. As demonstrated by Boeing's 787 Dreamliner, the technology exists to significantly reduce fuel use in aircraft and these improvements along with newer, advanced technologies need to proliferate through the flying fleet.

While DOT is charged by EPCA to cut oil use, the agency's efforts must be consistent with and advantageous to efforts to slash global warming pollution because the transportation sector is responsible for about one-third of annual US greenhouse gas emissions. High fuel prices have created a fertile economic environment for investments in far dirtier alternatives to petroleum which emit two or three times as much global warming pollution, such as coal-to-liquid fuel. DOT must not promote fuels for airplanes or other modes of transportation that have higher carbon emissions than conventional petroleum-based fuels.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Maximize light-duty vehicle fuel economy**

   Revise CAFE methodology to ensure that "maximum feasible" standards are set and fuel savings maximized. Existing technology can result in a cost-effective 35 mpg for MY2015 and 42 mpg for MY2020 standards assuming historical buying trends. Considering market shifts toward more cars and crossovers and alternative performance characteristics, new standards should be higher.

   Responsible Official: NHTSA Administrator

2. **Maximize heavy truck fuel economy**

   Accelerate medium- and heavy-duty truck fuel economy standards to apply to MY 2015. Set baseline fuel economy for work trucks in 2009 and new standards for 2013. Set long-range fuel economy targets and create a process to set new, higher standards at least every 5 years.

   Responsible Official: NHTSA Administrator

3. **Cut Anti-CA Standard Language from CAFE Rule**

   Remove language pertaining to the preemption of greenhouse gas standards for vehicles from the rule setting new fuel economy standards for MY 2011-2015. DOT should cooperate with EPA given its' complementary role in setting greenhouse gas standards for vehicles.

   Responsible Official: NHTSA Administrator

4. **Form a Low-Carbon Aviation Initiative**

   Develop a new initiative focused on fuel-efficiency and sustainable fuels for aviation, supplanting FAA participation in the Commercial Aviation Alternative Fuels Initiative. The focus should be on accelerating the adoption of fuel-efficient aircraft and air traffic control technology, shifting traffic to low-carbon modes like rail and developing low-carbon aviation fuel substitutes.

   Responsible Official: FAA Administrator

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Tie auto "bailout" funds to fuel economy**

   Additional loan guarantees or funding to the auto industry in stimulus legislation or otherwise must clearly be tied to exceeding fuel economy standards. Taxpayer investment must provide a return of greater savings at the pump, increased oil security, and less global warming pollution.

   Responsible Officials: DOT Secretary, working with Treasury Secretary

2. **Truth in Testing**

   According to EPA, fuel economy testing produces values that are at least 20% above actual on-road results. Window stickers for new vehicles now present anticipated on-road miles per gallon information as does EPA's annual trends report. Manufacturers continue to use inflated values for CAFE compliance purposes, however, which creates confusion and misleads the public. Fuel economy testing procedures should be revised to measure vehicle fuel economy and fuel economy compliance based on accurate values.

   Responsible Officials: NHTSA Administrator, working with EPA

3. **Make America's Ports and Freight Network less Dependent on Imported Oil**

   Create new freight legislation that provides incentives and regulations to spur clean and low-carbon ports and freight corridor development, supporting innovation zones at major port cities to develop clean ship, truck, and rail technology for freight handling. Expand rail-freight links and intermodal freight systems to

reduce truck traffic off congested freight highways. Open the door to expanded coastal shipping while requiring clean ship technologies.

Responsible Officials: Secretary, Department of Transportation; Administrator, Maritime Administrator; Administrator, FHWA; Administrator, FRA

POLICY RECOMMENDATIONS - BUDGETARY

1. **Increase NHTSA funding**

   NHTSA's current $110 million budget allocates only $2 million for the CAFE program. Given the importance of fuel economy standards to saving oil, funding should be $30 million for CAFE to develop staff with technical and engineering expertise. The budget should rise to $165 million to enhance the safety program.

   Responsible Officials: NHTSA Administrator

THE FIRST 100 DAYS

- Review with an eye towards revising targets for the years 2013-2015 for fuel economy for both passenger vehicles and heavy trucks.
- Work with EPA to ensure robust implementation of new conformity regulations for PM 2.5 (fine particulates) and general conformity standards. Implementation should include placement of air pollution monitors close to major highways.
- Identify opportunities to use the Clean Air Act's inherent authority to regulate greenhouse gases to encourage cleaner vehicles and fuels and influence the direction of transportation investments.

ISSUE 2
SURFACE TRANSPORTATION POLICY REFORM

BACKGROUND

Our transportation system needs to be fundamentally reoriented to meet the 21st century challenges of oil dependence, climate change, rising obesity rates, unequitable services, and traffic congestion. Historic transportation priorities have created a national surface transportation system that is overly dependent on cars and trucks to meet nearly every transportation need, for both passengers and freight.

This dependence is breaking the backs of American businesses and citizens who face rising and volatile fuel prices, straining state and local budgets and the already depleted Highway Trust Fund, and undercutting efforts to achieve

oil independence and avoid the worst impacts of climate change. Future transportation policies must be more affordable and cost effective, recognize that the era of cheap oil that governed much of the development of our transportation infrastructure over the last 50-100 years is over, and there is a rapidly growing bottom up demand for active and public transportation, and that our national and economic security depend on reducing our dependence on oil.

Relatively few Americans have access to safe and convenient opportunities to bike, walk or take public transportation even though these options are typically both greener and more affordable. Fewer than five percent of Americans live within one-half mile of rail transit, and less than half live within one-quarter mile of any public transportation at all. Of those who do live near rail transit, a third regularly use it, and nearly half regularly travel on foot or by bike. Given that half of the trips taken in America could be accomplished with a 20 minute bike ride and a quarter with a 20 minute walk, alternatives to automobile travel are a particularly practical investment.

Smart growth and transit-oriented development strategies have been shown to work in tandem with transit, biking and walking infrastructure to revitalize communities and provide Americans with greater mobility choices that can help reduce household expenditures on transportation and significantly reduce greenhouse gas emissions. Reorienting transportation pricing and subsidies to favor these options can yield further benefits and enhance equity of access to jobs and other opportunities. Performance standards and accountability mechanisms currently absent from our transportation policies will increase the effectiveness and affordability of these strategies further.

The following strategies and policies offer the opportunity to arrest the long-term nationwide rise in miles driven that underlies our oil dependence, climate change crisis, and obesity epidemic while making the overall transportation system more diverse and cost-efficient.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Establish Environmental and Health Performance Standards

DOT should develop new performance standards for regional and state plans and programs to support science-based global warming pollution reduction, public health improvement, air and water quality, and habitat objectives. Plans and programs that comply with these standards should be rewarded with preferential financing and expedited processing of infrastructure projects, consistent with current environmental law.

Responsible Official: Undersecretary of Transportation for Policy

2. Establish Mode Share Goals

The DOT should set goals and timetables for shifting a percentage of trips from high carbon transportation to low carbon transportation modes and use these to direct discretionary funds and shape federal policies and administrative actions. These goals should signal the federal interest in state and local action to enhance alternatives to driving-- especially for short trips and congested metropolitan regions-- to diversify transportation choices to meet the mobility needs of all Americans.

Responsible Official: Assistant Secretary for Transportation Policy

3. Revise State and Metropolitan Planning Guidance

Under existing statutory authority, issue a Notice of Proposed Rulemaking to ensure that all road projects (new or reconstructed) consider and accommodate the needs of all users, including pedestrians, cyclists, minorities, the elderly, and those with disabilities, as well as potential public transportation routes.

Responsible Officials: Assistant Secretary for Transportation Policy and DOT General Counsel

4. Establish Complete Streets Policy

Under existing statutory authority, issue a Notice of Proposed Rulemaking to ensure that all road projects (new or reconstructed) consider and accommodate the needs of all users, including pedestrians, cyclists, minorities, the elderly, and those with disabilities, as well as potential public transportation routes.

Responsible Officials: FHWA Administrator and DOT General Counsel

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Greenhouse Gas Principles for Transportation Reauthorization

The Secretary of DOT should quickly develop legislative proposals and principles to guide the reauthorization of the federal transportation program that (1) drive down oil consumption and global warming pollution, (2) establish performance objectives and standards for federal funding of infrastructure, and (3) commit to building a world-class system of low-carbon transportation options and smart incentive policies, giving high priority to a rapid scale-up in their use.

Responsible Official: Secretary of Transportation

2. Align Transportation and Climate Policy

Ensure surface transportation reauthorization legislation is consistent with national climate change policy goals, or in the absence of adopted goals, ensure that transportation legislation establishes such goals for transportation plans and programs. The transportation bill should incorporate mandatory, performance-based GHG reduction targets into the transportation planning process with strong accountability mechanisms and create priorities and incentives for significant overall GHG reductions in project selection criteria. Climate Change legislation should supplement funding for low-carbon transportation projects (e.g., transit, biking, and intelligent transportation systems projects that cut GHG emissions) with cap-and-trade revenue.

Responsible Official: Undersecretary of Policy or Climate Change Assistant Secretary (new position)

3. Invest in Low-Carbon Mobility Strategies

Advocate for fundamental reallocation of funding priorities in the transportation reauthorization to shift a much larger share of resources to public transportation, biking, walking, and intelligent transportation systems designed to curb GHG emissions. Public transportation investments should include intercity rail. Focused strategic investments in active transportation systems are needed to shift driving trips to bicycling and walking.

Responsible Officials: Undersecretary of Transportation for Policy w/ clear backing of Secretary and FHWA Administrator

4. **Fix-It First Asset Management**

Concentrate road and bridge spending on fixing America's crumbling infrastructure and ensuring that road systems meet the needs of all users. Retrofit highways to reduce water pollution. Set a high bar for any new road capacity that includes consideration of system management, operations, pricing, and modal alternatives in light of relative cost-effectiveness and potential impacts on climate and air emissions as well as public health.

Responsible Official: FHWA Administrator

5. **Align revenue mechanisms with GHG reduction**

Begin transition to national road user charges, such as a VMT fee, augmenting fuel taxes. Give states full flexibility to adopt local-option congestion pricing, authorize and fund state VMT fee pilot projects, and initiate a heavy truck weight-distance tax that funds freight system GHG efficiency improvements and pollution reduction strategies. Design legal frameworks that address concerns about privacy, equity and incentives to drive efficient autos.

Responsible Official: Assistant Secretary for Transportation Policy

POLICY RECOMMENDATIONS - BUDGETARY

1. **Data and reporting**

Substantially increase funding for travel data improvement, travel model improvement, and research to support GHG tracking and policy evaluation. Ensure robust, comparable data collection for all transportation modes. Publish publicly accessible information detailing expenditures of all transportation funds by federal funding recipients (project type, location, alternatives analysis, etc.).

Responsible Officials: Secretary (funding), FHWA Administrator and Assistant Secretary for Budget Policy (execution)

2. **Research**

Direct and fund the National Academies/Transportation Research Board to conduct a study and develop recommendations on improving the accuracy of travel data for the purposes of tracking GHG emissions and assessing policy effectiveness. Invest more research dollars on deployment of low carbon transportation modes.

Responsible Official: Assistant Secretary for Transportation Policy

3. **Fully fund intercity passenger rail authorization**

President Bush signed H.R. 2095, which addresses rail safety issues and reauthorizes Amtrak, in October of 2008. The bill authorizes nearly double the level of investment in passenger rail of the past few years. One of the most important aspects of this law (P.L. 110-432) is the authorization for matching federal funds with state investments in capital, including equipment. However, in past years, federal budget and

appropriation amounts have fallen well below authorization levels. Full funding for intercity passenger rail and the implementation of H.R. 2095 should be top budgetary priorities.

Responsible Officials: FRA Administrator; Amtrak CEO and President

THE FIRST 100 DAYS

The Administration should accomplish at least two things in its first 100 days:

1. New rulemaking under SAFETEA-LU

Issue Advance Notice of Proposed Rulemaking for specific planning criteria by which state and metropolitan transportation plans and programs will be evaluated for their compliance with statutory requirements, requiring that they achieve the objectives of the SAFETEA-LU planning provisions, particularly to minimize fuel use and emissions.

2. Economic Stimulus

If an economic stimulus package moves forward, focus spending on low carbon infrastructure such as public and active transportation and maintenance of bridges and roads (consistent with a Complete Streets policy). Building new road capacity in the name of job creation is a short-sighted strategy that could move us in the wrong direction on climate and other goals. Active and public transportation and intelligent transportation system projects could provide as many or more jobs per dollar spent, while enhancing America's communities and making transportation more affordable. Bus rapid transportation can be implemented very quickly to provide expanded travel options at low cost.

ISSUE 3
CLIMATE: CROSS-DEPARTMENTAL PRIORITY

BACKGROUND

Transportation is responsible for nearly a third of U.S. CO2 emissions and has been one of the fastest growing major sources of these emissions. A more efficient transportation system is needed that makes it a systematic priority to save energy and reduce climate emissions. DOT's priority has been to move vehicles, while 21st century challenges call for shifting the focus from moving vehicles to meeting the needs of people to access goods and services in ways that promote a higher quality of life.

Setting a transportation sector climate target and reorganizing the Department to deliver the fundamental changes needed are among the necessary steps. The passage of ISTEA in 1991 led to the creation of an Office of Intermodalism at DOT that promised a fundamental change in how we would envision and manage our surface

transportation system. No longer would we optimize the system for each transportation mode separately, but would instead optimize the system performance as a whole. However, the promise of integrated planning and holistic system design and management remains unfulfilled. Seventeen years later, with a crippling backlog of infrastructure needs, a funding and credit crisis upon us, and the clear recognition that our transportation system must play an important role in tackling the challenge of climate change, it is time to think boldly about renewing our commitment to holistic and balanced intermodal strategies.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Create an "Infrastructure Czar" (Cabinet Level or Executive Office)**

   The Secretary should coordinate with the National Infrastructure Efficiency "Czar" to ensure that the planning, funding and management of the nation's transportation infrastructure directly supports efficient resource use, economic growth and job creation, achievement of science-based GHG reduction targets and increased resiliency to climate change impacts. Emphasize demand management and planning practices that minimize the need for new infrastructure by maximizing the efficient use of existing infrastructure (e.g., smart growth, pricing, intelligent transportation systems management).

   Responsible Official: President

2. **Reorganize to Revive Intermodalism**

   Option (i) Reorganize and dramatically increase the size and resource base of the current Intermodalism program with infusions of significant staff and resources from current modal offices. Charge the new office with responsibility for ensuring intermodal options and opportunities have been fully considered in all significant policy or investment decisions. Option (ii) Create responsibility and accountability in the Policy Office to ensure intermodal options and opportunities have been fully considered before significant policy or investment decisions are approved.

   Responsible Official: Assistant Secretary for Intermodalism or Undersecretary for Policy

3. **Create an Assistant Secretary for Climate Change**

   Option (a) Create a new office with the appropriate level of funding, responsibility and accountability to address global warming across DOT.

   Option (b) Create responsibility and accountability in the Policy Office to ensure consistency with GHG reduction goals of any climate change legislation enacted into law, as well as internal GHG reduction goals established by DOT.

   Responsible Official: Secretary or Deputy Secretary for Policy

4. **Establishing greenhouse gas reduction requirements**

   Set strong, science-based near- and long-term global warming pollution reduction requirements and work with all modal administrators to implement them. Assess the GHG performance of national surface transportation legislation and funding, and calculate the aggregate GHG impacts of state and MPO long range transportation plans. Develop the tools, data and analytical capability to achieve accurate tracking and enforcement of transportation system GHG performance. Provide guidance, planning support and

technical assistance to help states and localities to set and meet GHG reduction targets via improved accessibility, increased travel choices and enhanced system efficiency.

Responsible Officials: Assistant Secretary for Climate Change (new), Assistant Secretary for Policy

5. **Create National Freight Planning Board**

Address freight system capacity, mobility, and efficiency with an independent, bipartisan commission appointed to recommend and prioritize intermodal freight investments. The board's mandate should include maximizing system efficiency (including energy consumption) and asset maintenance.

Responsible Official: Deputy Secretary for Policy

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Restructure DOT for Multi-Modal Balance**

Pursue in reauthorization legislation a mandate and any needed authority to reorganize DOT to break down modal silos and to ensure equitable consideration of all transportation modes. The most far-reaching option would be to create a single Surface Transportation Administration. In any case, DOT should consolidate and greatly expand its capacity to manage programs and initiatives relating to bicycling, walking, smart growth, intelligent transportation system management, and public health and community livability objectives.

Responsible Official: Undersecretary of Policy with support of Secretary

2. **Travel Data Study**

Direct and fund the National Academies/Transportation Research Board to conduct a study and develop recommendations on improving the accuracy of travel data for the purposes of tracking GHG emissions and assessing policy effectiveness.

Responsible Official: Assistant Secretary for Policy

3. **Insurance incentives to reduce greenhouse gases**

Require states to identify and remove regulatory and legal barriers to introduction of pay-by-the-mile car insurance that could cut GHGs; offer new federal tax credit to induce rapid adoption of such insurance policies nationwide.

Responsible Official: Assistant Secretary for Policy

4. **National freight legislation**

Propose legislation that focuses resources and policy on improving freight mobility while reducing greenhouse gas emissions and public health exposure to pollution through intermodal investments, intelligent transportation systems management, and changes to tax, tariff, and regulatory policies.

Responsible Official: Deputy Secretary for Policy

DEPARTMENT OF TRANSPORTATION

POLICY RECOMMENDATIONS - BUDGETARY

1. **Adequately fund climate initiatives**

   Existing programs, as well as new ones established pursuant to the administrative and policy recommendations, must be adequately funded.

   Responsible Official: Assistant Secretary for Climate Change

2. **Funding for tracking greenhouse gas reduction requirements**

   Set aside an adequate level (one percent) of surface transportation infrastructure funding to support state and local development of GHG reduction plans though transportation and land use planning, alternative scenario analyses, data collection and model improvement. Fund the tracking and enforcement of GHG plans via travel data and model improvement, tool development, and research to support GHG policy design and evaluation.

   Responsible Official: Assistant Secretary for Climate Change

3. **Realign the FY 2010 budget to support Intermodalism reorganizations**

   DOT's budget must be fundamentally revised to be consistent with and supportive of the reorganization options laid out above.

