



To: House Committee on Natural Resources Republican Members
From: House Committee on Natural Resources Republican Staff
Date: September 1, 2021
Subject: Full Committee Markup on Reconciliation

The Natural Resources Committee will hold a remote markup of the Natural Resources title of the Democrat FY 2022 reconciliation legislation on **Thursday, September 2, 2021, at 11:00 a.m. EDT** online via Cisco WebEx.

Member offices are requested to notify Chandler Guy (Chandler.Guy@mail.house.gov) by **4:30 p.m. EDT on Tuesday, September 1st, 2021**, if their Member intends to participate in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (EverettWinnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES (or the Top 10 Reasons to Oppose Reconciliation)

1.) STAGGERING \$31.7 BILLION price tag

The topline dollar amount contained just in HNR's portion of the package – a whopping \$31.7 billion – is more than the budgets of 27 U.S. states.

2.) SLUSH FUND for Pelosi's pet projects

This includes \$200 million in a taxpayer-funded payout to Speaker Pelosi's district, \$11.9 billion to Blue New Deal mapping, and \$25 million each for endangered or threatened plants in Hawaii and Insular Areas, butterflies in the United States, freshwater mussels in the United States, and desert fish in the Southwest.

3.) RESURRECTS the CCC while Main Street can't find employees

During a time when U.S. employers can't get people back into the workforce, this reconciliation bill provides \$3.5 billion for a new Civilian Climate Corps (CCC), a new version of a 1930s workforce. There's no reason to funnel money toward a program like this when many of our industries are already struggling to find workers.

4.) INCREASES U.S. DEPENDENCE on foreign adversaries

This bill impedes and bans domestic energy and mineral production, increasing our dependencies on resources supplied by OPEC, Russia, and China.

5.) CODIFIES domestic mineral withdrawals

These will halt efforts to develop copper and other minerals necessary for renewable energy and battery storage.

6.) SHIFTS FOCUS to all the WRONG proposals

Despite the staggering price tag, this proposal neglects some of the most important issues facing the U.S. There are no allocated funds to reform the Endangered Species Act, no new forest management tools, and no funding to mitigate or repair the degradation of sensitive environments caused by illegal immigration.

7.) ARBITRARILY IMPOSES drilling moratoriums

These will increase fees and royalties on onshore and offshore oil and gas production, raising the cost of domestic production, threatening long-term energy security, and potentially putting more Americans out of work.

8.) LACKS LONG-TERM PLANS to mitigate catastrophic drought

Zero dollars are allocated to water storage programs, which are critical to infrastructure in the West.

9.) IGNORES wildfires raging across the U.S.

Critical forestry projects are currently being delayed or cancelled due to a combination of analysis paralysis, bureaucratic red tape, and frivolous litigation. Without addressing these vital issues, the reconciliation bill will do little to nothing to improve nationwide forest health.

10.) NEGLECTS CRISES currently facing our country

During a time when Congress should be focusing on getting Americans safely out of Afghanistan, securing our southern border, providing hurricane and wildfire relief, and much more, committee Democrats are instead wasting time on partisan wish lists.

II. BUDGET TOPLINE AND RECONCILIATION OVERVIEW

Section 2002 of S. Con. Res. 14, the budget resolution for fiscal year (FY) 2022, directs the Committee on Natural Resources to report changes in laws within its jurisdiction that increase the deficit by not more than \$25.6 billion over the next 10 years by September 15, 2021.¹ The Committee Print circulated by Committee Democrats includes over \$31.7 billion in spending, meaning that Committee Democrats plan to offset at least \$6.1 billion of that spending to be in

¹ <https://www.congress.gov/bill/117th-congress/senate-concurrent-resolution/14/text>.

compliance with their instructions (and, ultimately, the Byrd Rule in the Senate). This will be the second partisan reconciliation effort by Democrats this Congress and the first markup of Natural Resources reconciliation instructions by the Committee.

Democrats are undertaking this partisan exercise to add trillions to our national debt during a historically ill-timed period. According to the Congressional Budget Office (CBO), the United States' budget deficit for FY 2022 will reach \$3 trillion, triple the deficit of just two years prior.² In addition, our debt to gross domestic product (GDP) ratio will reach 103 percent by the end of this year, compared to just 35 percent of GDP in 2007.³ By the end of the ten-year period covered by this reconciliation bill, debt to GDP will reach 106 percent, tying the highest recorded amount from 1946.⁴ Democrats' reckless spending has already exacerbated this fiscal crisis, as CBO's projections for the deficit have now increased by one-third compared to projections released just five months earlier.⁵ Needless to say, as the nation faces multiple crises at home and abroad, this is hardly the time to add trillions to our national debt while ignoring the critical issues that truly need to be addressed.

III. SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS

Account	Total
Civilian Climate Corps Slush Fund	\$3.5 billion
Pelosi Presidio Payout	\$200 million
Wildfire Prevention	\$1 billion
Urban Parks	\$100 million
Every Kid Outdoors	\$100 million
Climate Resilience and Restoration	\$225 million
Historic Preservation	\$75 million
<i>NPFPL Total*</i>	<i>\$5.2 billion</i>

(*Note: For more information about Sec. 70201, Oak Flat, or Sec. 70204, Grand Canyon, please see the Energy and Mineral Resources Subcommittee section.)

Highlights

- The bill includes a **\$200 million taxpayer-funded payout for Speaker Pelosi's district**. This slush fund is not only an egregious waste of taxpayer resources, but it also runs counter to the enabling statute of the Presidio Trust, the recipient of this payout.
- Out of a total \$31.7 billion spent by the legislation, **only 3 percent of spending in the bill is devoted to addressing the wildfire crisis on our federal lands**. The bill also includes no additional management tools to help actively manage our forests and federal lands.

