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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

May 20, 2013

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Thomas L. Tidwell
Chief, Forest Service
U.S. Department of Agriculture
201 14th Street, S.W.
Washington, DC 20024

Dear Chief Tidwell:

In March 2013, the Forest Service (“Service”) began demanding states return \$17.9 million they had received – and in many cases already spent – under the Secure Rural Schools Program (“SRS”). Congress has authorized this money to help pay for schools and government services in areas where environmental lawsuits and Service mismanagement have reduced proceeds from timber harvests on federal lands in rural communities.

Under this program, payments are required to be made as soon as practicable after the end of the fiscal year.¹ In July 2012, Congress approved the most recent SRS payments, which were distributed to the states in January 2013 by the Service. At an April 11, 2013 hearing before the Subcommittee on Public Lands and Environmental Regulation, you stated you had “personally pursued every avenue . . . to find a different solution,” yet it was concluded that a percentage must be returned to the Service to account for budget shortfalls from sequestration and that failure to do so would result in penalties.

The Service’s retroactive sequestering of the SRS money appears inconsistent with the law and to be another attempt by the Administration to make sequestration as painful as possible. A bipartisan letter was sent to Secretary Vilsack and the Acting Director of the Office of Management and Budget, Jeffrey Zients, on March 28, 2013 seeking detailed justification for these punitive and unanticipated demands. The Administration’s failure to provide any response is deeply concerning.

Recognizing the importance the SRS funds hold for education and providing emergency services to rural communities and the questionable timing and legal basis on which the Service has justified this action, the governors of Alaska, Wyoming, and Washington recently announced they will not permit the Service to take the funds their states were rightfully paid.

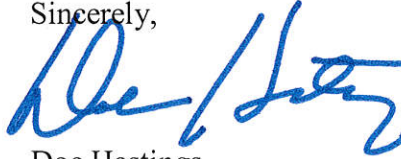
¹ See 16 U.S.C. § 7112(e).

The Committee on Natural Resources has broad jurisdiction over matters concerning the Service, public lands generally, as well as forest reserves and national parks created from the public domain. To better understand the authority and rationale exercised by the Service to demand the repayment of the SRS funds, it is requested that the Service provide complete and unredacted copies of the following information and documents no later than the close of business on June 3, 2013:

1. At the Subcommittee on Public Lands and Environmental Regulation's ("PL&ER") April 11 hearing it was stated that numerous conversations had occurred within the Service regarding the legal justification to demand repayment of the SRS funds. Please provide copies of all internal email or other communications, memoranda, legal analysis or other documentation concerning the following:
 - a. Any and all discussions and documentation involving the Service, the Department of Agriculture, and or the Office of Management and Budget from January 15, 2013 to March 19, 2013 regarding the decision and legal justification to retroactively sequester the SRS funds and a specific reference to the date the decision was ultimately made and communicated to the Service.
 - b. The alternatives to the demand for repayment of the SRS funds that were considered or pursued by the Service.
 - c. Copies of all drafts, including any documents concerning any edits, comments, or revisions thereto, of any press releases, talking points, or communication documents regarding the March 19, 2013 letter to states or the decision to demand states return a portion of SRS money already received.
2. Please provide a detailed list for each of the following items:
 - a. Please identify whether the Service has demanded repayment of any grants under the Budget Control Act.
 - b. The number of Service employees on detail, fellowship, or placement under the Intergovernmental Personnel Act or other legal authority in FY 2013 and whether the Service has demanded employees return to the Service in response to the Budget Control Act.
 - c. All training courses, conferences, and meetings paid for in whole or in part by the Forest Service to date in FY 2013.
3. In an April 16 hearing before the Senate Committee on Energy and Natural Resources, it was discovered that the Service would impose penalties and interest payments on those communities that are unable to return the payments. What is the legal basis for this decision? Please provide copies of all internal communications, memoranda, legal analysis or other documentation regarding the decision to penalize those communities unable to pay.
4. At the Subcommittee on PL&ER's April 11 hearing, you stated the Service had "tr[ie]d to get [the funds] out in December," but waited until January even though the Service knew sequestration was pending. Please provide all emails or other communications, memoranda, legal analysis or other documentation concerning that delay.

Enclosed with this letter are instructions and definitions for responding to this request. Please have your staff contact Andrew Vecera or Byron Brown of the Office of Oversight and Investigations at 202-225-2761 with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written in a cursive style.

Doc Hastings
Chairman

Responding to Committee Document Requests

A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), instant message, notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.
9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

12. Production materials should be delivered to:

Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515