   Responsible Official: Secretary

4. **Create a Transportation Innovations Fund**

   Spur innovation in transportation in ways that extend current best practices with a large new discretionary program providing funding to states and local governments that develop integrated initiatives to better manage roads and transit services for high performance, reduce regulatory and market entry barriers to new para-transit services, and support land use-transportation system coordination to reduce GHGs. Grants should be awarded on a competitive basis, with follow up to measure performance after implementation.

   Responsible Official: Assistant Secretary for Policy

THE FIRST 100 DAYS

Create a White House level National Infrastructure Efficiency "Czar" charged with ensuring that the planning, funding and management of the nation's critical infrastructure (transportation, energy, water, communication) directly supports efficient resource use, economic growth and job creation, achievement of science-based GHG reduction targets and increased resiliency to climate change impacts. A strong emphasis must be placed on end-use efficiency, planning and management practices that minimize the need for new infrastructure by maximizing the efficient use of existing infrastructure.

Within DOT, reorganize the Secretary's office and modal administrations to fulfill the promise of ISTEA, either by bolstering the Intermodalism program or making the Policy Office responsible and accountable for intermodalism. This process should begin administratively, and the Department's proposal for program reauthorization should seal the deal, breaking down modal silos and ensuring equitable consideration of all modes. A new Assistant Secretary position should be created to address the climate challenge in a robust, multimodal fashion, or the Policy Office should be made responsible and accountable for taking action.

Specific goals should be established for transportation sector GHG reductions and plan, program and project development criteria should be aligned accordingly. Budgetary policy must also be aligned to support the intermodalism and climate challenges, with adjustments made as soon as possible to fund them.

DEPARTMENT OF THE TREASURY

DEPARTMENT OF THE TREASURY

TOP THREE ISSUES

1. PROMOTE CLEAN ENERGY RESOURCES AND REDUCE GLOBAL WARMING POLLUTION

The Department of Treasury plays a pivotal role in U.S. energy policy primarily through its implementation of tax incentives that promote a wide array of technologies. The energy efficiency and renewable energy technology incentives are particularly powerful tools to deploy these clean energy resources, which reduce global warming pollution, enhance energy security and create jobs.

2. GREEN THE MULTILATERAL DEVELOPMENT BANKS

Considerable work has been done to develop recommendations on how to make the worlds' multilateral development banks (MDBs) support truly sustainable development. Those recommendations now need to be implemented. In light of climate change, there should be a special emphasis on shifting MDB portfolios away from fossil fuels and towards support of renewable energy/low carbon development. Increased monitoring and evaluation is also important.

3. UNDERTAKE A NEW ENGAGEMENT WITH CHINA

The President should seek a new "opening" with China. A first step could involve initiating a new Sustainable Trade Dialogue to promote bilateral and public-private sector cooperation on energy conservation and green supply chain issues such as responsible sourcing of raw materials and low-carbon and water-efficient forms of production.

KEY APPOINTMENT POSITIONS

- Secretary of Treasury
- Undersecretary for International Affairs
- Assistant Secretary for Tax Policy
- Commissioner, Internal Revenue Service
- Assistant Secretary for International Financial Markets and Investment Policy
- Assistant Secretary for International Economics and Development David
- Executive Directors and alternatives for the World Bank, the International Monetary Fund, the European Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, and the African Development Bank. Ideally these should be recruited as one cohort if at all possible and encouraged to work as an interlinked team

ISSUE 1
PROMOTE CLEAN ENERGY RESOURCES AND REDUCE GLOBAL WARMING POLLUTION

BACKGROUND

The Department of Treasury plays a pivotal role in U.S. energy policy primarily through its implementation of tax incentives that promote a wide array of technologies. The energy efficiency and renewable energy technology incentives are particularly powerful tools to deploy these clean energy resources, which reduce global warming pollution, enhance energy security and create jobs.

Congress enacted last September extensions of clean energy tax incentives in the Emergency Economic Stabilization Act of 2008 that are critical for the continued development of clean energy industries in the U.S. About 116,000 jobs and over $19 billion in investment would have been placed at risk in the wind and solar industries alone if the incentives had not been extended.

Much more remains to be done. Treasury should endeavor to enhance the effectiveness of the clean energy tax incentives and broaden the scope of technologies they cover. Treasury should also focus on ensuring that the liquid fuel provisions of the tax code lead to global warming pollution reductions

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Fix the commercial buildings tax deduction**

   The Internal Revenue Service (IRS) should issue new guidance to effectively implement the Commercial Buildings Tax Deduction, which was recently extended through 2013. The current IRS guidance for the deduction is vague, difficult to follow and does not explain how to document achievement of compliance clearly in the manner originally intended by Congress. Additionally, the method in the current guidance for establishing partial compliance with the deduction is impossible to meet in some types of buildings that Congress intended to cover.

   Responsible Official: Administrator Assistant Secretary for Tax Policy

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Enhance the commercial buildings tax deduction**

   Treasury should request that Congress should boost the incentive levels of the Commercial Building Tax Deduction. The amount of the full deduction should be increased from $1.80 to $2.25 and the partial deduction from $0.60 to $0.75.

   Responsible Official: Assistant Secretary for Tax Policy

2. Enact long-term extensions of the home efficiency tax incentives

Treasury should request that Congress extend through 2012 the efficient new homes tax credit and the heating and cooling equipment portion of the home efficiency upgrade tax credit. Congress also should adopt a tax credit for performance-based home efficiency retrofits and enhance the efficient new homes tax credit by adding a increased incentive amount for a higher efficiency level.

Treasury should request that Congress should boost the incentive levels of the Commercial Building Tax Deduction. The amount of the full deduction should be increased from $1.80 to $2.25 and the partial deduction from $0.60 to $0.75.

Responsible Official: Assistant Secretary for Tax Policy

3. Tax Credits

Treasury should request that Congress expand R&D tax credits for business. The R&D tax credit covers up to 20% of qualified R&D spending, and is vital to innovation in all technology sectors. Private sector spending on R&D matches increases in the tax credit 1 to 1. Congress should fix the tax credit for five years to stabilize research spending (the tax credit has expired 13 times in the past 25 years), and increase the credit from 20% to 40% of R&D spending. To target younger, more innovative firms with little taxable income, Congress should consider expanding the wage tax exemption for researchers, and allow unlimited carry forward of losses incurred for future tax relief.

Treasury should request that Congress make the renewable production tax credit (PTC) and the solar investment tax credits refundable. The financial crisis has significantly reduced tax liabilities that can be offset through these tax incentives. This barrier can be overcome by making the incentives refundable, which has already been done for fuels tax incentives. Treasury should request that Congress extent the PTC for wind, geothermal, solar and renewable electricity sources for multiple years. The lapse risk from the recent short-term extension ensures that the renewable industries will continue to see volatile investment and limited long-term commitments. In addition, the PTC is currently accessible primarily to large firms with substantial tax liabilities. The PTC also cannot be used by certain entities such as rural electric cooperatives, Indian tribes and local governments because they do not have any tax liability. Congress should expand PTC participation to public entities and smaller firms through modifications such as making the tax credits tradable.

In addition, public entities are eligible for a renewable electricity production incentive through the Clean Renewable Energy Bonds (CREBs) program, but this program does not adequately promote such production by these entities. Congress increasing funding for and accessibility to CREBs could enhance the incentive for these entities.

4. Eliminating the use of high carbon liquid fuels

Continued federal support for tar sands, oil shale and liquid coal will develop fuels with unacceptably high environmental impacts, including increased global warming pollution, groundwater contamination and ecosystem disruption. Treasury should request that Congress repeal subsidies for dirty fuels, which are:

- The provision recently added to Internal Revenue Code (IRC) Section 48B coal gasification tax credit that expands the incentive to include gasification projects that produce liquid transportation fuels.

- The IRC Section 6426 tax credit for liquid coal production.
- The provision recently added to the IRC Section 179C refinery property expense deduction that expands the incentive to include refinery property that directly processes liquid transportation fuel from shale and tar sands.

Responsible Official: Assistant Secretary for Tax Policy

5. **Reform the ethanol tax credit**

Treasury should request that Congress replace the current Volumetric Ethanol Excise Tax Credit and the biodiesel blending tax credit with technology-neutral, performance-based incentives that reward the production of biofuels that avoid food price spikes, increase water efficiency, reduce water pollution, improve soil management, avoid deforestation and conversion of natural ecosystems, enhance wildlife management, and provide substantial lifecycle climate benefits.

Responsible Official: Assistant Secretary for Tax Policy

ISSUE 2
GREEN THE MULTILATERAL DEVELOPMENT BANKS

BACKGROUND

Multilateral Development Banks (MDBs), including the World Bank and regional public development banks (Inter-American Development Bank, Asian Development Bank, African Development Bank and European Bank for Reconstruction & Development and the European Investment Bank) play a critical role in determining the course of global development based upon the tens of billions of dollars of projects that they finance, and the ability of this financing to leverage additional financing at least one order of magnitude greater than the direct financing. As climate change and other environmental pressures change the very notion of what constitutes "development" (i.e. the world cannot afford to continue subsidizing fossil fuel-intensive investments), the MDBs must change their practices to ensure that their practices and policies genuinely support sustainable development.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Implement Extractive Industries Review recommendations**

The U.S. Executive Director of each MDB should be instructed to work to fully implement the World Bank's 2004 Extractive Industries Review recommendations, including:

- Eliminate financing for coal and oil projects,
- Strengthen governance systems before investing in extractive industries;
- Refuse to support extractive industry investments in situations characterized by conflict, oppression or systemic corruption;
- Adopt a rights based approach to development;
- Promote transparent revenue management (EITI) and just revenue sharing;

- Obtain the free prior and informed consent of indigenous peoples and local communities before financing an extractive investment;
- Increase support for renewable energy by twenty percent per annum;
- Adopt all four core labor standards and support workers laid-off by mine closings; and
- Strengthen or adopt a wide range of social, environmental and information disclosure policies

Responsible Officials: Undersecretary for International Affairs, relevant bank Executive Directors.

2. Implement carbon & natural resource accounting

- Integrate environment into the core development model through carbon & natural resource accounting at both the project and country/macro-economic levels.
- Require greenhouse gas accounting and "shadow pricing" for carbon in the environmental impact assessments of all projects to facilitate the selection of climate-resilient options in the alternatives analysis based on full cost accounting and enhanced finance options for renewable/low carbon sources.
- Adopt the Genuine Progress Indicator (or similar metric) in addition to GDP and debit natural resource depletion in the system of national accounts to ensure that efforts to reduce poverty reflect more of the economy than merely commercial goods and services (basis of GDP).
- Strengthen and ensure the application of the Strategic Framework for Climate Change & Development across the World Bank Group, and mainstream such approaches across the Regional Development Banks

Responsible Officials: Undersecretary for International Affairs, Assistant Secretary for International Financial Markets and Investment Policy, Executive Directors

3. Integrate biodiversity values into the operations of the MDBs

A study on the Economics of Ecosystems and Biodiversity was commissioned as the result of the outcome of the G8+5 meeting in Potsdam in 2007. Phase I, providing a general framework for the evaluation of biodiversity loss and conservation, is available at http://ec.europa/eu/environment/nature/biodiversity/economics. Phase two, which is underway now, will address the effective use of economic instruments in biodiversity conservation and will ultimately evaluate options and will make recommendations on future priorities and investment strategies. Treasury and MDB Executive Directors officials should consider the implications of this work in shaping policy for the MDBs.

Responsible Officials: Undersecretary for International Affairs, Assistant Secretary for International Financial Markets and Investment Policy, Executive Directors

4. Implement randomized project audits

Implement a system of monitoring and evaluation based on randomized audits of 1-3% of all World Bank projects to assess basic project implementation and poverty alleviation effectiveness.

Responsible Officials: MDB Executive Directors

5. **Improve Transparency and Public Accountability Measures**

Announce that the US Executive Director will vote against any project that does not document in the EIA the efforts to obtain the free prior informed consent of affected communities and the communities' response thereto.

Require Treasury to use its voice and vote to strengthen the accountability and independence of accountability mechanisms such as the World Bank Inspection Panel and OPIC Office of Accountability (legislation in pipeline).

Support Asian Development Bank Safeguard Review (in pipeline; ADB slated for reauthorization in 2009) to maintain and improve the new ADB climate change language obtained in 2007 and improve (or at a minimum retain) other existing ADB safeguard standards and ensure proper environmental assessment policies.

Responsible Officials: Bank Executive Directors

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Reduce MDB portfolios' climate footprint**

Require the World Bank, regional development banks, OPIC, and Export-Import Bank to:

- account for and reduce direct and indirect carbon emissions at the project level, including black carbon; recommend that Congress modify the Pelosi amendment and make this a part of the EIA process,
- cap aggregate annual emissions (legislation already in pipeline),
- stop supporting financing and technical support for coal projects. Ensure official US financial contributions to climate change mitigation and adaptation constructively support the UN process (including a nuanced approach to GEF replenishment that supports improved institutional governance). Some legislation already in pipeline.

Responsible Official: Undersecretary for International Affairs

2. **Increase transparency of extractive industry projects**

Urge Congress to pass the Extractive Industry Transparency Disclosure Act (already in pipeline) to require US publicly traded companies to disclose payments to host country governments for payments for resource rights to oil, coal, gas, and mining. Require the administration to support extractive industry transparency initiatives for publicly financial institutions (i.e. World Bank's EITI ++, support and implement OPIC's extractive industry transparency legislation in current OPIC reauthorization bill, etc).

Support additional contract transparency: direct Treasury, OPIC, and Ex-Im to issue FOIA regulations such that publicly funded investments are treated as government contracts and disclosed accordingly, particularly in disclosing which environmental and social laws apply (new legislation would help but might be accomplished independently if FOIA officers across agencies had clear understanding of what must be disclosed).

Responsible Official: Undersecretary for International Affairs

3. **Clarify environmental impact assessment process**

   Urge Congress to amend the Foreign Assistance Act of 1961 to specify how NEPA applies to major federal actions abroad and clearly give standing to US citizens to bring an action; direct CEQ to appropriately amend NEPA regulations to specify how the NEPA process applies to activities abroad.

   Responsible Official: Undersecretary for International Affairs

4. **Improve MDB environmental and disclosure standards for Financial Intermediaries and Private Equity Funds**

   Urge Congress to improve climate impact and other environmental and social impacts of 1,000 – 2,000 companies via improved IFI policy and implementation by requiring agency/GAO report(s) on the IFI portfolios (OPIC, Ex-Im and Treasury for MDBs) of previously unmonitored private equity funds and funded companies. Ensure agency-specific safeguards apply to these funds. Some legislation already in pipeline, and a more comprehensive approach is needed.

   Responsible Official: Undersecretary for International Affairs

5. **Improve project-level accountability**

   Urge Congress to create a right of review in US federal court to individuals adversely impacted by US taxpayer-financed projects whose claims have been unsuccessfully resolved by a public financial institution for allegations of violations of environmental or social standards (OPIC Office of Accountability, etc.).

   Responsible Official: Undersecretary for International Affairs

POLICY RECOMMENDATIONS - BUDGETARY

1. **Support clean technology and adaptation funding at the UN (see below)**

THE FIRST 100 DAYS

- Immediate financing is needed now – and annually – for adaptation assistance and technology transfer and financing. This is a critical component of a post-2012 agreement and will demonstrate good faith effort in climate negotiations leading up to a global deal. This might comprise an economic stimulus of $1 billion each for US exports of adaptation and mitigation technologies to least developed countries.
- Focus on the Strategic Framework for Climate Change and Development in the World Bank Group which will very likely advance within the first 100 days

ISSUE 3
UNDERTAKE A NEW ENGAGEMENT WITH CHINA

BACKGROUND

How China develops over the next decade will significantly shape the future of both the global economy and the environment. Unmanaged, the growth in Chinese demand for timber, metals, oil and other global resources will place significant strains on the planet. But the opportunity also exists for China to develop while using its influence and its trade and investment policies to help reduce the global ecological footprint. The President should seek a new "opening" with China to pursue this objective. Responsible officials include: The President, the Secretary of Treasury, and the Undersecretary for International Affairs.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Sustainable Trade Dialogue**

   Initiate a new Sustainable Trade Dialogue to promote bilateral and public-private sector cooperation on energy conservation and green supply chain issues such as responsible sourcing of raw materials and low-carbon and water-efficient forms of production

   Responsible Officials: The President, Treasury Secretary, Undersecretary for International Affairs, Assistant Secretary for International Financial Markets and Investment Policy, Assistant Secretary for International Economics and Development, Deputy Assistant Secretary for Environment and Energy, Secretary of State

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROTECTION AGENCY

TOP FIVE ISSUES

1. PROTECT, RESTORE AND ENHANCE NATURAL RESOURCES THAT PROVIDE AMERICANS' WATER SUPPLY AND PROTECT AND CLEAN THE NATION'S WATERS

Given their importance to clean water supplies, flood control and other public benefits, the Administration should take immediate action to stop the loss of headwater streams, wetlands and other waters due to uncertainty over their legal status. It is also necessary to enhance to use of green infrastructure to reduce runoff pollution and sewer overflows in many urban areas, and to work to restore natural aquatic ecosystems, like coastal and other wetland systems, that protect people, wildlife and our economic interests.

2. PROTECT AMERICANS AND OUR ENVIRONMENT AGAINST THREE OF THE MOST DANGEROUS FORMS OF AIR POLLUTION: FINE PARTICLES, SMOG, AND TOXICS SUCH AS MERCURY

There is an overriding need for the incoming Administration to make the cleanup of power plants its top air quality priority. Other high priorities include reversing the previous Administration's rejection of scientific consensus to define safe levels of smog and soot pollution in the air; its failure to monitor lead polluters; its creation of loopholes in rules supposed to protect against smog and soot pollution; and its failure to control air toxics.

3. PROMOTE ENVIRONMENTAL HEALTH AND SAFETY

With leadership from the White House, true progress can be made to ensure that chemicals used in commerce are proven safe, our nation's chemical facilities are secured, and areas of the country that have already been polluted are cleaned up. At the same time that efforts are being made to adopt legislative reforms, the next Administration can in many instances use its existing authorities to address and resolve long standing health and safety problems.