² Congressional Budget Office, "An Update to the Budget and Economic Outlook: 2021 to 2031," July 2021, <https://www.cbo.gov/publication/57339>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

- The bill proposes \$3.5 billion to be spent on a vague, government-run Civilian Climate Corps, creating an unnecessary new bureaucracy that duplicates the work already being done by private corps networks and existing public-private partnerships.
- Instead of supporting national priorities like better forest management and the construction of long-term water storage, the bill provides unnecessary and duplicative funding for programs like Every Kid Outdoors and the Historic Preservation Fund, which already receive significant federal funding.

Analysis

Civilian Climate Corps

The reconciliation bill provides \$3.5 billion for a new Civilian Climate Corps (CCC) including, \$1.7 billion for the National Park Service, \$900 million for the Bureau of Land Management, \$400 million for the Fish and Wildlife Service, and \$500 million for a Tribal Civilian Climate Corps. President Biden originally proposed creating a CCC during his presidential campaign and followed up on the concept by issuing Executive Order 14008 on January 27, 2021, which directed the Secretary of the Interior, in collaboration with other agency heads, to create a strategy for a CCC “within existing appropriations.”⁶ The Biden Administration also recommended that \$10 billion be invested in the CCC initiative as part of their March 2021 American Jobs Plan proposal.⁷ Several bills have been introduced in the 117th Congress to either establish a CCC or increase conservation corps participation on public lands and waters more broadly.

There are many gaps and issues with the CCC as proposed in the reconciliation bill. First, the duties and responsibilities of these corps are vague and undefined. The bill simply states they will engage in “education and job training projects and conservation projects,” without any clear definition of what these projects will entail.⁸ Defining the scope of the corps and these projects is critical to ensure that the CCC focuses on addressing deferred maintenance and actively managing our lands, not on unnecessary projects with frivolous spending. Second, the CCC proposal lacks critical details on how they will interact with existing private corps networks. The bill simply allows the use of funds for “direct expenditure contracts, grants, and cooperative agreements with corps programs,” but does not exclusively state that funds must be spent this way and does not prohibit the creation of a federal corps program.⁹ As an alternative to \$3 billion in new spending and creating an entirely new CCC program, Congress should encourage public-private partnerships and allow the private sector to innovate and continue existing, successful corps programs.

⁶ President Joseph R. Biden, Executive Order on Tackling the Climate Crisis at Home and Abroad The White House (2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/> (last visited Jul 15, 2021).

⁷ FACT SHEET: The American Jobs Plan, The White House (2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/> (last visited Jul 15, 2021).

⁸ Committee print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022, page 12.

⁹ *Id.*

Lastly, this ill-timed proposal is coming when many employers are still struggling to hire employees and fully staff their businesses. This provision will create a new bureaucracy to compete with the private sector and small businesses for employees and make it even more difficult to fill existing job vacancies.

Presidio Trust

Section 70203 of the bill provides \$200 million in taxpayer funding for the Presidio Trust, an agency that manages roughly 1,200 acres in San Francisco exclusively in Speaker Nancy Pelosi's district. The Presidio of San Francisco is a 1,500-acre former military installation now used as a public recreation area within the Golden Gate National Recreation Area. Congress created the Presidio Trust in 1996 to manage roughly 80 percent of the Presidio and mandated the agency to become self-sufficient by FY 2012. If the Trust failed to achieve this self-sufficiency and continued to rely on taxpayer funding, Section O of the Presidio Trust Act states that "all property under the administrative jurisdiction of the Trust ... be disposed of ... and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area."¹⁰ In FY 2020, Congress authorized a \$10 million loan to the Presidio for the first time in nearly 20 years ([P.L. 116-94](#)) and in FY 2021, authorized an additional loan for \$20 million ([P.L. 166-260](#)).¹¹ In recent years, the Presidio Trust sought \$200 million to redevelop up to 22 historic Spanish colonial barracks at its 20-acre Fort Scott site.¹² Clearly, these loans and \$200 million direct appropriation run counter to the original intent of the Trust and are an inappropriate way to spend limited taxpayer resources.¹³

Wildfire Prevention

Section 70205 provides \$1 billion total for wildfire risk reduction. This includes \$900 million for general wildfire risk reduction "through fire preparedness, fire science and research, emergency rehabilitation, rural fire assistance, fuels management activities, the renovation or construction of fire facilities, and for expenses necessary to support firefighter workforce reforms."¹⁴ The additional \$100 million is for wildfire risk reduction on Tribal forest lands. No money is included for the U.S. Forest Service, despite the fact that the Committee shares jurisdiction over the Forest Service with the House Agriculture Committee. In total, the amount of wildfire risk reduction funding is only roughly 3 percent of the overall spending in the bill, despite the fact

¹⁰ The Presidio Trust Act, <https://www.presidio.gov/presidio-trust/planning-internal/Shared%20Documents/Planning%20Documents/EXD-502-TrustAct-20011228.pdf>.

¹¹ Person. "Powerful Patrons Duel over CALIFORNIA Projects in Final Spending Package." *Roll Call*, Roll Call, 12 Dec. 2019, www.rollcall.com/2019/12/11/powerful-patrons-duel-over-california-projects-in-final-spending-package/.

¹² Levi, Ryan. "For \$200 Million, You Can Change the World at The Presidio's Fort Scott." KQED, KQED, 22 Apr. 2018, www.kqed.org/news/11663954/for-200m-you-can-change-the-world-at-the-presidios-fort-scott.

¹³ "About the Presidio Trust." Presidio Trust, Presidio Trust, www.presidio.gov/presidio-trust/about#:~:text=The%20Presidio%20Trust%20is%20an%20unusual%20federal%20agency.,venues%20are%20used%20for%20park%20management%20and%20upkeep.