4. REDUCE EMISSIONS QUICKLY AND DEEPLY ENOUGH TO AVOID THE WORST EFFECTS OF GLOBAL WARMING

As a first key step, EPA should carry out the Supreme Court's edict to determine whether greenhouse gas emissions endanger public health or welfare and, if so, it should then take prompt action to address such emissions. The new Administration should take immediate executive action to begin to curb global warming while working with Congress on comprehensive legislation that builds on the current Clean Air Act.

5. ENVIRONMENTAL JUSTICE AND ENFORCEMENT: PROTECTING COMMUNITIES FAIRLY AND FULLY

The White House must reaffirm environmental justice policies that have been weakened or abandoned, including EPA's failure to implement its environmental justice obligations and it decision to improperly focus EPA's commitments away from low-income communities and communities of color. In contrast to the past Administration, the new Administration should create visionary new safeguards to protect vulnerable and overburdened communities from toxic pollution and proactively assist in the development of healthy and sustainable communities.

KEY APPOINTMENT POSITIONS

- EPA Administrator (and Deputy Administrator)
- Assistant Administrator, Office of Solid Waste and Emergency Response
- Assistant Administrator, Office of Water
- Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances
- Assistant Administrator, Office of Air and Radiation
- Assistant Administrator, Office of Environmental Information
- Assistant Administrator, Office of Enforcement and Compliance Assurance
- Assistant Administrator, Office of Research and Development
- Director, American Indian Environmental Office (AIEO)
- General Counsel
- Inspector General
- Assistant Administrator for International Affairs

ISSUE 1

PROTECT, RESTORE AND ENHANCE NATURAL RESOURCES THAT PROVIDE AMERICANS' WATER SUPPLY AND PROTECT AND CLEAN THE NATION'S WATERS

BACKGROUND

As we enter the 21st century, it is increasingly apparent that natural systems provide economic and environmental benefits that must be protected and restored in order to ensure the United States has a healthy and prosperous future.

Nowhere is this truer than with our Nation's water resources. Increasingly, urban areas are realizing that the best way to supply clean water to their residents is to protect headwater areas. Nationwide, more than 110 million Americans depend on small, headwater streams for all or part of their drinking water supply. New York City has estimated that it would cost up to $6 billion to construct a treatment plant and $300 million annually to operate such a plant to replace the pollution prevention capacity of the City's current strategy of source water protection. Nationwide, stormwater is a leading cause of water quality impairments to our water bodies, as increased volumes and velocities of water can cause erosion and carry pollutants to waters. In areas served by combined sewer systems, stormwater can cause overflows of sewage to water bodies.

Communities across the country are also realizing that floodplains and wetlands serve to store flood waters and can prevent and mitigate the damage from flooding. The Midwest has suffered two 500 year flood events since 1993. A study conducted demonstrated that for the devastating 1993 floods in the Midwest, wetlands that had been lost over time could have retained and stored those flood waters. Indeed, a 1% loss of wetlands within a watershed can increase total flooding by almost 7%. Floods cause an estimated $3.7 billion worth of damage annually. Wetlands and other water resources also protect our coasts. Katrina and other storms have demonstrated the importance of coastal wetlands as nature's (and people's) best defense against storm surges and intensified hurricanes. And

global climate change is making clear that we will need intact natural systems to help guard against the droughts, floods, more intense hurricanes, temperature increases and other disruptions global climate change will bring.

Therefore, it should be a national priority to protect and restore our water resources now. The administration must first guard against the further loss of headwater streams, wetlands and other waters that comprise and are an integral part of our aquatic systems. It is also necessary to enhance the use of green infrastructure – such as infiltrating stormwater through vegetation and soil to reduce both the pollution carried by runoff and sewer overflows in many urban areas. Additionally, the administration must work to restore natural aquatic ecosystems, like our coastal and other wetland systems, that protect people, wildlife and our economic interests. Collectively, these natural resources help purify water, reduce flooding, provide aquatic habitat, and recharge water supplies – all functions hard to otherwise achieve and vital to the Nation's environmental and economic well-being in the 21st Century.

Other involved agencies include: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Department of Interior, Council of Environmental Quality, Office of Management and Budget, and the Natural Resources Conservation Service, Department of Agriculture.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Reverse the Waste Dumps in Water "Fill" Rule**

   The new Administration should reverse the Bush Administration's re-interpretation of the Clean Water Act that eliminated the regulatory prohibition on discharging solid wastes into water bodies by redefining them as "fill" material. This has been used by mining companies to destroy headwaters and other water bodies by converting them to waste dumps. A replacement rule must require sensible safeguards to again prevent such destructive activities.

   Responsible officials: Administrator; AA for Water; General Counsel

2. **Re-tool Bush Administration Policy Directives on the Scope of the Clean Water Act.**

   Following two damaging Supreme Court decisions that have undermined and confused the issue of which rivers, streams, lakes and wetlands are "waters of the United States", and thus are protected under the Clean Water Act, there is an urgent need to protect headwater areas and "isolated wetlands".The Bush Administration in 2003 and 2007 did the opposite, adopting "implementing guidance" that threatens protection for many of the nation's water resources. The new Administration should protect headwater areas and "isolated" wetlands to maximum extent possible under current case law and regulations. This recommendation recognizes that even effectively targeted administrative action will ultimately fall short of what is needed to comprehensively protect the Nation's waters and should not be viewed as a substitute for Congressional passage of the Clean Water Restoration Act. Nevertheless, EPA should immediately improve upon the current Guidance, which is an illegal, improper interpretation of the law that is not protective of waters, and creates an unnecessary administrative burden.

   Responsible officials: Administrator; AA for Water; General Counsel

3. **Make Green Infrastructure the Predominant Development Paradigm**

   The new Administration should require permitted municipal separate storm sewer systems to implement green infrastructure to restore natural hydrology and meet local water quality standards. It should also require controls for construction & development industries that address both construction-phase and post-

construction-phase stormwater discharges. Finally, it should include green infrastructure in long-term control plans for combined sewer systems and in remedies in related enforcement actions.

Responsible officials: Administrator; AA for Water; General Counsel; AA for Enforcement

4. **Revise the Mitigation Rule**

A rule overhauling how EPA and the Army Corps will conduct mitigation for permitted losses of streams and wetlands created even more problems for a program that already can prove little success. The new Administration should insure that a revised mitigation rule requires assiduous efforts at avoidance of impacts to water resources, uses compensation only as a last resort, ensures that compensation occurs in accordance with sound science that seeks to preserve and enhance natural aquatic functions, and bases any stream mitigation on supportable science.

Responsible officials: Administrator; AA for Water; General Counsel

5. **Announce Science-Backed Wetlands Goal**

The new Administration needs to restore scientific integrity to the process of tracking wetland status and trends and should not be content to merely reaffirm the goal of no net loss of wetlands but rather should announce a new proactive goal of net wetland gains of 5 million acres. Progress towards achieving this new target should be measured through an honest, science based accounting of total wetland acres and the functions performed by different kinds of wetlands.

Responsible Officials: EPA Administrator; AA for Water; General Counsel; AA Research and Development

6. **Account for Climate Change in Water Decisions**

The new Administration should issue an Executive Order requiring EPA (and other agencies) to expand and intensify efforts to develop and incorporate evolving climate science into the policy, technical and permitting processes affecting water resources.

Responsible Officials: EPA Administrator; AA for Water; General Counsel; AA for Research and Development

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Support the Clean Water Restoration Act**

The new Administration should announce support for, and actively seek early action on, the Clean Water Restoration Act.

Responsible Officials: EPA Administrator; AA for Water

2. **Fund Green Infrastructure**

The new Administration should develop and promote legislation that provides grant and loan funding and other incentives to assist communities in transitioning to integrated and sustainable, water, wastewater, and stormwater infrastructures that provide safe, sufficient water supplies for human and ecosystem needs in light of population growth, urbanization, and climate change.

Responsible Officials: EPA Administrator; AA for Water

3. **Reauthorize the Clean Water State Revolving Fund**

In keeping with the need to fund green infrastructure, the new Administration should promote community investment and job growth by reauthorizing the Clean Water State Revolving Fund at a much higher authorized level and ensuring that a significant percentage of the funding is invested in green solutions.

Responsible Officials: EPA Administrator; AA for Water

4. **Provide for Water Resource Adaptation in Climate Legislation**

In federal climate legislation, the new Administration should promote integrated, cost-effective, approaches for water resource management (including drinking water supply and treatment, stormwater management, and flood control) that maximize net environmental benefits while helping communities and ecosystems prepare for and adapt to the impacts climate change will have on water resources.

Responsible Officials: EPA Administrator; AA for Water; AA for Research and Development

5. **Support the Clean Water Restoration Act**

The new Administration should announce support for the Clean Water Protection Act, which would prevent mining companies and others from filling waters with waste from activities like mountain top removal.

Responsible Officials: EPA Administrator; AA for Water

POLICY RECOMMENDATIONS - BUDGETARY

1. **Great Waters Funding Initiative**

The new Administration should support the creation of a dedicated funding source for the restoration and enhancement of the watersheds of America's Great Waters such as the Great Lakes, Chesapeake Bay, the Mississippi River and similar important waters. This initiative should also include adequate funding for monitoring restoration effectiveness.

Responsible Officials: EPA Administrator; AA for Water

2. **Fund Protection of Drinking Water Sources**

The new Administration should promote and support grant funding and more favorable loans for local protection of headwater and source drinking water areas. This would enable communities to better protect these resources while saving money in the future by not having to build expensive treatment plants.

Responsible Officials: EPA Administrator; AA for Water

3. **Adequately Fund the State Revolving Fund**

The new Administration should propose a budget that includes $3 billion in funding for the State Revolving Fund, an amount which is the same level authorized by the House earlier this year and $200 million less than the level approved by the Senate Environment and Public Works Committee. The Administration should also request $3.5 billion in grants for combined sewer overflow remediation, including the use of green infrastructure. Finally, the Administration should seek an increase in the tribal set-aside percentage from the SRF from 1.5 to 3 percent.

Responsible Officials: EPA Administrator; AA for Water

4. **Fund Preparation For Climate-Related Water Impacts**

The new Administration should provide funding to help prepare for and adapt to, the impacts climate change will have on water resources for communities and ecosystems.

Responsible Officials: EPA Administrator; AA for Water

5. **Fund Monitoring and Adaptive Management**

The new Administration should seek adequate funding for effectiveness monitoring and adaptive management in watershed and wetland restoration grants and other funding initiatives

Responsible Officials: EPA Administrator; AA for Water

THE FIRST 100 DAYS

- The new Administration should immediately announce support for the Clean Water Restoration Act and urge its swift adoption by the 111th Congress. This could occur at the press event announcing the EPA Administrator nominee or at an early hearing on water issues, should one be scheduled, in the House or Senate.

- Make an announcement or hold water-related event during Clean Water Week. (Beginning Feb. 24th)

- Announce the planned reversal of fill rule in conjunction with Kensington mine oral argument (the Supreme Court case where the fill rule is part of the argument used to allow gold mines to avoid stringent permitting requirements).

- For any of the above budgetary recommendations, the announcement could be made in connection with an early public statement about the new Administration's overall budget priorities. In addition, if an economic stimulus bill does not pass before the new Administration takes office and the new Administration pursues a stimulus, the announcement of the proposed package could provide an opportunity to include and focus on water infrastructure funding proposals.

ISSUE 2

PROTECT AMERICANS AND OUR ENVIRONMENT AGAINST THREE OF THE MOST DANGEROUS FORMS OF AIR POLLUTION: FINE PARTICLES, SMOG, AND TOXICS SUCH AS MERCURY

BACKGROUND

At least 150 million Americans live with dirty air in their communities. Worse, due to the Bush administration's refusal to follow overwhelming scientific consensus, EPA defines unhealthy air to be clean. So many more than 150 million Americans actually breathe unhealthy air.

Americans living in urban areas face lifetime cancer risks greater than 25 in a million due to air toxics from vehicles and industrial polluters. Risk in transportation corridors and some other locations are greater than 50 in a million.

Over 40 states have mercury fish consumption advisories urging certain groups, including children and pregnant women, to avoid or limit eating certain kinds of fish. In 21 of these states the mercury warnings apply statewide. This fish and water body contamination is due in large part to airborne mercury pollution from power plants.

Power plants continue to pollute more than any other activity in this country, causing more deadly SO_2 emissions, more smog-forming NO_x emissions, more toxic mercury emissions and more global warming CO_2 emissions than any other industrial activity. It is estimated that between 25,000-30,000 Americans have their lives cut short each year due to power plant pollution, and the health toll from asthma, bronchitis, heart and lung disease and other ailments is severe.

Yet after eight years under the Bush Administration, power plants have escaped desperately needed controls for their SO_2, NO_x, CO_2, mercury and other toxic air pollution, due to a combination of inaction, deregulation and regulations struck down in courts.

There is thus an overriding need for the incoming Administration to make the cleanup of power plants its top air quality priority. This priority should be tackled in two ways: first, by halting and reversing the harmful 11th hour Bush administration actions that actually weaken cleanup obligations for power plants. Second, EPA should immediately develop rules to control SO_2, NO_x, CO_2, mercury and other toxic air pollution from power plants given the refusal of the Bush Administration failed to do so.

Other immediate priorities encompass additional midnight deregulation activities and actions designed to weaken environmental standards that sweep beyond power plants. These include the Administration's rejection of scientific consensus to define safe levels of smog and soot pollution in the air; its failure to monitor lead polluters; and large loopholes in rules supposed to protect against smog and soot pollution.

The Bush administration also targeted the control of toxic air pollution for deregulation and weakened environmental enforcement standards. Eleventh hour loopholes in several air toxics rules warrant quick attention and reversal. And the Bush administration's dangerous policies subjecting Americans to excessive cancer risks from toxic air pollution should be completely overhauled.

Finally, in light of chronic EPA inaction, there is great need and opportunity to clean up deadly soot pollution from the remaining large sources of diesel emissions, including heavy-duty trucks, buses, and ships that come within 200 miles of U.S. shores.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Clean Up Power Plants**

   EPA should propose rules requiring SO_2 and NO_x reductions from power plants sufficient to deliver clean air to all Americans. EPA should also propose rules to achieve deep reductions in all hazardous air pollution including mercury from power plants.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

2. **Reverse 11th Hour EPA Abuses**

   EPA should immediately: (i) reverse three NSR rules allowing significant pollution increases from power plants, oil refineries and other facilities near national parks; (ii) withdraw the *cert.* petition in the *New Jersey v. EPA* case in the Supreme Court defending its harmful mercury rule; and (iii) strengthen and expand monitoring for lead pollution.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

3. **Protect Against Smog, Soot Pollution**

   EPA should (i) end litigation by agreeing to an immediate voluntary remand of recent ozone standards, and then revise them to comport with unanimous scientific advisory recommendations; and (ii) revise ozone and $PM_{2.5}$ implementation rules to eliminate recent loopholes and require stronger measures to help states achieve clean air.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

4. **Clean Up Dirty Diesel Engines**

   EPA should propose a rule requiring heavy-duty diesel truck and bus engines to install the best available pollution controls whenever their engines are rebuilt. EPA also should take action to reduce diesel emissions from ships within 200 miles of any U.S. coast.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

5. **Reduce Carcinogens, Other Toxic Pollution**

   EPA should: (i) adopt protective cancer risk policies for all future hazardous air pollution rules, and revise recent rules that allow excessive cancer risk; (ii) reverse loopholes for toxic emissions from solid and hazardous waste incineration; and (iii) propose deep toxics reductions from industrial boilers.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

ENVIRONMENTAL PROTECTION AGENCY

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Promote Power Plant Air Legislation**

   Complementing regulatory action, the new Administration should advance legislation to require necessary and health-protective reductions in SO_2 and NO_x emissions from power plants. Such legislation also should require at least 90% reductions in mercury, and the preservation of existing statutory authority for all hazardous air pollutants from power plants.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

2. **Strengthen Toxic Air Pollution Control**

   The new Administration should promote legislation to: (i) require protective controls and monitoring for numerous, smaller sources of toxic air pollution; (ii) reduce acceptable cancer risks from all sources of toxic pollution; and (iii) require regular technology updates to strengthen toxic standards for bigger sources.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

3. **Improve Monitoring, Reporting of Air Pollution**

   The new Administration should advance legislation to require greater continuous monitoring and reporting of air pollution from industrial polluters.

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fund Diesel Emission Reduction Act**

   The new Administration should request full funding for the Diesel Emission Reduction Act, including the annual authorized amount ($200M) starting in the next fiscal year plus full funding of the authorized backlog ($500M to date).

   Responsible Official: Assistant Administrator for the Office of Air & Radiation

2. **Restore Enforcement Funding**

   The new Administration should restore funding levels for administrative, civil and criminal enforcement of the Clean Air Act to their historic levels prior to drastic Bush administration cuts.

   Responsible Officials: Assistant Administrator for the Office of Enforcement and Compliance Assurance and EPA Administrator

3. **Restore, Increase State and Tribal Air Grants**

   The new Administration should restore funds to the State and Tribal Air Grants slashed by the Bush Administration, and increase funds as appropriate to address critical needs by state officials for smog, soot and air toxics control, and air pollution monitoring.

Responsible Officials: Assistant Administrator for the Office of Air & Radiation, PAD at OMB

4. **Expand Air Pollution Monitoring Networks**

The new Administration should secure full funding to maintain and enhance the nationwide ambient air quality monitoring network for ozone, particulate matter, lead and air toxics

Responsible Officials: EPA Administrator, Assistant Administrator for the Office of Air & Radiation and PAD at OMB

THE FIRST 100 DAYS

- Through administrative or litigation steps, reverse three New Source Review rules allowing significant pollution increases from power plants, oil refineries, and other industrial facilities including those near national parks, including reversing the rule change anticipated for adoption in the remaining months of the Bush administration.
- Through administrative or litigation steps, revise ozone and $PM_{2.5}$ implementation rules to eliminate recently adopted loopholes and require stronger measures to help states achieve clean air.
- Direct EPA staff immediately to prepare a rulemaking proposal requiring SO_2 and NO_x reductions from power plants sufficient to deliver clean air to all Americans and announce support for advancing legislation to require necessary additional health-protective reductions in SO_2 and NO_x emissions, as well as mercury and other toxic emissions, from power plants.
- Direct EPA staff immediately to prepare a proposed rulemaking requiring heavy-duty diesel truck and bus engines to install the best available pollution controls whenever their engines are rebuilt, and a separate rulemaking or steps to reduce diesel emissions from ships within 200 miles of any U.S. coast.
- Announce commencement of a comprehensive review of air pollution guidance and policies adopted in the Bush administration, for comparison to pre-existing guidance and policies and statutory mandates.

ISSUE 3
PROMOTE ENVIRONMENTAL HEALTH AND SAFETY

BACKGROUND

EPA's mission is to protect human health and the environment. The environmental health priorities outlined below focus on the human health aspect of that mission and aim to ensure that people are free to pursue all aspects of their lives safe from toxins, including carcinogens, endocrine disruptors and other dangerous chemicals. This goal benefits all Americans, from farmworkers and their children who are exposed to pesticides, to the millions of Americans living in close proximity to chemical facilities that are vulnerable to attack, to residents of poor

communities that count on the government to stop midnight dumping of dangerous wastes and to tell them when the factory down the street spills toxic substances in the local stream. Likewise, all Americans would benefit from requiring chemical companies to prove the safety of their products before they are used in baby bottles, toys, or the thousands of other products that contain chemicals.

The administrative priorities listed below provide an opportunity to act quickly, under existing legal authority, to address some of the most pressing needs in environmental health. Several of the proposed actions will restore policies that were weakened by the previous Administration, including reversing the new limits placed on the public's right to know about toxic chemical releases in their communities, and restoring strong cradle-to-grave protections from hazardous waste.

Additional actions are proposed that would adopt new safeguards to protect the public from serious health threats that have yet to be addressed. These include adopting strong health-protective standards for the use of nano-materials in products, setting federal standards on the disposal or re-use of coal combustion waste, and resuming monitoring for perchlorate in drinking water, while setting a health-based standard as quickly as possible.

The legislative agenda below lays out some of our major longer-term priorities. With leadership from the White House and support from EPA, we can work with Congress to ensure that chemicals used in commerce are proven safe, secure our chemical facilities, and clean up our most polluted areas. At the same time that efforts are being made to adopt legislative reforms, in many instances the Administration can use its existing authorities to at least partially address existing problems. For example, although abuse of Confidential Business Information (CBI) is addressed in the Kid-Safe Chemicals Act, which reforms TSCA, existing authority under TSCA should be used in the short-term to restrict the use of CBI so it cannot be used to hide important information on chemical safety.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Restore the Public's Right-to-Know about Toxic Releases

In December 2006, EPA issued a rule weakening reporting requirements for chemical releases reported to the Toxics Release Inventory (TRI). This rule should be overturned and the previous reporting thresholds should be restored. (AA for the Office of Environmental Information) In addition, the rule exempting hazardous substances in livestock waste from the notification requirements of CERCLA and EPCRA should be reversed.

Responsible Officials: AA for the Office of Environmental Information; AA for Office of Solid Waste and Emergency Response

2. Keep Rocket Fuel Out of Drinking Water

Perchlorate has been found in drinking water in 26 states and humans across the country contain residues of this chemical in their bodies. In light of the potential for this chemical to interfere with normal development of the brain and nervous system in babies, EPA should resume monitoring requirements for perchlorate, and set a health-protective drinking water standard for perchlorate as soon as possible.

Responsible Official: AA for Office of Water

3. Protect the Public from Hazardous Waste

Over the past eight years, millions of tons of hazardous waste have been exempted from RCRA through rulemakings such as Revisions to the Definition of Solid Waste, significantly increasing the risk of release into the environment and exposure to the public. EPA should revoke these exemptions as expeditiously as allowed by law.

Responsible Official: AA for Solid Waste

4. Put Safeguards on Coal Combustion Waste

Coal combustion waste is the second largest industrial waste stream in the country and is laden with toxins and carcinogens. EPA should move quickly to enact regulations that prevent contamination and require financial assurances that the taxpayer is not required to clean up after irresponsible handlers.

Responsible Official: AA for Solid Waste

5. Protect Children From Pesticides

EPA should strengthen protection from dangerous pesticides by revoking the human testing rule, reevaluating the waiver of the kids safety factor for high risk pesticides, and systematically reviewing dangerous pesticides to ensure that kids will not be exposed to harmful pesticide drift in their homes, schools, day cares, and playgrounds.

Responsible Official: AA for the Office of Prevention, Pesticides and Toxic Substances

6. Ensure Nano Materials are Safe

EPA should develop regulations mandating expeditious development and submission of information by industry sufficient for EPA to assess the safety of nanomaterials in advance of their commercialization.

Responsible Official: AA for Office of Prevention, Pesticides and Toxic Substances

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Protect Children from Hazardous Chemicals

The public deserves to know that the chemicals they encounter everyday are safe, especially for children. The Kid-Safe Chemical Act would overhaul TSCA to require chemical companies to prove the safety of their products, starting with the chemicals already found in our bodies.

Responsible Official: AA for the Office of Prevention, Pesticides and Toxic Substances

2. Secure America's Chemical Facilities

The interim law exempts thousands of facilities, including all water facilities, and bars the government from requiring the use of safer chemicals and processes that can eliminate these risks. It expires October 4, 2009, leaving Congress with little time to protect millions of Americans at risk from 7,000 "high-risk" plants. A December 17, 2003 Bush Directive (Hspd-7) limits EPA's security authority to water facilities.

Responsible Officials: Assistant Administrator of Water at the EPA; Assistant Secretary for Infrastructure Protection at the Department of Homeland Security

3. **Make the Polluters Pay for Toxic Cleanups**

Too often the public is stuck with the bill for cleaning up extremely polluted sites, or the sites remain a dangerous blight on our cities and natural landscapes. Meanwhile, oil companies are currently exempt from liability for the Superfund sites they helped create. Congress should restore the Superfund tax that expired in 1996 and make the polluter pay for their mess instead of the taxpayer, including eliminating the liability exemption for oil companies.

Responsible Official: AA for Office of Solid Waste and Emergency Response

4. **Restore Independence to the Integrated Risk Information System (IRIS)**

This is the EPA program that conducts hazard assessments upon which health standards, including those for air emissions, drinking water, and Superfund cleanups, are based. The new Administration should undo the new burdensome OMB procedures for IRIS assessments which give significant input to polluting agencies (such as DOD and DOE) while reducing transparency for the public. It should also take the next critical step and prevent OMB and the polluting agencies from having any special access to or veto authority over IRIS assessments.

Responsible Official: AA for Office of Research and Development

POLICY RECOMMENDATIONS - BUDGETARY

1. **Restore Superfund Polluter-Pays Funding**

As soon as the Superfund Act has been amended to restore Polluter Pays, the next budget should assume reinstatement of polluter-pays funding for the Superfund program. This would shift the cleanup burden from taxpayers to polluters.

Responsible Official: AA Office of Solid Waste and Emergency Response

2. **Fund Cleanup of Underground Storage Tanks**

The next budget should include increased funding for the cleanup of leaking underground storage tanks of at least $300 million, which is less than half of the authorized amount for this program. The Leaking Underground Storage Tank Trust fund currently has a balance of about $3 billion.

Responsible Officials: AA Office of Solid Waste and Emergency Response

3. **Full Funding for Drinking Water Systems**

The next budget should include funding for the full authorized amount ($1 billion) for the maintenance and upgrading of our drinking water treatment and distribution systems. The percentage of the Tribal set-aside under the Drinking Water State Revolving Fund should also be increased from 1.5 to 3 percent.

Responsible Official: AA Office of Water

4. **Increase Research on Endocrine Disrupting Chemicals**

More funding is needed for Endocrine Disruption research at EPA, including extramural funding for independent research at academic institutions. Accordingly, the Administration should seek $25 million for this important program.

Responsible Official: Administrator

5. **Commit the Resources to Enforce Environmental Laws**

Numerous environmental and public health laws are intended to limit the amount of toxic chemicals that enter our environment, or provide the public full information about their potential exposure or risk from such chemicals. However, lack of adequate enforcement allows pollution limits to be exceeded, limits public access to information, and rewards those who shirk compliance. Sufficient funding of at least $510 million annually is needed to sustain a credible enforcement program which is an essential component of any meaningful environmental policy.

Responsible Officials: Administrator, AA for Compliance and Enforcement Assurance

THE FIRST 100 DAYS

- The new Administration should announce a process to reverse some of the most egregious Bush Administration rollbacks of environmental and public health protection, including rollbacks to the Toxic Release Inventory and deregulation of hazardous waste and ask Congress to pass a chemical security bill that requires high risk plants to use the safest technologies.

- In the State of Union, the new Administration should mention the need to protect Americans from exposure to cancer-causing and toxic chemicals and commit to reclaiming international leadership on safer alternatives.

- When announcing its first budget, the new Administration should highlight the need to shift the burden for cleaning up the hundreds of Superfund sites around the country to the polluters and away from the taxpayer.

- The new Administration should also demonstrate its commitment to protecting children and pregnant women from toxic chemicals by beginning the process of setting a drinking water standard for perchlorate and a monitoring program for perchlorate. It should also encourage Congress to update the current ineffective program for regulating chemicals by passing the Kid-Safe Chemicals Act.

ISSUE 4
REDUCE EMISSIONS QUICKLY AND DEEPLY ENOUGH TO AVOID THE WORST EFFECTS OF GLOBAL WARMING

BACKGROUND

The world has been getting warmer and is sure to get warmer still in the years to come. But how much warmer the world will get is largely within our control. If we continue to burn more fossil fuels each year, the outlook for the planet is dire. But if we reduce our emissions of global warming pollution quickly and dramatically, we can still prevent the worst impacts of global warming.

As a first key step, EPA must carry out the Supreme Court's edict to determine whether greenhouse gas emissions endanger public health or welfare and, if so, take prompt action to address such emissions. In 2007, the Supreme Court ruled, over the Bush administration's objections, that carbon dioxide and other heat-trapping gases are "air pollutants" subject to regulation under the current Clean Air Act. The Court directed the EPA to determine, exclusively on scientific grounds, whether they "may reasonably be anticipated to endanger" public health or welfare (a term that includes climate). Although the case directly covered only motor vehicle emissions, the principles of the decision apply to other parts of the Clean Air Act covering the other major sources of greenhouse gases, including power plants, major industry, and other transportation sources.

Taking the administrative actions described below will allow the new Administration to make immediate progress to curb global warming while working with Congress on comprehensive legislation that builds on the current Clean Air Act.

As a first step toward such legislation, the EPA should work with the President and other key Federal agencies to immediately establish and announce strong principles for global warming legislation. The EPA should then work with Congress to develop and enact legislation in 2009 that is consistent with those principles.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Comply with Landmark Supreme Court Ruling**

   EPA should immediately comply with the Supreme Court decision in *Massachusetts v. EPA* by issuing a determination that carbon dioxide and other pollutants that contribute to global warming "endanger" both human health and welfare and make this finding applicable to the necessary parts (including §§ 111, 202 and 211) of the Clean Air Act. EPA should take steps to avoid applying permitting requirements to very small emissions sources.

   Responsible Officials: Assistant Administrator for the Office of Air & Radiation

2. **Reduce Global Warming Emissions from Cars and Trucks**

   EPA should grant the Clean Air Act waiver that California and 13 other states need to implement their program to reduce global warming emissions from cars and light trucks. In addition, EPA should issue

national emissions standards to reduce global warming emissions from all new cars and light- and heavy-duty trucks nationwide.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

3. **Require New Power Plants to Factor in Global Warming**

EPA should immediately reverse its position on the *Bonanza* power plant permit, which which was recently remanded by the agency's Environmental Appeals Board, so that the power plant is required to apply Best Available Control Technology for carbon dioxide emissions.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

4. **Reduce Global Warming Emissions from Power Plants**

EPA should issue new source performance standards for new power plants and require states to set emissions limits for existing power plants, which are the single largest source of U.S. global warming emissions.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

5. **Reduce Global Warming Emissions from Fuels**

EPA should ensure that the renewable fuels standard uses a scientifically sound methodology for assessing full lifecycle greenhouse gas emissions and adheres to the law's definition of "renewable biomass." In addition, EPA should issue a national low-carbon fuel standard that requires use of biofuels derived sustainably from non-food crops, such as cellulosic ethanol, encourages use of plug-in hybrids using electricity generated from renewable sources, and ensures that no fuels dirtier than gasoline are included in the fuel mix. This new standard should harmonize with and eventually supersede the renewable fuel standard, which applies to only a fraction of the fuel supply.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Announce Principles for Comprehensive Global Warming Legislation**

The new Administration should immediately announce strong principles for comprehensive global warming legislation. The principles should include the following elements: strong science-based targets for near-term and long-term emissions reductions to reduce the greatest risks of global warming; auctioning emissions allowances rather than giving them to polluting industries; investing auction revenues in clean energy technologies; returning auction revenues to consumers, workers, and lower income communities to offset any economic impacts; preserving state and tribal authority; protecting against trade disadvantages to U.S. industry; and dedicating a portion of auction revenues to help address harm from the degree of global warming that is now unavoidable.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

2. Enact Comprehensive Global Warming Legislation

The Administration and EPA should work with Congress to develop and enact comprehensive global warming legislation that embodies the principles described above in 1a. The EPA should work with the Congressional leadership on a timeline and process for passing such legislation in 2009. EPA also should restore its central role in providing transparent and unvarnished analytics to Congress to inform legislative design.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

3. Reduce Global Warming Emissions from the Transportation Sector

The EPA should ensure that legislation to reauthorize the federal surface transportation bill includes stringent global warming evaluation criteria for all plans, programs, and projects to sufficiently reduce global warming emissions from the transportation sector such that the nation can achieve strong science-based targets for near-term and long-term emissions reductions.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

4. Ensure That Other Legislation Is Consistent with Global Warming Goals

The EPA should ensure that any other energy or environmental legislation considered by Congress contributes to enabling the nation to achieve strong science-based targets for near-term and long-term global warming emissions reductions.

Responsible Official: Assistant Administrator for the Office of Air & Radiation

POLICY RECOMMENDATIONS - BUDGETARY

1. Support Congressional Action on Global Warming

EPA should include sufficient resources in its budget to provide technical assistance and analysis on major legislative proposals to Congress as it deliberates comprehensive global warming legislation. Support for economic analysis should include alternative technology scenarios.

Responsible Officials: Assistant Administrator for the Office of Air & Radiation; Natural Resources PAD at OMB

2. Support Development and Implementation of All Needed Regulatory Actions

EPA should include sufficient resources and staff in its budget to support priority regulatory development initiatives under existing law, including, but not limited to, the regulatory actions described above. EPA also should include funding for sufficient resources and staff to begin the process of preparing to implement global warming legislation once it is enacted.

Responsible Officials: Assistant Administrator for the Office of Air & Radiation; Natural Resources PAD at OMB

3. **Support EPA Voluntary and Complimentary Programs**

   EPA should fully support voluntary and complimentary mitigation programs, including Energy Star, Combined Heat and Power, recycling, water efficiency, and methane reduction initiatives and programs.

   Responsible Officials: Assistant Administrator for the Office of Air & Radiation; Natural Resources PAD at OMB

4. **Support EPA Research Funding**

   EPA should restore and expand support for science programs, including regional assessments, research on adaptation, lifecycle assessment, mitigation technologies, and permitting of sequestration.

   Responsible Officials: Assistant Administrator for the Office of Air & Radiation; Natural Resources PAD at OMB

THE FIRST 100 DAYS

After eight years of inaction by the Bush administration, time is running out to stop the worst effects of global warming. In the first 100 days, the new Administration should:

- Announce strong principles for comprehensive global warming legislation and a timeline for developing and enacting such legislation in 2009.

- Comply with the Supreme Court decision in *Massachusetts v. EPA* by issuing a determination that carbon dioxide and other pollutants that contribute to global warming "endanger" both human health and welfare and begin rule-making efforts to apply the finding.

- Grant the Clean Air Act waiver that California and 13 other states need to implement their program to reduce global warming emissions from cars and light trucks.

- Reverse EPA's position on the *Bonanza* power plant permit.

- Correct flawed Bush Administration changes to EPA's draft mandatory reporting program for global warming emissions, which is expected to be proposed in the last days of the Bush Administration. Robust emissions data will be essential to successfully implement both legislative and administrative actions.

ISSUE 5
ENVIRONMENTAL JUSTICE AND ENFORCEMENT: PROTECTING COMMUNITIES FAIRLY AND FULLY

BACKGROUND

It must be a top priority of the next Administration to proactively reform policies and practices that result in unequal environmental protection for people of color and low income communities who bear the disproportionate harm of exposure to toxic pollution and other forms of environmental damage.

More than nine million people are estimated to live in host neighborhoods within two miles of one of 413 hazardous waste facilities nationwide. According to the report *Toxic Waste and Race at 20,* the proportion of people of color in these host neighborhoods is almost twice that of the proportion of people of color living in non-host neighborhoods, and host neighborhoods are typically economically depressed, with poverty rates 1.5 times that of non-host communities. By permitting toxic and hazardous facilities to operate in close proximity to people of color and poor communities, the U.S. government prioritizes the economic interests of polluting industries above the protection of the basic rights to health, racial equality, and safety of one's home.

The environmental justice movement, which is led by community organizations throughout the United States, confronts the injustice that subjects people of color and the poor to live, work and play in America's most polluted environments. The environmental justice movement has achieved a federal environmental justice policy that has been poorly implemented by federal agencies. In addition, federal agencies have failed to exercise other authorities under environmental and civil rights laws.

In 1994, President Clinton issued Executive Order 12898: ''Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations" (EO). The EO created an affirmative obligation for EPA and other federal agencies to fairly treat and meaningfully involve environmental justice communities in the development, implementation, and enforcement of environmental laws, regulations, and policies.

However, EPA's record in implementing the EO has been severely criticized, especially in recent years, not only by communities around the country, but also by independent government bodies.