¹⁴ Committee print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022, pages 20-21.

that over 2.5 million acres have burned this year¹⁵ and more than 1 billion acres of lands in the United States remain at risk of wildfire.¹⁶

Most concerning is the fact that the bill includes no new management tools for either the Forest Service or Department of the Interior (DOI) to better manage public lands. While targeted funding can certainly help address the issue, new funding must be paired with streamlining bureaucratic processes and improved authorities that can increase the pace and scale of active land management projects. These critical projects are currently being delayed or cancelled due to a combination of analysis paralysis, bureaucratic red tape, and frivolous litigation. Without addressing these vital issues, the reconciliation bill is quite literally setting \$1 billion on fire and will do little to nothing to truly improve the health and resiliency of our nation's forests.

Other Programs

Title B also includes \$100 million for urban parks, \$100 million for the Every Kid Outdoors program (which provides access to fourth graders to our national parks), \$225 million for climate resilience at the National Park Service and Bureau of Land Management, and \$75 million for historic preservation. Several of these programs (i.e., urban parks and historic preservation), have typically been funded through the Land and Water Conservation Fund while others (i.e., Every Kid Outdoors) are funded via the regular appropriations process and do not require any mandatory funding. This is yet another example of wasteful Democratic spending on well-funded programs while providing virtually no new funding for better managing our federal lands.

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¹⁵ National Interagency Fire Center, statistic accurate as of August 29, 2021, <https://www.nifc.gov/>.

¹⁶ Chris French, Testimony before the Senate Energy and Natural Resources Committee, 6/24/21, <https://www.energy.senate.gov/services/files/AAF7DF40-2A47-4951-ADA4-4B124AD3894F#:~:text=In%20the%20United%20States%2C%20there,high%20risk%20of%20wildland%20fire.>

IV. SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Account	Total
Hardrock Mining Cleanup	\$2.5 billion
3D elevation Programs	\$50 million
Climate Adaptation Science Centers	\$100 million
Repeal Arctic National Wildlife Refuge Leasing Program	\$40 million
Ban offshore leasing in the Atlantic, Pacific and Eastern Gulf of Mexico	\$50 million
Mining Reform Rule	\$3 million
<i>EMR Total</i>	<i>\$2.743 billion</i>

Highlights

- Empowers our adversaries at the expense of the American people by hampering and, in some cases, banning energy and mineral production, increasing our dependency on resources supplied by OPEC, Russia and China.
- Imposes drilling moratoriums (Atlantic, Pacific, and Eastern Gulf OCS) and arbitrarily increases fees and royalties on onshore and offshore oil and gas production, raising the cost of domestic production and threatening long term energy security.
- Enacts mineral withdrawals that will cancel existing efforts to develop copper and other critical minerals necessary for renewable energy and battery storage.
- Establishes extremely high royalties on new and existing hardrock mineral projects, which will discourage domestic investment in critical mineral development as demand is expected to skyrocket for these products.

Analysis

Oil and Gas

Arctic National Wildlife Refuge Leasing Program Repeal (\$40 million) - repeals Section 20001 of the Tax Cuts and Jobs Act of 2017 (P.L. 115-97), authorizing oil and gas production in the 1002 Area of ANWR and requiring two lease sales. The Trump Administration finalized the first lease sale in 2020 and the Biden Administration has halted implementation of the leasing program.

Offshore Leasing Bans (\$50 million) – permanently prohibits leasing on the Outer Continental Shelf (OCS) in the Atlantic, Pacific and Eastern Gulf of Mexico Planning Areas.

Onshore and Offshore Royalty Rate Increase – increases the minimum royalty rate for onshore and offshore oil and gas production from 12.5% to 20% (higher than rate increases in H.R. 1517 and H.R. 1503) and reinstates onshore lease royalties from 16 $\frac{2}{3}$ % to 25%.

Oil and Gas Bonding Requirement – raises bond, surety, or other financial requirements for an individual surface disturbing activity to at least \$150,000 or \$500,000 for all activities within a given state (adjusted for inflation every 3 years).

Lease Term and Fee Changes – raises the minimum national acceptable bid to \$10 per acre (thereafter adjusted for inflation), increases the rental rates for onshore oil and gas leases from \$2 to \$3 for the first 5 years and from \$3 to \$5 every year thereafter, establishes an expression of interest fee to nominate parcels for lease of at least \$15 per lease, eliminates noncompetitive leasing, reduces standard lease terms from 10 years to 5 years and establishes new onshore and offshore “per-acre lease fees” of \$4 per acre (Conservation of Resources Fee) on producing leases and \$6 per acre (Speculative Leasing Fee) on non-producing leases.

Onshore and Offshore Inspection Fees – imposes new inspection fees on onshore oil and gas operators on federal land (higher rates than previously proposed in HR 1517) and raises the current inspection fees paid by operators on the OCS.

Idled Well Fees – requires operators to pay new annual nonrefundable fee for idled wells on federal land (same rates as H.R. 2415).

Annual Pipeline Owners Fee – imposes an annual fee for operators of offshore pipelines of at least \$1,000 per mile in depths less than 500 feet and \$10,000 per mile for depths of 500 feet or more (same rates as H.R. 2643).

Extracted Methane Royalty - requires that royalties be assessed on all gas produced, including gas used within an operation on a lease and gas consumed or lost through venting and flaring. Exceptions are made for venting and flaring for less than 48 hours for emergency reasons and for gas used for enhanced oil and gas recovery (similar to H.R. 1517).

Elimination of Royalty Relief - repeals an existing authorization allowing DOI to grant royalty relief for production from deep wells in the shallow waters of the Gulf of Mexico, deep water production, production offshore of Alaska and in the National Petroleum Reserve-Alaska.

New and Increased Penalties for Federal Operators - raises the existing fees associated with civil and criminal penalties under the MLA, FOGRMA, and OCSLA (similar to HR. 1517) and makes technical amendments to the collections process for oil and gas fees and royalties.

Hardrock Mineral Development

Hardrock Mining Cleanup (\$2.5 billion) – includes \$2.5 billion for the inventory and remediation of abandoned hardrock mines for ten years.