In 2004, EPA's Office of Inspector General (OIG) issued a report that found that EPA had not fully implemented the EO nor consistently integrated environmental justice into its day-to-day operations. The OIG also found that in the absence of established environmental justice definitions, criteria, or standards, regional and program offices have taken inconsistent steps to implement environmental justice policies, resulting in inconsistent impacts. In 2005, Congress's General Accounting Office (GAO) studied EPA's development of new Clean Air Rules. In its report, it found that EPA failed to consider environmental justice issues. In 2006, the OIG produced yet another report indicating that the agency had failed to fully implement the EO and had not sufficiently directed programs and regional offices to conduct environmental reviews.

Moreover, in 2005, EPA Administrator Johnson released a controversial memo that attempted to redefine "environmental justice" to apply "justice for all people, regardless of race, color, national origin, or income," arguing that the agency's efforts to focus on everyone, not just those members of a minority group, constituted environmental justice.

ENVIRONMENTAL PROTECTION AGENCY

The administrative, legislative, and budget priorities listed below provide a critically important opportunity for the new Administration to restore the environmental justice commitments of EPA and will help create a system that protects vulnerable communities facing toxic pollution and environmental discrimination throughout the country. Several of the proposed actions will restore and strengthen policies that were significantly weakened or abandoned by the previous Administration, including reversing the previous Administration's failure to implement its own environmental justice obligations under the EO and properly focusing EPA's environmental justice commitments to low-income communities and communities of color. Many of the other proposed actions will create visionary new safeguards to protect such vulnerable and overburdened communities from toxic pollution and will proactively assist in the development of healthy and sustainable communities for citizens who have been ignored in the past.

Finally, many of the protections outlined in the earlier Environmental Health and Safety section of this report will benefit and promote environmental justice in communities across the country, such as reversing the recent limits placed on the public's right to know about toxic chemical releases in their communities and restoring funding for the Superfund.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Fully implement requirements of Executive Order 12,898**

   The new Administration should restore past commitments to the nation's most vulnerable communities and promote healthy communities by fully implementing requirements of Executive Order 12,898 on environmental justice. It should also implement recommendations of the EPA OIG and GAO to meet requirements of the Order.

   Responsible Official: EPA Administrator

2. **Vigorously Investigate and Enforce Title VI claims**

   Despite rampant evidence of environmental discrimination, the EPA has rejected, on either jurisdictional or other grounds, all but one of the hundreds of Title VI claims submitted to the agency, and that one claim was ultimately unsuccessful. The new Administration must reverse this course by complying with EPA Title VI implementing regulations governing the review and investigation of civil rights complaints.

   Responsible Official: AA for the Office of Enforcement and Compliance Assistance

3. **Ensure Compliance with Human Rights Treaties**

   As a party to international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD), among other others, the United States has the obligation to fully implement its treaty obligations. The EPA should take lead responsibility for instilling awareness within its own offices of U.S. international human rights obligations that are relevant to its function; reviewing environmental laws, regulations, and policies for their conformity with human rights treaties to which the U.S. is a party; and responding to complaints of human rights violations that fall within its area of responsibility.

   Responsible Official: EPA Administrator

4. Strengthen and Empower the National Environmental Justice Advisory Committee

NEJAC should be fully reformed with the robust participation of grassroots lower income and people of color community groups from around the country and receive appropriate funding to carry out its work. There should also be an Administrator-level appointment to NEJAC to ensure agency staff will implement the recommendations of NEJAC.

Responsible Officials: EPA Administrator, AA for the Office of Enforcement and Compliance Assistance

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Minimum Safe Distance Legislation

The new Administration should seek legislation requiring a minimum safe distance between residential communities and hazardous, toxic, polluting facilities. Such legislation should also mandate credible disaster planning (including release control and containment, decontamination and evacuation plans) for areas with high concentrations of industrial facilities.

Responsible Official: EPA Administrator

2. Enact Clean Production Requirements

Reversing adverse disproportionate impacts requires a commitment to clean production. Achieving clean production requires continuous application of precaution, prevention, democracy, and producer responsibility for impacts caused by production processes and products. The new Administration should seek legislation to promote clean production as well as workforce development training, technical training in hazardous materials abatement, environmental remediation, construction and in "green-related" careers.

Responsible Official: EPA Administrator

3. Require Consideration of Multiple Exposures

The new Administration should seek to amend existing federal permitting statutes such as the Clean Air Act and Clean Water Act to require permitting agencies to consider and take into account disproportionate pollution burdens on human health from multiple, cumulative, and synergistic impacts of toxic chemicals for people of color and the poor.

Responsible Official: EPA Administrator

4. Environmental Justice Act and Environment Justice Renewal Act

The new Administration should support bills to codify Executive Order 12,898 on Environmental Justice and require EPA to report to Congress on its progress in implementing the recommendations of the OIG and GAO, and to restore a private right of action under Title VI of the 1964 Civil Rights Act to allow communities harmed by disproportionate treatment in federally funded programs to seek legal redress.

5. **Enact the Healthy Communities Act**

The new Administration should support legislation to promote healthy communities by requiring the Administrator of EPA (along with the Secretary of Health and Human Services) to establish an Advisory Committee on Environmental Health to assess the impact of federal laws, policies, and practices on environmental health and justice and to recommend ways of preventing or mitigating harm from federal policies, programs, and practices that may adversely affect environmental health or justice.

Responsible Official: EPA Administrator

6. **Ensure Climate Justice**

The new Administration should support climate legislation that will ensure emissions reductions and accompanying health benefits are fairly distributed and occur in urban areas and that reduce emissions of fine particulate matter, its gaseous precursors, and other toxic pollutants at the same time that emissions of carbon dioxide are being reduced. Such legislation should deploy renewable energy sources and conservation techniques extensively in urban areas to reduce emissions of and to help revitalize the economies of urban areas. It should also require the formulation of climate change adaptation and disaster mitigation strategies designed specifically for people of color and low income urban residents.

Responsible Official: EPA Administrator

POLICY RECOMMENDATIONS - BUDGETARY

1. **Fully Fund Environmental Justice Office**

The new Administration should restore the budget for the Office on Environmental Justice to levels received prior to 2008's significant budget cuts.

Responsible Official: AA for the Office of Enforcement and Compliance Assistance

2. **Fully Fund Environmental Enforcement**

The new Administration should restore funding for OECA enforcement to FY 2001 levels and include a line item for ensuring internal compliance with Executive Order 12,898 in the enforcement program.

Responsible Official: AA for the Office of Enforcement and Compliance Assistance

3. **Fund Green Jobs Programs at EPA**

As part of its program to stimulate the U.S. economy, the new Administration should significantly increase EPA funding to implement Green Jobs initiatives at EPA and to make workforce investments in energy efficiency and renewable-energy installation.

Responsible Officials: EPA Administrator; OMB

4. **Fully Fund Community Assistance Programs**

The new Administration should seek to increase funding for EPA's Small Grant, Collaborative, Interagency, Community-Based programs, Environmental Justice Basic Training Programs and for

community participation in the National Environmental Justice Advisory Council meetings and other public meetings, and in the Environmental Justice Clearinghouse.

Responsible Officials: EPA Administrator; OMB

THE FIRST 100 DAYS

A strong focus on environmental justice is essential to the concept of fairness as well as to the success of the environmental cause writ large, but justice issues cannot be adequately addressed by continuing to isolate the voices of underrepresented communities that are disproportionately impacted. The new Administration should distinguish itself from the inconsistent and unequal enforcement and compliance policies of the past Administration by enacting the aforementioned legislation and policies. The next Administration must mandate full public participation in environmental decision-making – a key component for all stakeholders. In addition, climate change is not only an issue of the environment; it is also an issue of justice and human rights, one that dangerously intersects race and class. In the U.S. and all over the world people of color, Indigenous Peoples and low-income communities bear disproportionate burdens from climate change itself, from ill-designed policies to prevent it, and from side effects of the energy systems that cause it.

The next Administration should understand that:

- The needs are urgent – prompt, effective and nondiscriminatory actions are needed to redress and address decades of environmental disparities.
- The people are with us - the next Administration has a clear and strong mandate from average Americans that environmental and climate justice and actions should be taken on the federal level to address the compound issues.
- The problems are solvable – they present opportunities to create net economic benefits and new technologies to enhance sustainability here and abroad
- The time to act is now - environmental justice legislation has passed Congressional Committees and the majorities in the House and Senate have pledged to take strong action again environmental injustices and to reduce global warming

The next President and his Administration can take action on the aforementioned legislation and kick start an "Ethos of Environmental Justice" by immediately urging Congress to pass the relevant legislation listed above. The President should also use the announcement of key appointments at EPA to highlight the Administration's commitment to environmental justice. Earth Day could be a good opportunity to announce new clean technologies, green jobs and important private-public partnerships to usher in the new era of sustainability and prosperity for the United States and the world.

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN INDIAN ENVIRONMENTAL OFFICE

TOP THREE ISSUES

1. INCREASE THE BREADTH AND IMPACT OF THE AMERICAN INDIAN ENVIRONMENTAL OFFICE

This can be best accomplished by elevating the position of the Office to where it can report directly to the EPA Administrator by and making the Director position a politically appointed one which will best represent the environmental policies and priorities of the incoming President, and not that of the former Administration.

2. CONDUCT TRIBAL BASELINE ENVIRONMENTAL AND ENVIRONMENTAL HEALTH ASSESSMENTS

A Tribal baseline environmental assessment will help to better define tribal environmental needs and priorities whereas a Tribal environmental health assessment will help put tribal health issues into a proper context and provide Indian Tribes with the data necessary to better protect and improve the health of their respective communities.

3. IMPROVE THE ENVIRONMENTAL CAPACITY OF INDIAN TRIBES

The enhancement of Tribal environmental capacity can be achieved through improved consultation, the infusion of substantial financial resources, and improvement in the TAS ("treatment in the same manner as a state") process.

ISSUE 1

INCREASE THE BREADTH AND IMPACT OF THE AMERICAN INDIAN ENVIRONMENTAL OFFICE

BACKGROUND

On July 12, 1994, former U.S. Environmental Protection Agency (EPA) Administrator, Carol Browner, signed an Action Memorandum that, among other things, announced plans to form a new Office of Indian Affairs. As stated in this memorandum, "[a]lthough this Office will have the lead for coordinating certain activities, most of the responsibility for developing and implementing the Tribal environmental protection programs will remain with the Regions and Headquarters Program Offices." As a result of this memorandum, an American Indian Environmental Office (AIEO) was established within the EPA's Office of Water.

The AIEO coordinates the Agency-wide effort to strengthen environmental protection and public health for Indian Tribes across the nation, with a special emphasis on helping Tribes administer their own environmental programs. Since its creation in 1994, the AIEO has provided an indispensable role in coordinating the growth of the Agency's Indian program and implementation of the EPA Indian Policy.

As the Indian program has grown in size and complexity, however, the compartmentalization of the AIEO within a single program area – i.e., the Office of Water, has created some limitations on the ability of the AIEO to fully realize its mission potential which is to advocate the needs of Indian Tribes and oversee implementation of the Agency's Indian Policy. Elevating the AIEO to a position where it could report directly to the EPA Administrator would help to overcome these limitations and best enable the Office to provide effective guidance and advice across the Agency with respect to EPA programs that affect Indian Tribes.

Also, whereas the Director position of the AIEO was previously filled through a political appointment under the Clinton Administration, the current Administration has taken steps to make it a career service position. Major issues impacting Tribes, such as climate change which is having a disproportionate and adverse effect on Tribal communities, require someone heading up the AIEO who closely reflects the environmental policies of the incoming President as opposed to those of the previous Administration. Such a person would help integrate Tribal issues into national environmental planning.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Elevate Position of the American Indian Environmental Office**

   Elevate the AIEO to a position where it can report directly to the EPA Administrator. Not only will elevating this position enable AIEO to better advocate the needs of Indian Tribes and oversee implementation of the Agency's Indian Policy, but it will also aid in strengthening the EPA's government-to-government relationship with such Tribes.

   Responsible official: EPA Administrator

2. **Make the Director of the American Indian Environmental Office a Politically Appointed Position**

   The new Administration should make the Director of the American Indian Environmental Office a politically appointed position when this position becomes vacant. Appointing someone with similar environmental policies and priorities of the President would help insure that Indian Tribes are effectively integrated into national environmental efforts on behalf of the new Administration.

   Responsible officials: EPA Administrator; Director, Office of White House Personnel

THE FIRST 100 DAYS

To best integrate Indian Tribes into approaches that address national environmental issues and concerns, the new Administration should immediately rescind the decision to make the Director of the American Indian Environmental Office (AIEO) a career service position. Instead, the new Administration should make the position a political one as was done under the Clinton Administration. A politically appointed Director would help insure that the activities taken by the Office best reflect the environmental policies of the new President.

Subsequent to appointing someone to the Director position of the AIEO, the new Administrator for EPA should elevate the AIEO to where it could report directly to him or her. Such an elevation would help enable the Office to provide effective guidance and advice across the Agency with respect to EPA programs that affect Indian Tribes.

- Announce the planned reversal of fill rule in conjunction with Kensington mine oral argument (the Supreme Court case where the fill rule is part of the argument used to allow gold mines to avoid stringent permitting requirements).

- For any of the above budgetary recommendations, the announcement could be made in connection with an early public statement about the new Administration's overall budget priorities. In addition, if an economic stimulus bill does not pass before the new Administration takes office and the new Administration pursues a stimulus, the announcement of the proposed package could provide an opportunity to include and focus on water infrastructure funding proposals.

ISSUE 2
CONDUCT TRIBAL BASELINE ENVIRONMENTAL AND ENVIRONMENTAL HEALTH ASSESSMENTS

BACKGROUND

Environmental and health issues are among the primary concerns of Tribal environmental programs and their leaders.

With respect to environmental issues, it is necessary to define those issues that Indian Tribes are facing, such as climate change, in a comprehensive and coherent manner. The U.S. Environmental Protection Agency (EPA) is subject to the requirements of the Governmental Performance Results Act (GPRA) which requires clear criteria for measurement of environmental results. At this time, there is not a coherent national picture of the current Tribal environmental landscape, and thus, there is no way to measure progress. Without such a picture, efforts to effectively integrate Tribal needs into federal strategic planning and budget processes have been largely ineffective. While the EPA started an effort in 1996 to produce a comprehensive and coherent picture of Tribal environments nationally, it has so far failed to provide meaningful data.

With respect to health issues, recent studies have shown high rates of asthma and diabetes within Tribal communities, and these conditions are often exacerbated by the air that we breathe, both in and outside our homes. There are large numbers of hazardous materials present on Tribal lands at Superfund sites, at mines, and in drinking water with high arsenic levels (the adoption of the 2006 arsenic water quality standards resulted in an 80 percent increase in the number of Tribal homes without potable water). These are but a few examples, and a Tribal environmental health assessment is needed to put these examples into context.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. **Complete a Tribal Baseline Environmental Assessment**

   Clearly define national Tribal environmental needs and priorities through completion of a Tribal Baseline Environmental Assessment. Such information would provide enhance efforts to effectively integrate Tribal needs into federal strategic planning and budget processes.

   Responsible Officials: EPA Administrator; Director, AIEO

2. **Conduct a Tribal Environmental Health Assessment**

   The environmental health of Tribal communities remains uncertain although there are clear examples that Indian Tribes are being adversely affected by the air that they breathe, the water that they drink, etc. Conducting a Tribal environmental health assessment will help put such examples into context and help provide Tribes with the data necessary to advocate their respective concerns and issues, particularly as climate change begins to have further impacts on their health and environment.

   Responsible Officials: EPA Administrator; Director, AIEO; Director, Indian Health Service

POLICY RECOMMENDATIONS - BUDGETARY

1. **Provide Funding for a Tribal Baseline Environmental Assessment**

   The EPA should include sufficient resources in its next budget in order to perform a Tribal baseline environmental assessment. Such an assessment will help define national Tribal environmental needs and priorities, particularly as the adverse impacts on Tribal communities continue to grow.

   Responsible Officials: EPA Administrator; Director, AIEO

2. **Provide Funding for a Tribal Environmental Health Assessment**

   The EPA should include sufficient resources in its next budget in order to conduct a Tribal environmental health assessment. Such an assessment will help define the environmental issues that Indian Tribes are facing in a comprehensive and coherent manner.

   Responsible Officials: EPA Administrator; Director, AIEO

ISSUE 3
IMPROVE TRIBAL ENVIRONMENTAL CAPACITY

BACKGROUND

The U.S. Environmental Protection Office (EPA) has a mission to "protect human health and the environment." With respect to Indian Tribes, the EPA's American Indian Environmental Office (AIEO) is specifically charged to "coordinate the Agency-wide effort to strengthen public health and environmental protection in Indian country," something that it doesn't always do well, particularly when it fails to follow its own policies and Executive Orders.

ENVIRONMENTAL PROTECTION AGENCY
AMERICAN INDIAN ENVIRONMENTAL OFFICE

A significant part of EPA's responsibilities to Indian Tribes is contained in "EPA Policy for the Administration of Environmental Programs on Indian Reservations" (Indian Policy), a policy issued by the Agency in 1984. The Policy is a simple yet powerful explanation of EPA's plan to meet its responsibilities to Tribes in implementing federal environmental programs on their lands. It contains a number of principles, many of which are also found in Executive Order 13175 (E.O. 13175), an order issued during the Clinton Administration that directs each agency to have an "accountable process to ensure meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." Too often, however, the EPA has failed to fulfill its Indian Policy or E.O. 13175, much to the detriment of Tribal interests. The Agency did issue draft guidance regarding the implementation of E.O. 13175 in 2006, but it has yet to issue a final policy even though the Agency continues to put forth rules, regulations and guidance with potential Tribal implications.

Even without a clear EPA policy concerning consultation, Indian Tribes remain focused on improving their own circumstances, often taking as a first step the securing of funds through the Indian General Assistance Program (IGAP) to build their respective tribal environmental capacity. The IGAP authorizes the EPA to provide grants to federally-recognized Tribes to assist them in developing the capacity to manage their own environmental protection. These grants are especially critical to Alaska Native villages which tend to lack other sources of funding to address their basic environmental needs. Since FY 2003, the IGAP has been subject to two reviews under the Program Assessment Rating Tool, receiving an "adequate" rating in 2003 and a "moderately successful" rating in 2007. Also, in FY 2004, the enacted IGAP funding level was $62.5 million, meaning that Indian Tribes, on the annual average, received $110,000 in grant funding. While the annual average of IGAP funding to Tribes needs to increase, it has instead been reduced further, with FY 2008 funding dropping to $56.03 million.