Mining Reform Rule (\$3 million) - provides \$3 million to BLM to revise rules and regulations “to prevent undue degradation of public lands due to hardrock mining activities” for a period of ten years, which is likely intended to impose onerous regulations on hardrock mining.

Imposition of New Royalty - assesses a **new** 8% gross royalty on new mines and a **new** 4% gross royalty on existing mines, which would threaten the economic viability of new and existing mines and could constitute a takings claim against the federal government.

Displaced Material Fee (“Dirt Tax”) - establishes a new “displaced material” reclamation fee of seven cents per ton. This fee would be based on the amount of crude ore and waste material moved during the mining process, often known as the “dirt tax.”

Claim Maintenance Fee - Today, there is a \$165 federal fee assessed on each mining claim, in addition to location and processing fees.¹⁷ These fees have been raised multiple times throughout the life of the General Mining Law of 1872. This legislation raises that amount of the fee to \$200 per claim.

Oak Flat/Resolution Copper Withdrawal (\$350 million) - repeals 16 U.S.C. 539p, the Southeast Arizona Land Exchange and Conservation Act, which was enacted as part of the FY 2015 NDAA and establishes a mineral withdrawal in the area. This provision prevents the Resolution Copper mining project from going forward, banning development of some of the most valuable copper resources in the nation. (similar to H.R. 1884).

Grand Canyon Uranium Withdrawal (\$1.5 million) - Passed as part of the H.R. 803 wilderness package in February 2021, this withdrawal permanently bans mineral development on approximately 1 million acres of public lands in Northern Arizona. The withdrawal area is far outside the Grand Canyon and would prevent development of the largest tract of uranium deposits in the country.¹⁸

Coal Development

Deferred Coal Bonus Payments - removes the requirement that at least 50 percent of the acreage offered for coal leasing shall be leased under a deferred bonus payment system. This text also removes the ability of the Secretary to waive requirements for surety bonds or financial assurance to guarantee payment of deferred bonus bid installments. (Related penalties for non-payment of installments are also removed.)

Coal Rental Rates – sets a minimum rental rate for coal leases at \$100 per acre.

Renewable Energy Development

Offshore Wind in the Territories - authorizes wind leasing in the territories. However, this text does not include the provisions in H.R. 1689 to establish a revenue sharing mechanism.

Overtake Trump OCS Wind Leasing Ban - exempts wind energy from the Trump-era energy leasing moratorium offshore Florida, Georgia and the Carolinas (similar to H.R. 2635).

¹⁷ Bureau of Land Management. “Mining Claim Fees.” <https://www.blm.gov/programs/energy-and-minerals/mining-and-minerals/locatable-minerals/mining-claims/fees>

¹⁸ Letter to Secretary Zinke from the Congressional Western Caucus, re: Arizona Uranium Mineral Withdrawal. July 27, 2018.

US Geological Survey

3D Elevation Programs (\$50 million) - This program works with states and private partners to monitor elevation maps and track the potential for hazards such as mudslides and floods.

Climate Adaptation Science Centers (\$100 million) - These centers focus on researching carbon sequestration, monitoring greenhouse gas reductions, and other climate mitigation measures and bringing their findings to the national level.

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V. SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE

Account	Total
Wildlife (FWS)	\$550 million
Oceans/Coasts	\$12 billion
Water	\$3.575 billion
<i>WOW Total</i>	<i>\$16.125 billion</i>

Fish and Wildlife Service (FWS)

Account	Total
ESA Recovery Plans	\$150 million
ESA Habitat Conservation Plans	\$50 million
ESA Section 7	\$40 million
ESA Plants in Hawaii and Insular Areas	\$25 million
ESA Butterflies	\$25 million
ESA Freshwater Mussels	\$25 million
ESA Desert Fish	\$25 million
Mitigating Climate Induced Weather Events	\$100 million
Wildlife Corridors	\$10 million
Grassland Protection and Restoration	\$100 million

Highlights

- The Endangered Species Act (16. U.S.C. 1531 et seq., ESA), enacted in 1973, has not been meaningfully modernized since then. Today there are nearly 2,000 species listed under the ESA and less than one percent of listed species have been removed from the list due to successful species recovery.
- Instead of working across the aisle on meaningful ESA reforms, this reconciliation package simply throws more money at the existing broken process.

Analysis

The U.S. Fish and Wildlife Service (FWS) would receive a significant amount of funding under the reconciliation package, with most of the funding dedicated to the ESA and wildlife recovery efforts. These provisions completely ignore the need to reform the ESA and attempts to improve species conservation by simply throwing more money at the existing flawed process. For example, instead of revamping the lengthy and burdensome ESA Section 7 interagency consultation process or codifying the Section 7 rule finalized in 2019,¹⁹ the package simply provides \$40 million for consultation efforts. This follows the budget blueprint put forward by the Biden administration which called for an \$8 million consultation bump to “foster clean energy development.”²⁰

The reconciliation bill would provide \$25 million each for endangered or threatened plants in Hawaii and Insular Areas, butterflies in the United States, freshwater mussels in the United States, and desert fish in the Southwest. The text largely mirrors H.R. 3396,²¹ which was included in a Water, Oceans, and Wildlife Subcommittee hearing at the end of July 2021.²² Unlike H.R. 3396, the text does not include prioritization language and does not create separate funds for each species. It is unclear if this money will be made available to states, tribes, and stakeholders through grants or if it will be used to create new conservation funds administered by FWS. In the July hearing, FWS withheld its support for H.R. 3396 because the agency already administers “a number of grant programs that benefit the target species identified in H.R. 3396, including our Recovery Challenge grants, Cooperative Endangered Species Conservation Fund grants, and State Wildlife Grants.”²³ In his testimony, FWS Deputy Director for Policy Stephen Guertin added that they would support “funding for existing programs”²⁴ over the approach laid out in H.R. 3396 and in this package.

The reconciliation text also includes a \$100 million set aside for “Mitigating Climate Induced Weather Events.” According to the text, these funds will be used to rebuild and restore units of the National Wildlife Refuge System, other Federal public assets, and State wildlife management areas. The text continues to clarify that these funds may also be used to increase the resiliency of habitats and infrastructure to reduce the amount of damage caused by weather events. Additionally, the outline provides another \$100 million for “Grassland Protection and Restoration.” There are already federal programs which aim to conserve grasslands, including

¹⁹ Department of the Interior U.S. Fish and Wildlife Service, *Endangered and Threatened Wildlife and Plants; Regulations for Interagency Cooperation*, 8/27/2019, <https://www.federalregister.gov/documents/2019/08/27/2019-17517/endangered-and-threatened-wildlife-and-plants-regulations-for-interagency-cooperation>.

²⁰ Department of the Interior U.S. Fish and Wildlife Service, Budget Justifications and Performance Information: Fiscal Year 2022, EX-8, <https://www.doi.gov/sites/doi.gov/files/fy2022-fws-budget-justification.pdf>.

²¹ [H.R. 3396](#).

²² House Natural Resources Committee Subcommittee on Water, Oceans, and Wildlife, *Hybrid WOW Legislative Hearing*, July 29, 2021, https://naturalresources.house.gov/hearings/hybrid-wow-legislative-hearing_july-29-2021.

²³ Stephen Guertin, Deputy Director for Policy, U.S. Fish and Wildlife Service, Testimony for Hybrid WOW Legislative Hearing, July 29, 2021, <https://naturalresources.house.gov/imo/media/doc/Guertin%20Testimony%20WOW%20Leg%20Hrg%2007.29.21.pdf>.

²⁴ *Id.*

the Grassland Conservation Reserve Program run by USDA’s Farm Service Agency.²⁵ Furthermore, the text uses the phrase “protection and restoration” which could allow this program to become a land grab aimed at locking up grasslands across the country instead of conserving them for the benefit of wildlife and rural economies.” Lastly, the bill includes \$10 million to map wildlife corridors and provide funding to states and tribes for the conservation and restoration of wildlife corridors.

National Oceanic and Atmospheric Administration (NOAA)

Account	Total
“Shovel Ready” Restoration Grants	\$9.5 billion
Pacific Coastal Salmon Recovery	\$400 million
NOAA Stock Assessments	\$200 million
Coastal Hazards and Sea Level Rise Mapping and Data Collection	\$500 million
Blue Carbon Grants and Mapping	\$95 million
Insular Grants	\$50 million
NOAA Fisheries Research Programs	\$150 million
NOAA Vessel Recapitalization	\$300 million
NOAA Civilian Climate Corps	\$120 million
NOAA Hatcheries	\$250 million
Fisheries Electronic Monitoring and Reporting Implementation	\$75 million
Working Waterfronts Grants	\$160 million
Marine Sanctuaries (30 x 30) Expansion	\$98 million
SIMP Expansion	\$2 million

Highlights

- Fund’s Chairman Grijalva’s “Blue New Deal” (H.R. 3764).
- \$9.5 billion NOAA slush fund for marine, coastal, and Great Lakes ecosystem habitat restoration contracts, grants and cooperative agreements.

Analysis

The funding for NOAA largely reflects the priorities set by Chairman Grijalva’s “Oceans Based Climate Solutions Act” (H.R. 3764), which the House Natural Resources Committee Democrats passed on a partisan basis in July 2021. Most notably it includes a \$9.5 billion ten-year fund for habitat restoration or climate change adaptation projects. Funding for the same program was provided under the Senate infrastructure package at \$491 million.

The bill also includes \$120 million for NOAA’s version of the Civilian Climate Corps and \$95 million to implement Blue Carbon priorities including “activities to characterize, quantify, map,

²⁵ Department of Agriculture Farm Service Agency, *Grassland CRP*, <https://www.fsa.usda.gov/programs-and-services/conservation-programs/crp-grasslands/index>.

and study blue carbon ecosystems.” In addition, it includes \$98 million for NOAA to fast-track national marine sanctuary designations.

Water

Account - U.S. Bureau of Reclamation	Total
Drought Relief	\$500 million
Tribal Drought Relief	\$150 million
Salton Sea Restoration	\$250 million
Indian Water Rights Settlements	\$2 billion
Desalination Research and Development	\$50 million
Snow Water Supply Forecasting	\$50 million
Aquatic Ecosystem Restoration	\$250 million
Large Scale Water Recycling and Reuse	\$100 million
Account - U.S. Geological Survey	
Water Resources Research Institutes	\$75 million
Federal Priority Streamgages	\$150 million

Highlights

- Some of the line items highlighted were funded in the Senate version of H.R.3684 (DeFazio), the INVEST in America Act.
- Spends \$3.575 billion dollars without a single dollar of investment in water storage infrastructure.

Analysis

U.S. Bureau of Reclamation (Reclamation)

Includes a total of \$650 million for drought relief efforts. Of this, \$150 million is exclusively for Indian Tribes impacted by Reclamation operations. The remaining \$500 million can be used for the following four areas: the Klamath basin, grants for Tribes, Reclamation’s emergency drought relief program, and the aquatic ecosystem restoration program.

The remaining funding reflects many Democrat priorities, including a permanent extension of the Reclamation Water Settlement Fund (Fund). The Fund was created as a source of direct funding for the implementation of Indian water rights settlements and currently receives \$120 million in mandatory funding annually until 2029. The reconciliation text permanently extends the Fund and increases the amount to \$370 million annually. In addition, the Fund would receive a one-time \$2 billion deposit. The Senate infrastructure package included already mandates a \$2.5 billion direct transfer from the Treasury to a newly created fund for existing Indian water rights settlements. The text also gives the Interior Secretary the discretion to use money intended for Indian water rights settlements as a grant for any Indian Tribe located in a Reclamation state to use for water projects. As written, these grants do not have to be tied to a water rights settlement.