A means to help offset the limited dollars available to Indian Tribes under the IGAP is the use of Direct Implementation Tribal Cooperative Agreements (DITCAs). These agreements allow Tribes and intertribal consortia to help the EPA to implement federal environmental programs in Indian country. They were initially authorized in the FY 2001 Appropriations Act and must be approved on an annual basis by Congress. As such activities are undertaken under federal authority, DITCAs do not trigger jurisdictional entanglements with other governmental bodies, sometimes a problem when Tribes attempt to assert regulatory jurisdiction. The DITCAs also provide environmental results and meet strategic targets prized by both Tribes and the EPA. While the AIEO has established a matching grant program in the past for the use of DITCAs, no designated set-aside of funding has been established for this important environmental vehicle.

Beyond Indian Tribes using the IGAP and DITCAs, the ultimate step for Indian Tribes to take is to acquire "treatment in the same manner as a state" (TAS) for specific regulatory programs. The current EPA TAS policy authorizes the Agency to delegate federal authority to Tribes to implement and manage certain environmental programs. Tribes have to apply for TAS approval for each environmental program, provided that they meet specific requirements. Unfortunately, only a handful of the nation's 562 federally-recognized Tribes have TAS. As a result, in 2005, the Government Accountability Office (GAO) completed a study of EPA's review of TAS applications, finding that the Agency had failed to establish a reasonable time period for reviewing such applications; lacked a written strategy to clarify by what it means by "timeliness" with respect to its reviews; and had no performance goals. While the GAO recommended that the EPA address such items as part of a written strategy, the Agency instead drafted a short memorandum focused on addressing transparency issues. While the memorandum helps to improve communication between the EPA and Tribes, it does not establish any estimated timeframes for the TAS review process as recommended by the GAO. Tribes therefore remain hostage to a process with no defined timeframe for completion, essentially jeopardizing the environmental landscape of Tribal lands and their peoples, and those lands and peoples of surrounding jurisdictions.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Issue Executive Order on Tribal Sovereignty and Consultation

The new Administration should immediately issue an Executive Order to the heads of executive departments and agencies that underscores the recognition of Tribal sovereignty and the need for meaningful government to government consultation on environmental matters. All agencies, including the EPA, should have an understanding about Tribal sovereignty and how it intersects with federal actions.

Responsible Officials: White House; Dept. of Justice, Office of Legal Counsel; OMB

2. Immediately Issue Final Guidance for Implementation of Executive Order 13175

The EPA should immediately issue final guidance concerning the implementation of Executive Order 13175 regarding Agency actions with potential Tribal implications; such actions should include EPA rules, regulations and guidance. The guidance must also empower Indian Tribes to be true partners with the EPA.

Responsible Officials: EPA Administrator; Director, EPA American Indian Environmental Office (AIEO); Associate Administrator, Office of Policy, Economics, and Innovation

3. Authorize Creation of a "Consultation Clearinghouse"

Even with E.O. 13175 implementation guidance, the EPA may not be in the best position to know which of its action could have Tribal implications. The Agency should therefore authorize creation of a "consultation clearinghouse" to be overseen by a national Tribal organization that has day-to-day contact with Indian Tribes and their leaders. Among the roles of the clearinghouse would be to maintain an updated contact list of Tribal leaders and environmental staff, and distribution of notices and concise summaries of EPA actions with potential Tribal implications.

Responsible Officials: EPA Administrator; Director, AIEO; AA, Office of Air and Radiation; AA, Office of Water; AA, Office of Prevention, Pesticides and Toxic Substances; AA, Office of Solid Waste and Emergency Response; Regional Administrators (RAs), EPA Regional Offices

4. Enhance the GAP to Benefit Indian Tribes

The EPA should enhance the General Assistance Program for Indian Tribes to further support their ability to establish and sustain environmental programs. Such enhancements should include development of a mechanism to support Tribal program implementation; work with Tribes to improve their administrative, legal and enforcement capacity; and raise awareness of innovative environmental policy approaches to complement traditional codes and standards.

Responsible Officials: EPA Administrator; Director, AIEO; RAs, EPA Regional Offices

5. Seek Permanent Authorization of Direct Implementation Tribal Cooperative Agreements

The EPA should seek permanent authorization for direct implementation Tribal cooperative agreements. This would ensure the long-term availability of this flexible means for bringing environmental protection to the Tribal lands of Indian Tribes.

Responsible Officials: EPA Administrator; Director, AIEO

6. **Issue TAS Strategy based on GAO Recommendations**

The EPA should issue a written strategy that specifically responds to and meets the recommendations put forth by the Government Accountability Office concerning the "treatment in the same manner as a state" (TAS) process. Among these recommendations is to assign a schedule for making TAS determinations.

Responsible Officials: EPA Administrator; Director, AIEO; AA, Office of Air and Radiation; AA, Office of Water; AA, Office of Prevention, Pesticides and Toxic Substances

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Provide for Permanent Authorization of Direct Implementation Tribal Cooperative Agreements**

Direct Implementation Tribal Cooperative Agreements (DITCAs) were initially authorized in the FY 2001 Appropriations Act and must be approved on an annual basis. Congress should make authorization of DITCAs permanent so as to help provide Indian Tribes with direct, on-the-ground environmental protection, particularly with the increasing onslaught of climate change impacts on their communities.

Responsible Officials: EPA Administrator; Director, AIEO

POLICY RECOMMENDATIONS - BUDGETARY

1. **Provide Funding for a "Consultation Clearinghouse"**

The EPA should include sufficient funding in its next budget for the creation of a "consultation clearinghouse" to help implement EPA's Indian Policy and Executive Order 13175.

Responsible Officials: EPA Administrator; Director, AIEO; AA, Office of Air and Radiation, AA, Office of Water; AA, Office of Prevention, Pesticides and Toxic Substances; AA, Office of Solid Waste and Emergency Response; Regional Administrators (RAs)

2. **Fully Fund the Indian General Assistance Program**

Restore funding for the Indian General Assistance Program to no less than FY 2004 levels in order to have a minimal environmental presence in Indian country and Alaska Native villages.

Responsible Officials: Director, AIEO; RAs, EPA Regional Offices

3. **Establish Set-Aside Fund for Direct Implementation Tribal Cooperative Agreements**

The EPA should include sufficient resources in its budget for a specific funding set-aside for Direct Implementation Tribal Cooperative Agreements. The size of the fund should be at least 10 percent of the current funding set-aside for the Indian General Assistance Program.

Responsible Officials: EPA Administrator; Director, AIEO

THE FIRST 100 DAYS

Perhaps the biggest linchpin to the many environmental issues and concerns facing Indian Tribes today is how the U.S. Environmental Protection Agency (EPA) and other agencies often fail to consult with them on federal actions having potential Tribal implications. Indian Tribes are accorded certain rights under the U.S. Constitution, treaties and longstanding legal precedence as sovereign nations. These same Tribes have jurisdiction over a land mass equal to seven states, not a small area by any means. Yet, the EPA and other federal agencies often exclude Tribes from engagement on actions having national and more specifically, Tribal implications.

To help make sure that Indian Tribes are properly consulted for federal actions with potential impacts to their communities and peoples, the new President should issue an Executive Order on Tribal Sovereignty and Consultation; and have the EPA immediately issue final guidance for implementation of Executive Order 13175. These two actions alone will provide Tribes with some assurance that the federal government is serious about its government to government obligations to Tribes with respect to matters that have potential Tribal impacts.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

TOP THREE ISSUES

1. MANAGING OCEANS HOLISTICALLY IN THE FACE OF BROADENING THREATS LIKE CLIMATE CHANGE

NOAA should promote a systematic approach to protecting, maintaining, and restoring marine ecosystem health and resilience. This "whole ocean" approach should be coordinated across all NOAA programs with other involved federal and state agencies. Stewardship of the ocean as a whole becomes even more critical when managing for the impacts of climate change on ocean health.

2. PROTECTING IMPERILED SPECIES

Climate change and fisheries impacts pose two of the most significant threats to the health of our oceans. Threatened and endangered wildlife populations are especially vulnerable to these stressors. NOAA must address the impacts of climate change, including ongoing ocean acidification, on our oceans and prepare for worsening trends in the future. In addition, NOAA must use the full scope of its legal authority under the Endangered Species Act and Marine Mammal Protection Act to ensure the survival and recovery of marine wildlife in the face of these challenges.

3. ESTABLISHING HEALTHY NATIONAL AND GLOBAL FISHERIES

NOAA should fulfill the promise of the reauthorized Magnuson-Stevens Act which strengthened the existing requirement to prevent overfishing, rebuild overfished species, and called on NMFS to comply with NEPA in fisheries decisions. In addition, NMFS must take needed steps to address illegal, unregulated and unreported (IUU) fishing to crack down on global overexploitation of ocean resources.

KEY APPOINTMENT POSITIONS

- Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator
- Assistant Secretary for Oceans and Atmosphere
- Chief Scientist
- Assistant Administrator for Marine Fisheries
- Assistant Administrator for Ocean Services and Coastal Zone Management
- Assistant Administrator for Oceanic and Atmospheric Research

ISSUE 1

MANAGING OCEANS HOLISTICALLY IN THE FACE OF BROADENING THREATS LIKE CLIMATE CHANGE

BACKGROUND

Under the new Administration, NOAA should support legislation and initiatives to promote a coordinated, cross Federal and State agency, systematic approach to protecting, maintaining, and restoring marine ecosystem health and resilience. This type of "whole ocean" ecosystem approach could be pursued through a variety of administrative and legislative vehicles and conservation tools, including the establishment and implementation of a national ocean policy to protect, maintain, and restore marine ecosystem health and resilience, and the creation of Federal-state partnerships directed to implement priority needs under such a policy. This could enhance the effectiveness of marine spatial as a critical tool for promoting ocean health and resilience.

In terms of fisheries, NMFS already has the authority it needs to implement an ecosystem approach to management, yet it continues to focus on single species fishery management, foregoing a major opportunity to promote sustainable fish populations and overall ocean health. Fisheries management must start to take much broader ecosystem components and conservation criteria into account when making key decisions. For example, forage fish, or fish that other fish eat, should have different management regimes than abundant mid-food chain fish, which in turn should be managed differently than long-lived, slow growing predators at the top of the food chain. In addition, NOAA should also consider using marine spatial planning as a tool to promote sustainable fisheries.

Well-designed protected areas are a proven method of protecting and restoring habitat and the diversity, resilience and productivity of marine life and promoting overall ocean health. These areas can also improve scientific understanding of marine functions. Establishing a domestic and international system of marine protected areas is critical in the face of mounting cumulative pressures from fishing, pollution, coastal and ocean development and industrialization, climate change, and ocean acidification. The expansion of the coral reef program in NOAA to include international coral reef conservation would be but one example of how a protected area initiative could be implemented. The strong protection of any Marine National Monuments created by the Bush Administration under the Antiquities Act and the use of that Act to create other Marine National Monuments should also be endorsed by the new Administration.

Protecting the Arctic marine ecosystem must receive special consideration from the new Administration. The main challenge for protection of the Arctic marine environment is the development of international rules, standards and systems for marine environmental protection in the face of rapidly increasing industrial activity in the Arctic Ocean. There is an urgent need for a comprehensive international environmental regime to ensure effective, integrated and ecosystem-based management of human activities in this uniquely vulnerable region.

Scientists now believe the Arctic may become ice-free in summer as early as 2013. It is essential that a regime be developed and put in place before industrial development in the region, already underway, accelerates even faster. The longer the delay in developing international environmental rules, the more likely it is that unplanned and unregulated development will damage the ecology and marine resources necessary for a prolonged period in the Arctic.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Issuing an Executive Order on marine ecosystem health

The new Administration should issue an Executive Order establishing a national policy to protect, maintain and restore marine ecosystem health. Within 2 years of the issuance of the Executive Order, each federal agency shall issue new or revised regulations to insure to the fullest extent possible consistency with this policy for actions undertaken, authorized or funded by such agencies that may significantly affect coastal, ocean or Great Lakes water or natural resources.

2. Use ecosystem based management principles in all agency decision making

The new Administration should evaluate not only the immediate direct impact of a proposed action, but also the ecosystem impacts as well.

Responsible Officials: Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator (henceforth "NOAA Administrator")

3. Protect important ocean habitat

The new Administration should embrace and expand existing processes to identify and protect important ecological areas. The Bush Administration has begun a process to identify and evaluate important marine habitat areas to protect in the US and our domestic territories and the new Administration should strongly resist any effort to rollback and weaken any Marine National Monuments created by the Bush Administration. The conservation community has created a number of new protected area proposals that should actively be considered by the new Administration. Many of these proposals focused on using existing tools such as the Antiquities Act or the National Marine Sanctuaries Act, as well as promoting similar efforts in the international community. These planning efforts should incorporate the best available science on projected impacts from climate change, and incorporate the use of adaptive management to ensure that protected areas maintain the values and resources for which they were created.

Responsible Official: NOAA Administrator

4. Protecting Sanctuaries through forward looking management plans

Every 5 years, the management plan for a marine sanctuary is supposed to be updated. The new Administration should ensure that these newly drafted management plans make a turn towards preservation, conservation and the reduction of destructive fishing techniques. Sanctuary management plans also must incorporate consideration of climate change and ocean acidification on sanctuary resources.

Responsible Official: Assistant Secretary for Oceans and Atmosphere

5. Manage Forage Fish as a Component of the Ecosystem

The new Administration should create a management regime for forage fish that is distinct from other fisheries. Forage fish, which provide sustenance for other fish and wildlife, must be managed with a conservation standard taking into account its unique role in the ecosystem.

Responsible Official: Assistant Administrator for Marine Fisheries

6. Convene a planning meeting with Arctic governments to discuss framework convention

NOAA, in conjunction with the Department of State, should convene a meeting with other Arctic governments to set the stage for the negotiation and adoption of an international environmental framework for integrated ecosystem-based management of increasing commercial and industrial activity in the Arctic.

Responsible Officials: NOAA and Department of State appointees

7. Support an international science initiative for Arctic

The Arctic ecosystem is changing rapidly in the face of climate change and increased resource development pressure. A comprehensive assessment of current environmental conditions is essential for providing the tools necessary for science based management.

Responsible Officials: Chief Scientist and Assistant Administrator for Oceanic and Atmospheric Research, Director USGS, Assistant Secretary of State for Oceans and the Environment

8. Adoption of a new high seas implementing agreement under the UN Convention on Law of the Sea (UNCLOS)

The new Administration should seek an innovative agreement under UNCLOS that would (1) provide for the establishment of multi-sector Marine Protected Areas (MPA)s; (2) require prior environmental impact assessment for human activities with the potential to adversely affect high seas ecosystems; (3) integrate assessment and management of impacts across sectors; and (4) require application of modern ocean management principles and approaches, including the precautionary approach and ecosystem-based management.

Responsible Officials: NOAA Administrator and Department of State

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Oceans 21 or similar legislative action

Support Oceans 21 or similar legislative or action to establish: a national ocean policy to protect, maintain, and restore marine ecosystem health and resilience; a mechanism to implement this policy across Federal agencies and to establish Federal-state partnerships to help meet the priority needs of a given region; and to provide a source of funding to support those partnerships and other overall ocean conservation efforts outside of the appropriations process. Implementation of this initiative at Federal and regional levels should be supported through enhanced use of marine spatial planning tools.

Responsible Official: NOAA Administrator

2. Adoption of a framework environmental convention for the Arctic

The U.S. should adopt a framework environmental convention that would implement an integrated, ecosystem-based management approach to managing new and expanded industrial activity in the Arctic. This convention would:

- reaffirm the authority of existing international agreements such as UNCLOS;

- recognize the overarching role of widely-accepted principles and approaches to govern human activities in the Arctic region, including ecosystem-based management, the precautionary principle, transparency, multi-stakeholder participation in decision-making, marine spatial planning, the creation of protected areas, and the assessment and management of cumulative impacts;
- provide for monitoring and assessment of environmental and socio-economic conditions throughout the Arctic and regular, public reporting;
- authorize the parties to enter into specific Protocols as may be deemed necessary to either supplement the authorities of existing instruments or to provide for new specific management regimes. Initial areas for such Protocols might include activities such as: oil & gas development, fisheries management, and shipping pollution and safety

Responsible Officials: Assistant Secretary of State for Oceans, International Environments and Science Affairs; NOAA Administrator; Secretary of the Interior

3. **Climate change and ecosystem based management**

The new Administration should seek an Oceans Title for the comprehensive Energy Bill that focuses on pro-active ecosystem based management via spatial planning that balances interests related to climate adaptation, ocean health, resource extraction and renewable energy projects.

Responsible Officials: NOAA Administrator, CEQ

4. **Greenhouse gas emission reduction to protect oceans**

The new Administration should support the enactment of a carbon cap that will prevent ocean pH from dropping by more than 0.2 pH units and minimize impacts from warming and acidification. Such legislation should include a strong carbon cap look-back provision tied to ocean impacts from both ocean acidification and warming and should disallow marine biological sequestration as an eligible offset technique until further scientific data has been developed on its efficacy and impact.

Responsible Officials: NOAA Administrator, CEQ

5. **Ocean and Climate research**

The new Administration should support legislation that examines the impacts of warming and acidification on ocean ecosystems, including impacts under various carbon caps, and the effectiveness of different techniques to protect and restore ocean resource resilience. Specifically, NOAA should support legislation similar to the Federal Ocean Acidification Research and Monitoring Act, HR 4174 and S 1581, of the 110th Congress.

Responsible Officials: NOAA Administrator, CEQ

6. **Support the reauthorization of the National Marine Sanctuaries Act and the establishment of a system of Ocean Heritage Areas**

The new Administration should support the reauthorization of the National Marine Sanctuaries Act with a variety of amendments, including provisions to: clarify that conservation is the purpose of the sanctuaries system; lift the moratorium on establishment of additional sanctuaries; include a percentage goal for the overall size of the sanctuary system; give primacy for managing fish inside sanctuaries to sanctuary managers not NMFS; to prohibit additional harmful activities such as noise; and to streamline the sanctuary designation, planning and review processes. Such reauthorization should set the stage for the

establishment of a national network of Ocean Heritage Areas that comprise a significant portion of the Federal EEZ and include a range of allowable uses, from no take zones to areas where some uses (e.g. recreational fishing) could be allowed. In addition, NOAA should also support efforts to establish ocean protected areas internationally.