The “Aquatic Ecosystem Restoration” program was authorized under the FY2021 Consolidated Appropriations Act at \$15 million per year for five years. In this text, this program is funded at \$250 million. The Senate infrastructure package already appropriates \$250 million for this program. In its FY22 Budget Request, Reclamation requested \$1 million to set up the program. If both provisions are enacted, Congress would be appropriating \$500 million, a third of Reclamation’s annual budget, to this program.

The text also includes \$250 million in funding for Reclamation to provide grants and enter into contracts or cooperative agreements to carry out projects such as dust suppression activities, fish and wildlife habitat, recreational opportunities, and water quality improvements in the Salton Sea in California. The Department of the Interior and California entered into a Memorandum of Understanding (MOU) in 2016 affirming that California has the lead role in Salton Sea efforts and expressing mutual intent to try to support achievement of restoration goals. Under the MOU, the federal government agreed to provide up to \$30 million for certain habitat and monitoring activities to assist the State. To date, the Interior Department has provided \$14 million of that amount.

The text also includes an additional \$100 million for a “large-scale water recycling program.” This program was included in the Senate infrastructure package, which appropriates \$450 million. In addition, this program does not follow precedent when it comes to federal spending caps, expenditures and authorizations on specific water recycling projects. Currently, Metropolitan Water District of Southern California’s (Metropolitan) Regional Recycled Water Program (RRWP) is the only project that will benefit from this funding.

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VI. SUBCOMMITTEE ON INDIGENOUS PEOPLES

Indian Health Service

Account	Total
IHS Health Facility Construction, Maintenance, and Improvement	\$2 billion
IHS Health Records and IT Modernization	\$140 million
Healthcare Facility Equipment	\$150 million
Personnel Quarters Construction	\$278 million
Maintenance and improvement of Indian Health Service and tribal facilities	\$610 million
Urban Indian Health Program Construction, Facilities Maintenance, and Repair	\$42 million
Small Ambulatory Construction	\$60 million
Inpatient and Community Health Facilities Design, Construction	\$40 million

Environmental Health and Facilities Support	\$170 million
Sustainable Features for Existing Facilities	\$10 million
<i>IHS Total</i>	<i>\$3.5 billion</i>

Highlights

- The Democrat proposal includes nearly \$3.5 billion in new funding for Indian Health Service (IHS) infrastructure and infrastructure support but contains no programmatic changes to future IHS infrastructure methodologies to address infrastructure challenges going forward.
- The Democrat proposal only contains enough funding to complete the IHS construction priority list, leaving the rest Indian country behind.

Analysis

Although there is bipartisan agreement of the need for robust investment in health care facilities, aging infrastructure and other critical needs in Indian Country, the reconciliation legislation before this committee is not the appropriate vehicle. The Democrats’ partisan budget reconciliation legislation will irresponsibly create more than \$31 billion in new deficit spending, hamstringing the economy, cripple domestic energy production, and make the U.S. dependent on foreign adversaries.

Indian Health Facility Construction

In 1990, the IHS revised the Health Care Facilities Priority System (HFCPS).²⁶ The remaining health care facilities projects on the HFCPS list today, including those partially funded, total approximately \$2 billion as of March 2020.²⁷

At the current rate of facility construction appropriations, if a new facility were built today, it would not be replaced for 400 years. With an extraordinary need beyond the 1990 HFCPS, the majority’s proposal of only \$2 billion is a missed opportunity. Additionally, this proposal does not contain any policies that will require the IHS develop new construction need methodologies to ensure the construction list reflects the greatest needs throughout Indian country.

Health Records and IT Modernization

The IHS health record system is essential to provide much-anticipated clinical and administrative capabilities used in modern systems for the delivery of timely and impactful healthcare. The current record system, the Resource and Patient Management System (RPMS), is 50 years old and operates on the Veterans Affairs/Department of Defense system that will soon be replaced.

²⁶<https://www.ihs.gov/dfpc/resources/>

²⁷https://www.ihs.gov/sites/dfpc/themes/responsive2017/display_objects/documents/projects/Planned_Construction_Priorities.pdf

Facility Equipment

The IHS has reported that medical and laboratory equipment, which has an average useful life of six years, generally is used at least twice as long at its facilities.

Personnel Quarters Construction

Some tribal communities lack adequate available housing options and the IHS uses staff quarters to recruit and retain competent medical professionals. The current vacancy rate of medical professionals throughout the IHS system is 25 percent.

Health Facility Maintenance and Improvement

The current backlog of HIS M&I is \$944.9 million. When facility construction dollars are limited, maintenance and improvement funding can help extend the life of a facility.

Sustainable Features for Existing Facilities

In general, IHS facilities are old, undersized, and have obsolete layouts. According to the IHS, the average age of their health care facilities is greater than 40 years.

Congress should ensure IHS facilities are adequate, safe and secure, more emphasis should be placed on ensuring tribal communities first have basic structures that do not drive-up costs that further delay M&I or replacement. Funding for facilities in recent years has not kept pace with need and emphasis on these lofty greening goals, such as sustainability certifications that drive up construction costs, is an inefficient use of taxpayer money.

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Bureau of Indian Affairs

Account	Total
BIA Climate Resilience	\$1 billion
Tribal Consultation	\$30 million
BIA Road Maintenance	\$300 million
BIA Public Safety	\$200 million
BIA Tribal Housing	\$500 million
BIA Tribal Energy	\$35 million
<i>BIA Total</i>	<i>\$ 2.065 billion</i>

Highlights

- The Bureau of Indian Affairs' (BIA) Climate Resilience program would receive nearly twice the annual amount the BIA receives each fiscal year through annual appropriations.
- There is little accurate available information as to how these expenditures would benefit Indian country beyond nebulous “planning” for a changing environment.
- BIA buildings and facilities are in dire condition, however lofty ambitions to make buildings more LEED compliance should not trump safety and security.
- Federal funding is currently set aside for consultation with tribal nations, and it is unclear how this funding will ensure effective tribal consultation.

Analysis

Bureau of Indian Affairs Climate Resilience

This section authorizes \$1 billion for tribal climate resilience, adaptation, and community relocation planning, design, and implementation of projects which address the varying climate challenges facing tribal communities across the country.

The BIA Climate Resilience program is supposed to send resources to Federally recognized tribes to build capacity and resilience through both technical and financial assistance, support the delivery of data and tools, access to training and workshops and facilitates planning associated with impacts posed by harmful environmental trends. However, there is little indication that tribes have been adequately consulted on how this new BIA program would be implemented or if this initiative is a top priority in Indian Country. Natural Resources Democrats' “Blue New Deal” legislation (H.R. 3764) includes similar legislative proposals for climate change resiliency enhancements within the Department of the Interior. There is limited information as to whether these efforts to direct federal funding for climate resiliency programs will improve tribal economies throughout the nation.

Tribal Consultation

For FY 2021, \$10.7 million was set aside for DOI Assistant Secretary—Indian Affairs Support, that would reinforce effectiveness of self-governance and self-determination with the BIA. The FY 2022 budget requests another \$2.4 million to further ensure regular tribal consultations.

While there is strong bipartisan support for consultation activities with tribal nations, there is little information as to what or how the additional \$30 million provided in the reconciliation legislation would augment the \$10.8 million in funds the BIA already receives to engage in tribal consultation.

Tribal Energy

There are two offices that provide Indian tribes technical assistance, grants, and/or loan guarantees for tribal energy projects: the Bureau of Indian Affairs Indian Energy Service Center and the Department of Energy Office of Indian Energy Policy and Programs. The additional amount of \$35 million for BIA Tribal Energy is vague and may force Indian tribes to develop renewable energy projects rather than minerals and conventional energy projects. Congress should not limit a tribe’s ability to develop their tribal energy resources and should take an “all of the above” approach when promoting energy resource development nationwide.

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VII. INSULAR AFFAIRS

Section	Total
Insular Affairs Climate Planning Assistance	\$25 million
Residents of Vieques health compensation	\$300 million
Hospitals and Health Infrastructure	\$993 million

Highlights

- \$25 million would be available through the DOI Office of Insular Affairs for climate change planning, mitigation, adaptation, and resilience to Insular Areas. The FY 2022 DOI budget request contains little information regarding any metrics or measurable outcomes for the activities this program supports.
- Despite the lack of scientific consensus of health effects, the majority proposes \$300 million to compensate residents of the municipality of Vieques.
- The majority provides lopsided funding for hospital infrastructure investment for two public hospitals in Guam, two in the U.S. Virgin Islands, the Northern Marianas Islands, and American Samoa.

Analysis

Climate Change Planning

The DOI Office of Insular Affairs (OIA) Technical Assistance Program would be required provide expanded technical assistance for climate change planning, mitigation, adaptation, and resilience to U.S. territories and the Freely Associated States.

This provision was included as Title II in H.R. 2780, the Insular Area Climate Change Act, which was authorized at \$5 million for FY 2022-FY 2026. The FY 2021 enacted level for the OIA technical assistance program was \$21.8 million. In FY 2020, OIA received approximately \$66 million in grant requests. While the program supports urgent response for needs such as healthcare, education, public safety, energy, and transportation, it is unclear how this additional

funding will increase quality of life in the Insular Areas.

Vieques Compensation

In recent decades, there have been several federal public health assessments conducted in Vieques by the Department of Health and Human Services. In these studies, it was concluded that the levels of exposure “were so low that harmful health effects would be unlikely.”²⁸

However, a 2019 independent study published in the *International Journal of Environmental Research and Public Health* also found trace elements of heavy metals from the naval exercises in the soil, water, and air absorbed into the vegetation and crops, which serves as a potential pathway to exposure for civilians.

The section would place a Special Master in charge of determining if a claimant or heir is eligible for compensation. Unlike H.R. 1317 and H.R. 1126, this section provides no guidance as to dollar amounts a claimant(s) or heir(s) would be eligible.

Insular Hospital Infrastructure

The legislation proposes \$993 million for Hospitals and Health Infrastructure in the Insular Areas. Of that, 35 percent of the amount made available under this section will be available for Guam, 35 percent to the U.S. Virgin Islands, 20 percent to the Commonwealth of the Northern Mariana Islands and 10 percent to American Samoa for public hospital infrastructure.

Conditions at the LBJ hospital in American Samoa are dire due to a lack of adequate funding and a chronic backlog of infrastructure maintenance. The territory has always been challenged with providing basic needs and services in healthcare. While the OIA’s infrastructure Capital Improvement Program has provided infrastructure funding to the LBJ hospital, current needs are estimated to be more than \$100 million for modernization, and three-quarters of a billion for complete replacement of the facility.

Similarly, the main wings of the Guam Memorial hospital were built in 1978 and in need of replacement. In April 2020, the U.S. Army Corps of Engineers issued a report stating that the hospital is in an overall state of failure due to age, environmental exposure, lack of financial resources to support pre-planned capital infrastructure replacements, and lack of previous facilities design adherence to building codes. The Army Corps estimated cost of replacement is \$743 million. While the government of Guam has set aside approximately half of the needed funds, investment will ensure Guam has an adequate health facility, as recommended by the U.S. Corps to meet accreditation standards.

In 2017, two hospitals in the U.S. Virgin Islands were damaged by hurricanes Maria and Irma. In 2019, FEMA announced it would direct \$80 million to aid in the reconstruction of the two hospitals. The remaining cost to rebuild the hospitals would be \$170 million.