The new Administration should also support passage of two marine sanctuary bills introduced in the 110th Congress: the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act, which would protect a very productive deep ocean upwelling zone of the coast of northern California that feeds three other sanctuaries; and the Thunder Bay National Marine Sanctuary and Underwater Preserve Boundary Modification Act which would expand a the critical Thunder Bay sanctuary in Lake Huron.

Responsible Official: NOAA Administrator

7. Reauthorize the Coral Reef Conservation Act

The new Administration should direct NOAA to support the reauthorization of the Coral Reef Conservation Act, including amendments to strengthen the act domestically and to expand it to include coral reef conservation abroad.

Responsible Official: NOAA Administrator

8. Expand the Tropical Forest Conservation Act to include coral

The Tropical Forest Conservation Act has been very effective at protecting the world's tropical forests. NOAA should support expansion of this model by amending the Tropical Forest Conservation Act to include corals (i.e. the Tropical Forest and Coral Conservation Act), including the incorporation of coral reefs in debt for nature programs.

Responsible Officials: CEQ NOAA Administrator, Assistant Secretary of State for Oceans, International Environments and Scientific Affairs, Under Secretary for the Department of Agriculture for Natural Resources and the Environment

POLICY RECOMMENDATIONS - BUDGETARY

1. NEPA funding for evaluating impacts of activities on oceans

The National Marine Fisheries Service (NMFS) is tasked with the responsibility of protecting marine mammals and endangered marine life. Among NMFS' responsibilities is the implementation of policies and regulations for issuance of permits and authorizations under the Marine Mammal Protection Act and the Endangered Species Act. NMFS has experienced a significant increase in NEPA-related workload, including environmental reviews for projects led by other agencies, such as MMS and FERC. This workload is likely to further increase with recent executive and legislative actions that will increase the number of permits and projects for coastal and ocean energy projects requiring NEPA review. To ensure that NMFS can continue to provide quality NEPA review and consultation with other agencies, and to ensure that the public has opportunity to comment on the permits in a timely manner, NMFS must receive increased funding for its NEPA activities.

FY 10 Recommendations: The new Administration should request $10.0 million for additional NEPA support and 7 FTEs (1 in Headquarters and 6 in Regional Offices) (NEPA resources are combined with resources for the programs that they affect so it is not possible to disaggregate baseline numbers).

Responsible Officials: NOAA Administrator, Assistant Secretary for Marine Fisheries, OMB PAD for Natural Resources

2. Climate change and ecosystem management

The new Administration should support an increase in funding for NOAA to provide oversight on all climate change mitigation activities, including the development of renewable energy in the oceans. There is an enormous amount of interest in new forms of renewable energy from the oceans, such as wave, tidal, ocean current, and ocean thermal energy conversion (OTEC) power. Exploration and development of these sources has been hampered, however, by a lack of baseline monitoring data that can inform environmental analyses. Pilot and demonstration projects can also benefit from federal monitoring and reporting on common impacts among projects. NOAA should work in conjunction with DOE on baseline research and monitoring that can advance specific pilot and demonstration projects. In addition, there is a need for research and development funding on project design that will have minimal effects on marine fish and wildlife. NOAA should also work in conjunction with DOE to develop an R&D program for avoidance of fish and wildlife impacts. The exploration and development of ocean renewable power will also benefit from a publicly accessible common library of all available information on such project. NOAA and DOE should work together to compile and publish such a library. Accordingly, the new Administration should request that NOAA receive $39.8 million for ocean energy work in FY 10.

Responsible Officials: NOAA Administrator, OMB PAD for Natural Resources; Department of Energy Assistant Secretary for Energy Efficiency and Renewable Energy

3. National Marine Sanctuary Program

The National Marine Sanctuary System, which consists of 13 national marine sanctuaries and the Papahānaumokuākea Marine National Monument, encompasses more than 150,000 square miles of ocean and Great Lakes waters and includes several of our nation's most diverse marine ecosystems. While this may seem like a large area, less than .01 percent of our sensitive ocean is protected by sanctuary designations. Areas ranging from coral reef and mangrove forest ecosystems off the Florida Keys to the tide pools and kelp forests on the Olympic Coast are managed through the Sanctuary Program. Papahānaumokuākea Marine National Monument is the newest addition and creates an immense and irreplaceable coral reef ecosystem preserve, covering 140,000 square miles of reefs, atolls and shallow and deep sea. It is home to more than 7,000 marine species, including the critically endangered Hawaiian monk seal.

The National Marine Sanctuary Program includes important education and outreach to the public, ocean monitoring and research, and enforcement projects in the sanctuaries. The three-year average operations and capital budget for sanctuaries and the monument, a combined area of approximately 96 million acres that exceeds our national parks in size, has been approximately $57 million per year and has employed about 250 full time government and contractor personnel since FY 06. This works out to be approximately 60 cents per acre to manage our national parks of the sea or one person for every 600 square miles. Level spending has caused real decreases in enforcement and management efforts over time. Increased funding is essential to fully implement the existing sanctuaries' management plans. Additional funding is also needed to provide enhanced resources for the Marine Monument as well as for sanctuary expansion proposals currently before Congress. Accordingly, the new Administration should support for

FY 10 an increase in funding for the National Marine Sanctuary Program to $80 million (including $15 million for operating and capital expenditures).

Responsible Officials: NOAA Administrator, OMB PAD for Natural Resources

4. Marine Protected Areas Center

Well-designed and implemented Marine Protected Areas (MPAs) are an important tool for maintaining marine biological diversity, protecting ocean habitats, and managing fish populations. They also provide opportunities for scientific research, education, and recreation that is compatible with their mission. The term "marine protected area" is itself a broad term that encompasses a spectrum of management schemes, but generally refers to area-based management where natural or cultural resources are given greater protection than the area surrounding them. The National Marine Protected Areas Center was established within NOAA to undertake the essential task of developing an integrated national system of MPAs which advances the conservation of our nation's vital natural and cultural marine resources. The MPA Center must have sufficient funding if it is to carry out its goals, including implementation of the framework for the national system of MPAs, restoration of a modest technical assistance and stewardship support program, stakeholder and advisory committee participation and engagement, collection of data for the marine managed areas inventory, and expansion of the MPA pilot project to other regions – all of which will contribute to the effective use of MPAs as a tool for ecosystem-based management. Accordingly, the new Administration should request for FY 10 $4 million for the Marine Protected Areas Center, a funding level that will still only restore the MPA Center budget to the FY 04 enacted level.

THE FIRST 100 DAYS

- The new Administration should issue a new Executive Order on marine ecosystem health and endorse principles related to protecting, maintaining and restoring such ecosystem health through Federal, state and regional action.

- The new Administration should declare its support for additional marine protected areas and support the creation of protected areas internationally. Specifically, the new Administration should designate those areas that have been proposed for sanctuary/protected status that are 'left over' from the process that President Bush began late in his Administration. It should also strengthen the final management plan for the Stellwagen Bank National Marine Sanctuary.

- The new Administration should lift the moratorium on the creation of additional national marine sanctuaries.

ISSUE 2
PROTECTING IMPERILED SPECIES

BACKGROUND

Our oceans have provided some of the first, starkest, and most compelling examples of what climate change will mean for the natural world. From the melting of arctic sea ice, to the bleaching of corals, we have witnessed our oceans enter states of shock as natural systems have been unable to adapt to our rapidly warming climate and increasingly acidic conditions. Marine wildlife are increasingly being recognized as endangered primarily because of global warming (such as ringed seals and the enigmatic polar bear), or count global warming and ocean acidification among a list of significant threats (such as sea turtles, walrus, elkhorn and staghorn corals, and beluga whales). These impacts reach down to commercial fish populations, and even to the microscopic organisms that form the base of the ocean food chain.

With increased greenhouse gas emissions entering our atmosphere, our oceans are experiencing and will continue to experience drastic changes as the result of both increased acidity (from atmospheric CO2 mixing with ocean waters to form carbonic acid) and warmer temperatures. Acidifying oceans and higher ocean temperatures will have long lasting and possibly irreversible effects on marine life.

NOAA must respond to the threats of climate change and ocean acidification by promoting the resilience of ocean and coastal ecosystem and resources and the adaptation of marine fish and wildlife. Bolstering the health of fish and wildlife populations by limiting other stressors will help these important natural resources withstand the ongoing and expected impacts of climate change and ocean acidification. This means considering evidence and projections of climate change and ocean acidification impacts in the context of federal decisions governing not only fishery management, but also energy development and other industrial uses of our oceans and coastal areas.

Dramatically increased monitoring of our ocean and coastal ecosystems and resources will be essential in what is expected to be a period of rapid ecological change. This will include a variety of actions such as monitoring: the location and health of marine populations ranging from plankton to whales; changes in ocean pH, the availability of carbonate, and related effects; as well as the extent of the Arctic ice melt and changes in habitat conditions and food web dynamics. Such monitoring may be especially important for designation of critical habitat and other marine protected areas that will change in structure, value, and location as our oceans respond to climate change and ocean acidification.

In addition to climate change, commercial fisheries continue to propel the decline of ocean wildlife. More than 300,000 marine mammals are killed annually worldwide—more than 800 each day. Each year, US commercial fisheries kill nearly 10,000 threatened and endangered sea turtles and harm more than 334,000. Global fisheries catch 50 million sharks each year as bycatch, many of which play an important role in keeping ocean food webs in balance. All captured wildlife must also be accounted for, regardless of whether dead or released alive, as sublethal effects on the health of endangered species may be significant. NMFS is finalizing regulations on setting annual catch limits to end overfishing, but it also needs to establish bycatch caps, in its fishery management plans, consultations under the Endangered Species Act, and authorization of fisheries pursuant to the Marine Mammal Protection Act.

NOAA must also support a strong Endangered Species Act. The Bush Administration has moved aggressively in its waning months to weaken the law's key safeguards for species and habitats. The proposed changes are largely identical to those that industry groups and their allies in Congress and the Administration have unsuccessfully

promoted in the past. Specifically, the Administration proposal to seriously weaken ESA § 7 regulations in sweeping ways is designed to enable federal projects to escape the scrutiny of the expert biologists at the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Review and Revise ESA regulations and Guidance

All newly created ESA regulations and guidance must be reexamined and revised to ensure that (1) they are consistent with the statute, (2) protective of species, and (3) ensure the proper role of science. Specifically, the new Administration should freeze and withdraw to the extent allowed by law, the Bush Administration's August 12, 2008 proposal (or regulation, if finalized before January 20, 2009) to weaken federal agency consultation requirements under Section 7 of the Endangered Species Act. If these changes have already been finalized and become effective by the time of the inauguration, the new Administration should immediately initiate a new rulemaking process to restore the strength and vitality of the prior consultation regulations.

The new Administration should promulgate policies through guidance or regulation that ensure that the biological analyses and actions taken by the NMFS under the ESA properly consider the direct, indirect and cumulative impacts of global warming on threatened and endangered species and their habitat. Listing decisions, biological opinions, critical habitat designations, recovery plans, and habitat conservation plans should be required to identify the potential effects of climate change on covered species and to integrate climate change adaptation strategies as necessary for such species.

In light of the demonstrated pervasiveness of continual political interference in ESA decisions during the past several years, NMFS should engage in a systematic review of all Bush administration decisions (including listing decisions, critical habitat designations, and biological opinions under Section 7 and Section 10) to ensure that the science behind those decisions was not altered or distorted. At the very least, there should be an immediate reevaluation of decisions where political interference has been exposed.

Responsible Officials: NOAA Administrator, Assistant Administrator for Fisheries

2. Climate Change in Agency Decision making and analysis

NOAA should issue guidance requiring the consideration of climate change and ocean acidification as both a baseline condition and possible impact of agency action in all agency documents, including environmental analyses undertaken pursuant to NEPA, ESA, the MMPA and the Magnuson-Stevens Act.

Responsible Official: NOAA Administrator

3. Bolster Climate Change Science

NOAA should encourage the collection and require the use of the best available science on the impacts of climate change and ocean acidification on our oceans. This should include updated monitoring and data collection on endangered species, commercial fish stocks, and other marine wildlife in order to determine population trends and health impacts of climate change.

Responsible Officials: NOAA Administrator, Assistant Administrator for Fisheries

4. **Institute Adaptive Management**

In addition to collecting the best information possible about the impacts of climate change, that information must be put to use in real time to improve the resilience of our marine ecosystems and resources, including our fisheries and other marine wildlife. This approach must include reducing marine related stresses and adaptively changing management strategies based on evolving information, including reducing pressure associated with fishing techniques, fishing levels, and ocean pollution as appropriate.

Responsible Official: Assistant Administrator for Fisheries

5. **Require bycatch caps on ocean wildlife**

For fisheries that are authorized to incidentally take protected species pursuant to the Endangered Species Act or Marine Mammal Protection Act, the new Administration should require that immediate corrective action be taken once authorized take levels are reached.

Responsible Official: Assistant Administrator for Marine Fisheries

6. **Release rule requiring Turtle Excluder Devises in Trawl Fisheries**

In February 2007, the National Marine Fisheries Service released an Advanced Notice of Proposed Rulemaking (ANPR) on requiring Turtle Exclude Devices in trawl fisheries in the Atlantic that operate in areas and times where sea turtles are present. To date, there has been no action to release the Proposed Rule for public comment which the new Administration should do.

Responsible Official: Assistant Administrator for Marine Fisheries

POLICY RECOMMENDATIONS - LEGISLATIVE

1. **Wildlife and Natural Resource Adaptation in Climate Legislation**

Any climate legislation proposed by the new Administration should allocate a portion of generated revenue to mitigate the impacts of climate change on wildlife and to support adaptation of wildlife and natural systems to a changing climate. Providing a dedicated portion of funding will be necessary to ensure that important public values and resources will be addressed in the context of a comprehensive approach to climate change. In addition, NOAA should develop a policy designed to improve the resilience of ecosystems and natural resources and provide mechanisms to implement that policy across Federal, state, and international jurisdictions.

Responsible Official: NOAA Administrator

THE FIRST 100 DAYS

- The new Administration should send an early signal of its intent to begin the process for reversing any Bush Administration ESA rollbacks involving Section 7 consultation responsibilities and other key sections of the Act .

- Any protective conservation rules that have been held up by the Bush Administration that have a benefit to ocean wildlife, such the proposal to require turtle excluder devices in trawl nets, should be broken loose from the bureaucracy and released for public comment.

ISSUE 3
ESTABLISHING HEALTHY NATIONAL AND GLOBAL FISHERIES

BACKGROUND

The reauthorized Magnuson-Stevens Act (MSA) strengthened the mandate of existing law to end overfishing by requiring a system of science-based annual catch limits, backed by accountability measures, and by clarifying that a period of overfishing is not allowed under rebuilding plans. The reauthorized law also required the agency to update procedures for complying with NEPA and the CEQ implementing regulations, including procedures related to environmental review and public participation. Finally, it provided needed directives to crack down on illegal, unregulated and unreported (IUU) fishing.

While the MSA requires that overfishing be stopped and that overfished species be rebuilt as quickly as possible, many regions still prioritize short-term fishing profits over these two directives. This has resulted in further depletion of U.S. fisheries and minimal progress with rebuilding overfished stocks. The 2006 amendments to the Magnuson-Stevens included provisions to clarify and enhance the mandate to bring an immediate end to overfishing. The new Administration should reaffirm these important policy goals by ensuring the adoption of strong National Standard Guidelines (1 and 2) and by ensuring the enforcement of the law. The current NS1 draft guidance and the NEPA proposed rule must be reworked and reissued in draft form for additional public comment. If these rules are finalized, nevertheless, by the Bush administration but fail to meet the letter and intent of the authorized law, including MSA and NEPA, then the new Administration must issue revised guidelines and regulations to correct the deficiencies.

The current NS1 draft guidance must be retooled to ensure that overfishing does not occur based on a system of science-based annual catch limits (further clarified through issuance of strong NS2 guidance) and accountability mechanisms, including in-season adjustments and overage deductions. The new guidance must require (rather than merely recommend) that catch levels be set sufficiently below the overfishing threshold to account for scientific and management uncertainty, thereby ensuring that overfishing does not occur. In addition, the NS1 guidance must reflect the legal requirement to rebuild overfished stocks in as short a time as possible. Rebuilt fisheries provide needed ecological resilience (especially necessary in the face of climate change) and the restoration of depleted fisheries in a timely manner provides far greater economic return overall, even when the initial dip in catch is considered.

The NEPA proposed rule should be revised from its current draft form to ensure that agency procedures for implementing NEPA in the context of the Magnuson-Stevens Act are compliant both with NEPA and the CEQ implementing regulations. These regulations are critical for ensuring effective environmental review and sufficient opportunities for public comment in fisheries management decisions.

Internationally, NOAA should support legislation and policies to minimize IUU fishing and illegal imports, including the implementation of relevant provisions of the Magnuson-Stevens Act. Such an approach should aim to improve communications and information sharing among different national control authorities such as fisheries agencies, police, and custom and tax agencies, as well as across national borders.

In addition, NOAA should participate in international fishery management discussions with the Department of State to ensure that international fisheries agreements are built on scientifically based conservation standards.

Outside of our EEZ, NOAA must work to protect the high seas, the area of the ocean beyond the 200 mile limits of national jurisdiction which comprises 45% of the planet's surface. Long considered important only for its fishes, scientists are now discovering that the high seas contain some of the richest biodiversity on the planet. This marine biodiversity is under increasing threat from many sources, including overfishing, noise and chemical pollution, habitat destruction and now ocean warming and ocean acidification related to rising concentrations of CO2 in the atmosphere.

While the United Nations Convention on the Law of the Sea (UNCLOS) sets out the overall legal framework for activities in the oceans and seas, it does not provide a comprehensive enforceable management framework to govern human activities on the high seas. The existing legal regime is riddled with gaps and inconsistencies, and is largely based on 17th century principles of open access, often without acknowledging many of the environmental principles recognized in UNCLOS, or those that have been long applied for activities affecting land, the atmosphere, and even outer space.