²⁸ *Id.*

In 2018, Super Typhoon Yutu caused significant damage to health infrastructure in the Commonwealth of the Northern Marianas. Approximately \$20 million will be set aside for hospital infrastructure reconstruction, despite there not being comprehensive estimate of need at the hospital.

While there is bipartisan support for investment in health infrastructure in the U.S. territories, the percentages proposed by the majority are artificial and do not support equitable funding across the territories.

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VIII. SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Highlights

- Despite spending more than \$31 billion, no funds were allocated to support the Offices of Inspector General (OIG) for the Department of the Interior (DOI) or the Department of Commerce (DOC). The OIG is tasked with preventing waste, fraud, and abuse, and needs additional resources to monitor this increased spending.
- The number of individuals attempting to illegally cross the Southern Border reached historic highs in July 2021. As illegal border crossings continue to increase, the anticipated damage to our federal lands grows. The Democrats, however, did not allocate any funds to mitigate or repair the degradation of sensitive environments caused by illegal border crossers.

Analysis

Offices of Inspector General (OIGs)

The OIGs are responsible for providing independent oversight of DOI and the Department of Commerce (DOC), among other Departments, to prevent fraud, waste, and mismanagement of funds.²⁹ With initial spending totaling \$31,722,500, Democrats failed to allocate any additional funding within their reconciliation package to relevant OIGs. The importance of coupling increases in spending with increases in resources for OIGs has previously been recognized. For example, the Bipartisan Infrastructure Framework included a requirement that a percentage of the funds made available to DOI be transferred to the OIG.³⁰ By declining to include additional

²⁹ *About Us*, OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF THE INTERIOR, <https://www.doioig.gov/about/about-us>. *Organization*, OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF COMMERCE, <https://www.oig.doc.gov/Pages/Organization.aspx>.

³⁰ Bipartisan Infrastructure Framework, Title VI (“*Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act.”).

funding for OIGs, Democrats illustrate the low priority they place on oversight and accountability for the billions of dollars they are spending.

Border Crisis

President Biden’s policies exacerbated a crisis at the Southern Border.³¹ In July 2021, Customs and Border Protection (CBP) encountered 212,672 people trying to illegally cross the Southwest border.³² This is the first time in 21 years that the number of individuals detained surpassed 200,000.³³ In addition to the individuals detained, border officials reported more than 1,000 daily “got-aways,” in recent months.³⁴

Illegal immigration has known environmental consequences for our federal lands. Illegal border crossers were responsible for the creation of thousands of miles of illegal trails through the Buenos Aires National Wildlife Refuge,³⁵ burning hundreds of acres in the Cleveland National Forest,³⁶ and creating smuggling corridors that destroyed habitat in the Ironwood Forest National Monument.³⁷ Illegal border crossers also leave behind trash, such as human waste, vehicles, plastic, and medical products.³⁸ The Arizona Department of Environmental Quality estimates that each border crosser leaves “approximately six to eight pounds of trash in the desert during their journey.”³⁹

Despite the historic number of individuals attempting to cross the Southern border and thousands of individuals successfully crossing the border, no funds were allocated for mitigation projects. Restoring our public lands after degradation caused by illegal border crossers and erecting protections to deter further damage requires funding. For example, in 2007 and 2008, \$17.5 million from DOI mitigation funds was used to restore Organ Pipe Cactus National Monument

³¹ W. James Antle III, *Biden Immigration Policies Causes a Predictable Border Crisis. Why Didn't He Plan for It?*, NBC NEWS (Mar. 14, 2021), <https://www.nbcnews.com/think/opinion/biden-immigration-policies-cause-predictable-border-crisis-why-didn-t-nena1260992>.

³² Press Release, U.S. Customs and Border Protection, *CBP Releases July 2021 Operational Update* (Aug. 12, 2021) <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-july-2021-operational-update>.

³³ Nick Miroff, *July was Busiest Month for Illegal Border Crossing in 21 Years, CBP Data Shows*, THE WASHINGTON POST (Aug. 12, 2021), https://www.washingtonpost.com/national/record-numbers-illegal-border-crossings/2021/08/12/e3d305e2-facd-11eb-b8dd-0e376fba55f2_story.html.

³⁴ *Id.* (A got-away incident is when authorities are able to detect an illegal entry but did not make an arrest).

³⁵ *Enhancing DHS' Efforts to Disrupt Alien Smuggling Across Our Border: Hearing Before the Subcomm. on Border, Maritime, and Global Counterterrorism of the H. Comm. on Homeland Security*, 111th Cong. (2010) (statement of Janice L. Kephart, Director of National Security Policy, Center for Immigration Studies).

³⁶ *The Costs of Denying Border Patrol Access: Our Environment and Security: Hearing Before the Subcomm. on Oversight and Investigations of the H. Comm. on Nat. Res.*, 115th Cong. (2018) (statement of Hon. Andrew R. Arthur, Resident Fellow in Law and Policy, Center for Immigration Studies).

³⁷ *Southern Arizona Project, 2016 Border Report*, BUREAU OF LAND MANAGEMENT, U.S. DEP'T OF THE INTERIOR, available at <https://www.blm.gov/sites/blm.gov/files/documents/files/SAP%202016%20%28508%20Final%29.pdf>.

³⁸ ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, Arizona Border Trash, <https://www.azbordertrash.gov/about.html>.

³⁹ *Id.*

after damage caused by illegal border crossers.⁴⁰ Extensive damage to federal lands caused by illegal immigration is foreseeable. Democrats, however, failed to designate any funds for the remediation of protected environments in their multibillion-dollar spending spree.

IX. EFFECT ON CURRENT LAW (RAMSEYER)

- [Reconciliation Package](#)

⁴⁰ *Briefing* from U.S. Customs and Border Protection to H. Comm. on Nat. Res. Minority Staff (Aug. 18, 2021 1:00 p.m.).