As a result, beyond national jurisdictions, many human activities remain unregulated or poorly managed, ecosystem considerations are seldom taken into account and scientific information is often ignored. The stove-piped nature of current regulation means that there is no mechanism for creating multi-sector marine protected areas, or for coordinating assessment and management of cumulative impacts across sectors of the high seas.

POLICY RECOMMENDATIONS - ADMINISTRATIVE

1. Issue revised National Standard 1 Guidance

The new Administration should ensure that overfishing does not occur through reliance on a system of annual catch limits and accountability mechanisms. It should require: the implementation of mandatory scientifically derived buffers between annual catch limits and overfishing limits; that models used to determine annual catch limit be based on a 90% probability that overfishing will not occur under such limits; and the establishment of a system of accountability tied to preventing annual catch limits from being exceeded in a given year.

Responsible Officials: NOAA Administrator, Assistant Administrator for Marine Fisheries

2. **Rebuild overfished stocks**

The new Administration should insure that NOAA requires that overfished species be rebuilt as quickly as possible according to the biology of the species, needs of fishing communities, and the role of the overfished stock in the marine ecosystem. This rebuilding timeframe should be consistent with federal law, such that it not exceed 10 years, unless the biology of the stock, other environmental conditions, or management measures under an international agreement dictate otherwise.

Responsible Official: Assistant Administrator for Marine Fisheries

3. **Require >75% probability for rebuilding plans**

Consistent with applicable statutory and regulatory requirements that fishery management actions to rebuild species have a high degree of certainty, the new Administration should insure that NOAA requires that rebuilding plans have at least a 75% probability of success.

Responsible Official: Assistant Administrator for Marine Fisheries

4. **Creation of agency NEPA procedures for fisheries decisions**

In revising agency procedures for implementing NEPA in the context of fisheries management decisions, the new Administration must insure that NOAA conforms to the requirements of NEPA and implementing CEQ regulations, including provisions related to public participation and environmental review.

Responsible Official: Assistant Administrator for Marine Fisheries

5. **Setting Annual Bycatch limits for commercial fisheries**

The new Administration should insure that NOAA directs the Regional Fishery Management Councils to include bycatch limits when setting Total Allowable Catch and Annual Catch Limits in commercial fisheries. In particular, NOAA should set bycatch caps for all overfished species based on industry averages, identify best practices and gear for bycatch avoidance, and set fishing stock improvement targets. NOAA should also provide incentives and penalties to ensure compliance.

Responsible Official: Assistant Administrator for Marine Fisheries

6. **Increase observer coverage in fisheries**

Observers provide fishery managers with information about what is occurring at sea with regards to bycatch and target catch. Observer coverage in fisheries must be increased by the new Administration to a level that provides precise and accurate estimates of catch and bycatch. In addition, for state fisheries that interact with species protected under the Endangered Species Act or the Marine Mammal Protection Act, observers must be placed in those fisheries to monitor compliance with take authorizations.

Responsible Official: Assistant Administrator for Marine Fisheries

7. Improve Stock Assessments

The new Administration should insure that NOAA require stock assessments and a determination of overfishing within 3 years for all stocks listed in the annual report to Congress as overfished or where overfishing status is unknown.

Responsible Official: Assistant Administrator for Marine Fisheries

8. Provide guidance on Reducing Bycatch

The new Administration should require NOAA to provide additional guidance on National Standard 9 and Section 303(a)(11) of the MSA that defines "to the extent practicable" as requiring bycatch reduction to the extent it was not demonstrated to be technologically infeasible or to cause unmitigable or long-term economic costs that are not outweighed by long-term economic benefits.

Responsible Official: Assistant Administrator for Marine Fisheries

9. Habitat Areas of Particular Concern

The new Administration should provide new guidance on the Magnuson-Stevens Act requirements concerning the designation of Essential Fish Habitat and Habitat Areas of Particular Concern. It should also endorse ongoing Regional Fishery Management Councils actions to protect important ocean areas from destructive fishing practices.

Responsible Official: Assistant Administrator for Marine Fisheries

10. International fisheries measures

The new Administration should support efforts to ban highs seas transshipments to flag of convenience vessels; improve international cooperation between coastal states, flag states, and port states; make penalties for IUU fishing substantial enough to act as an effective deterrent; and implement mandatory traceability systems to ensure fish and fish products come from legitimate sources. In addition, it should implement the IUU provisions of the MSA.

Responsible Official: Assistant Administrator for Marine Fisheries

POLICY RECOMMENDATIONS - LEGISLATIVE

1. Support legislative vehicles to crack down on IUU fishing and illegal import

IUU fishing and illegal imports remain a significant threat to the sustainability of fisheries around the world and the health of marine ecosystems. The new Administration should insure that NOAA supports legislation, including proposals similar to S 2907, the International Fisheries Stewardship and Enforcement Act, to address these threats.

POLICY RECOMMENDATIONS - BUDGETARY

1. Increase funding for National Marine Fisheries Service

Chronic under-funding for ocean programs is hindering significant progress in addressing the threats to our ocean fisheries and wildlife including funding for the National Marine Fisheries Service, the agency within NOAA responsible for the conservation and management of the nation's fisheries and for protect ting ocean wildlife such as marine mammals and sea turtles. . Due to inadequate funding for data collection, research staff and observers, information is extremely limited for many marine mammals and the status of 36 marine mammal stocks is completely unknown. In fisheries management the situation is no better: only 128 of the 530 fish stocks 'managed by NMFS have been adequately assessed to see whether they are experiencing overfishing. Of the nation's 300 fisheries, only 42 have trained fishery observers on board vessels to collect essential catch and bycatch information and assess interactions with marine mammals, seabirds and sea turtles. Basic monitoring and enforcement of compliance with regulations is woefully underfunded as well. The combined impact of these factors shows: approximately 20 percent of our fish stocks are either depleted (overfished) or being caught faster than they can reproduce (experiencing overfishing).

The 2009 budget request for the NMFS is actually 8% less than the agency received in 2002, seven years ago. In general, the overall budget for NMFS over the past seven budget cycles has been flat which means the agency has absorbed seven years worth of inflation in costs and an expanding mission. To be effective in its roles as steward of U.S. fisheries, marine mammals, sea turtles and ocean habitat, the NMFS budget must be increased substantially above NOAA's recent requests, with special focus on program areas that will address overfishing, stock assessments, fishery bycatch monitoring and reduction, habitat protection and restoration, and improved marine mammal and sea turtle conservation and management.

Responsible Officials: Administrator for NOAA, Assistant Administrator for Marine Fisheries, OMB PAD for Natural Resources

2. Increase funding for stock assessments

Fishery stock assessments are the basis for determining whether a stock is overfished, experiencing overfishing, or is healthy. As of 2007, only 128 of the 530 U.S. fish stocks identified by NMFS have been adequately assessed to determine whether they are experiencing overfishing. NMFS's own analysis indicates that even modest increases in funding for this program will provide the capability to assess less than 60% of the 230 'major' fish stocks that comprise the national Fish Stock Sustainability Index (FSSI). In fact, 65 of the major fish stocks or stock assemblages (comprised of multiple species) are classified as 'unknown' with respect to their population status. Additional resources are badly needed to hire scientists, to fund data collection at sea, and to develop fishery stock assessments that are the basis for determining the status of fished species. Increased funding is also essential to support management activities related to implementation of new requirements for annual catch limits and accountability measures for all U.S. fisheries by 2011. Increasing the number of fish stocks with adequate assessments will significantly improve the federal government's efforts to maintain viable fisheries and healthy marine ecosystems. A net increase of $18.4 million in FY 10 to a level of $50 million would provide a much-needed boost for expanded stock assessment work and fishery data collection in order to support the accelerated implementation of annual catch limits for all U.S. fisheries in the legally mandated time period.

Responsible Officials: NOAA Administrator, Assistant Administrator for Marine Fisheries, OMB PAD for Natural Resources

3. Increase funding for enforcement

Without funds to support the deployment of enforcement personnel at sea and at ports, compliance with fishery regulations is uncertain at best. Enforcement of fisheries laws and management regulations is essential to the achievement of national objectives for sustainable fisheries as well as to efforts to address Illegal, Unregulated and Unreported (IUU) fishing on the high seas as required in the new Magnuson-Stevens Act. The enforcement program also provides money to support cooperative agreements with state enforcement officials.

A substantial budget increase above the enacted FY 08 funding level of $53.3 million will be required to establish a high seas IUU enforcement and surveillance program within the existing NMFS fisheries enforcement program. Successful implementation of the new legal requirements for annual catch limits and accountability measures in all U.S. fisheries will also require greater commitments of funding in order to improve catch accounting and monitor compliance with annual catch limits in all regions and fisheries.

Responsible Officials: NOAA Administrator, Assistant Administrator for Marine Fisheries, OMB PAD for Natural Resources

4. Increase fisheries observer funding

Fishery observers are independent scientists who are trained to gather information about fishing practices by accompanying fishermen at sea. Observers collect data on the composition and amount of the actual catch brought on board during fishing operations. According to the National Marine Fisheries Service, observers are currently deployed in only 42 of the nation's 300 fisheries. For many of those fisheries that have observers, existing coverage levels are well below the levels needed for precise and accurate estimates of bycatch and total catch of fish and protected marine species. Considering that the NMFS makes fishery management decisions based on this data, more observers at sea will lead to better fishery management overall.

Responsible Officials: NOAA Administrator, Assistant Administrator for Marine Fisheries, OMB PAD for Natural Resources

5. Expand the Reducing Bycatch Initiative

The Initiative supports research and implementation support for practical solutions to reducing bycatch. Research focuses on the development of bycatch avoidance and reduction practices, including gear enhancements; cooperative research with fishermen on bycatch reduction devices, as well as helping with the international transfer of technology, gear modifications and fishing practices. Implementation support includes incentives for scaling up effective technology and for conservation to cleaner gear and practices. The new Administration should provide a significant increase in the funding for this important program.

Responsible Officials: NOAA Administrator, Assistant Administrator for Marine Fisheries, OMB PAD for Natural Resources

THE FIRST 100 DAYS

- The new Administration should fully fund and aggressively promote the MSA Bycatch Reduction Engineering Program, including support for regional efforts to establish bycatch quotas and promote low-bycatch gear (16 U.S.C. 1865 § 316).

- The new Administration should also make a public announcement that implementing the Magnuson Stevens Act, including both its domestic and international provisions, is a national priority. This can be through a revised budget and the release of any regulations that provide a conservation benefit that had been blocked by the Bush Administration.

- The new Administration should closely review any last minute regulations that are released and finalized by the current Administration and begin the process for revising those regulations as needed.

APPENDIX A

CONTACT INFORMATION

APPENDIX
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For further information on agency or department recommendations, please contact the transition project agency co-chairs listed below.

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APPENDIX B

TOP ISSUE SUMMARY

APPENDIX
TOP ISSUE SUMMARY

CROSSCUTTING ISSUES

CLIMATE AND ENERGY (TOP PRIORITIES)

1. Work with Congress to pass legislation in 2009 that revitalizes our economy and delivers energy and climate security
2. Tackle global warming using the executive branch's powers under existing laws
3. Restore America's global leadership on global warming

AMERICA'S ARCTIC AND THE CIRCUMPOLAR ARCTIC

4. Develop a comprehensive Arctic conservation energy plan
5. Take a precautionary approach to industrial activities in the Arctic
6. Initiate international negotiations

LAND AND WATER CONSERVATION FUND

7. Increase the Land and Water Conservation Fund

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY

8. Restore CEQ's leadership role on environmental policy
9. Charge CEQ with a lead role on climate change and energy strategy
10. Strengthen the appropriate use of the National Environmental Policy Act

OFFICE OF MANAGEMENT AND BUDGET

11. Reaffirm the primary role of Substantive law and agency expertise in regulatory decision making
12. Increase openness and transparency within the federal government and with the general public
13. Allow Robust Scientific Input into Decision Making

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

14. Provide the president with the clear and objective scientific advice needed to make informed policy decisions
15. Restore scientific integrity
16. Protect and support federal scientists

DEPARTMENT OF DEFENSE

ARMY CORPS OF ENGINEERS

17. Prioritize protection and restoration of ecosystems in project planning
18. Implement Water Resources Development Act of 2007 reforms
19. Reform the regulatory process governing the use of the nation's navigable waters to prioritize protection of aquatic resources

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DEPARTMENT OF THE ARMY (NOT INCLUDING CIVIL WORKS)

20. Reduce energy usage through conservation and researching, developing and deploying renewable energy
21. Environmentally restore existing facilities and reform procurement practices to reduce the environmental footprint
22. Account for environmental values in installation planning and management

DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

23. Ensure regulation and screening of plant imports
24. Strengthen regulation of genetically engineered crops
25. Reform US Department of Agriculture Wildlife Services

FARM SERVICE AGENCY

26. Reinvigorate the Conservation Reserve Program
27. Halt policies promoting native grassland conversion
28. Improve conservation compliance

FOREST SERVICE

29. Manage the National Forest System to secure climate benefits
30. Restore scientific integrity in forest service planning and management
31. Reform Forest Service's budget to reprioritize rising expenditures dedicated to fire suppression, reflecting public needs, and ensuring transparent decision making and effective oversight

NATURAL RESOURCES CONSERVATION SERVICE

32. Improve effectiveness of working lands conservation programs
33. Improve agency effectiveness
34. Maintain value of Wetlands Reserve Program

RESEARCH, EDUCATION AND ECONOMICS

35. Dedicate a fair share of USDA REE resources to sustainable agricultural programs
36. Restore capacity of the National Agriculture Statistics Service to provide regular and frequent reports on the use of agricultural chemicals
37. Advance a sustainable bioenergy future

DEPARTMENT OF EDUCATION

38. Seek passage of the No Child Left Inside Act
39. Support the reauthorization of the National Education Act
40. Establish a Presidential Comprehensive Climate Change Education and Readiness Initiative

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DEPARTMENT OF ENERGY

41. Help the U.S. achieve cost-effective energy efficiency
42. Increase supplies of renewable energy in an environmentally responsible manner
43. Cut funding for fossil and nuclear energy

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

44. Improve public health monitoring programs
45. Improve global warming health preparedness

FOOD AND DRUG ADMINISTRATION

46. Reduce exposure to endocrine-disrupting chemicals in our food
47. Ensure the safety and quality of bottled water
48. Ban the use of the pharmaceutical Lindane

DEPARTMENT OF HOMELAND SECURITY

49. Integrate environmental protection into the Department of Homeland Security's mission
50. Comply with environmental law at the U.S. Mexico border
51. Reinvigorate U.S. Coast Guard enforcement of marine conservation and pollution laws

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

52. Restore balance to the BLM's oil and gas program
53. Preserve lands in their natural condition
54. Restore the use of science in agency planning

BUREAU OF RECLAMATION

55. Establish a new mandate for the 21st Century
56. Respond to climate change
57. Transition from a customer service agency to a public service agency

FISH AND WILDLIFE SERVICE

58. Reinvest in, and reform the management of, the National Wildlife Refuge System
59. Respond to climate change
60. Restore and improve implementations of the Endangered Species Act

MINERALS MANAGEMENT SERVICE

61. Reinstate MMS Outer Continental Shelf protections

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TOP ISSUE SUMMARY

62. Increase study and research in order to make better choices if, when, where, and how industrial activities are permitted
63. Reform MMS so that oil and gas royalties are collected in a transparent, accountable, and fiscally prudent manner

NATIONAL PARK SERVICE

64. Protect and revitalize our heritage with American jobs
65. Ensure sound management and leadership
66. Protect and restore native biodiversity and adapt to climate change

U.S. GEOLOGICAL SURVEY

67. Accelerate research on climate change impacts and adaptation
68. Restore and enhance the Cooperative Research Unit Program
Promote the upcoming state-of-the-birds report and increase funding to USGS research and monitoring capacity

DEPARTMENT OF JUSTICE

71. Revise policies on access to the courts, transparency and legal excellence
72. Align litigation positions with policy direction
73. Launch environmental protection and enforcement initiatives

DEPARTMENT OF STATE

74. Restore American leadership in international climate policy
75. Reassert U.S. leadership in conservation of the world's natural resources
76. Develop and promote a coherent international approach to the sound management of chemicals

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

77. Reform and revitalize foreign assistance
78. Lead globally on climate change adaption and resilience

DEPARTMENT OF TRANSPORTATION

79. Spur development and market dissemination of low and no carbon technologies and fuels
80. Reform surface transportation policy
81. Make climate change a cross-departmental priority

DEPARTMENT OF THE TREASURY

82. Promote clean energy resources and reduce global warming pollution
83. Green the multilateral development banks
84. Undertake a new engagement with China

APPENDIX
TOP ISSUE SUMMARY

ENVIRONMENTAL PROTECTION AGENCY

85. Protect, restore, and enhance natural resources that provide Americans' water supply and protect and clean the nation's waters
86. Protect Americans and our environment against three of the most dangerous forms of air pollution: fine particles, smog, and toxics such as mercury
87. Promote environmental health and safety
88. Reduce emissions quickly and deeply enough to avoid the worst effects of global warming
89. Reaffirm environmental justice policies

AMERICAN INDIAN ENVIRONMENTAL OFFICE

90. Increase the breadth and impact of the American Indian Environmental Office
91. Conduct tribal baseline environmental and environmental health assessments
92. Improve the environmental capacity of Indian Tribes

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

93. Promote a systematic approach to protecting, maintaining, and restoring marine ecosystem health and resilience
94. Protect imperiled species
95. Establish healthy national and global fisheries

American Rivers

Center for International Environmental Law

Clean Water Action

Defenders of Wildlife

Earthjustice

Environment America

Environmental Defense Fund

Friends of the Earth

Greenpeace

Izaak Walton League

League of Conservation Voters

National Audubon Society

National Parks Conservation Association

National Tribal Environmental Council

National Wildlife Federation

Native American Rights Fund

Natural Resources Defense Council

Oceana

Ocean Conservancy

Pew Environment Group

Physicians for Social Responsibility

Population Action International

Population Connection

Rails-to-Trails Conservancy

Sierra Club

The Trust for Public Land

The Wilderness Society

Union of Concerned Scientists

World Wildlife Fund