

**NOMINATION OF
JEFFREY MICHAEL PRIETO, OF CALIFORNIA,
TO BE GENERAL COUNSEL OF
THE DEPARTMENT OF AGRICULTURE**

HEARING
BEFORE THE
**COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY**
UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS
FIRST SESSION

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MAY 21, 2015
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**NOMINATION OF
JEFFREY MICHAEL PRIETO, OF CALIFORNIA,
TO BE GENERAL COUNSEL OF
THE DEPARTMENT OF AGRICULTURE**

Thursday, May 21, 2015

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC

The committee met, pursuant to notice, at 9:58 a.m., in room 328A, Russell Senate Office Building, Hon. Pat Roberts, Chairman of the committee, presiding.

Present or submitting a statement: Senators Roberts, Boozman, Hoeven, Perdue, Ernst, Tillis, Sasse, Grassley, Thune, Stabenow, Klobuchar, Bennet, Gillibrand, Donnelly, and Casey.

**STATEMENT OF HON. PAT ROBERTS, U.S. SENATOR FROM THE
STATE OF KANSAS, CHAIRMAN, U.S. COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY**

Chairman ROBERTS. The vote is at 10:00, I understand now, and guess what, we could proceed to see just how far we can move along.

Mr. Prieto, would you please come before the committee.

[Pause.]

Chairman ROBERTS. The purpose of this hearing is Mr. Jeffrey Prieto's nomination to serve in the position of General Counsel for the United States Department of Agriculture. We welcome you, sir.

The Office of the General Counsel at the USDA was established in 1910. It is an independent agency providing centralized legal advice and services to the Department in support of all programs and activities. The legal services range widely, from providing counsel to USDA officials, to providing technical assistance to Congress during farm bills, to conducting litigation. The office also provides litigation support services to the Department of Justice, as needed.

The General Counsel is responsible for providing advice and counsel directly to the Secretary and the Deputy

Secretary, in addition, overseeing the Washington, DC-based office. The position also supervises 12 field offices within OGC as well as the Office of Ethics.

Our nominee, Mr. Prieto, currently serves as Acting General Counsel at the Department. He has worked at the Department since June of 2014, when he was hired to be the Principal Deputy. Prior to his service at the Department, he was an attorney at the Department of Justice for 15 years and also worked as an attorney

advisor at the Environmental Protection Agency. He is a graduate of the UCLA School of Law, holds a Master's degree of Public Affairs from the Woodrow Wilson School of Public and International Affairs at Princeton University, and is from California.

Mr. Prieto, I understand that your wife, Sheryl, son Daniel, and mother, Lucy, as well as other friends and family join you today. If I could ask them to stand, I would do that now. We welcome you to the committee.

[Applause.]

Chairman ROBERTS. I look forward to hearing your testimony today and asking you some questions in regard to the role you would serve at the Department, if confirmed.

I first turn to my distinguished Ranking Member for any remarks that she may have.

**STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR
FROM THE STATE OF MICHIGAN**

Senator STABENOW. Well, thank you, Mr. Chairman.

In the interest of time, I will put my opening statement into the record, but I just want to welcome Mr. Prieto and your family. I know they are very, very proud of you. You have been serving us well in an acting position.

This is obviously an incredibly important position of General Counsel. Our farmers and ranchers and families and rural communities count on you to help guide us as we implement the farm bill and other policies that create tools for our growers and the resources for our communities.

Mr. Chairman, thank you for bringing the nomination forward. I hope we can swiftly confirm Mr. Prieto as General Counsel, and I will put the rest of my comments into the record.

[The prepared statement of Hon. Debbie Stabenow can be found on page 14 in the appendix.]

Chairman ROBERTS. I thank the Senator.

There are two questions that I need to ask you, sir, under oath, before your testimony, if you could please stand and raise your right hand.

Do you swear that the testimony you are about to present is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PRIETO. I do.

Chairman ROBERTS. Second, do you agree that, if confirmed, you will appear before any duly constituted committee of the Congress, if asked to appear?

Mr. PRIETO. I do and will.

Chairman ROBERTS. Thank you, sir.

Mr. PRIETO. Thank you.

Chairman ROBERTS. Please be seated.

You are recognized for your testimony, sir.

**TESTIMONY OF JEFFREY MICHAEL PRIETO, OF CALIFORNIA,
NOMINATED TO BE GENERAL COUNSEL, U.S. DEPARTMENT
OF AGRICULTURE**

Mr. PRIETO. Good morning, and greetings, Mr. Chairman, Ranking Member Stabenow, and other distinguished members of Con-

gress and the committee. I thank you all for your willingness to hold this hearing.

It is a great honor to be before you as President Obama's nominee as the General Counsel. I am also grateful to not only the President, but to Secretary Vilsack for this honor, as well, and I look forward to continuing to serve the American public if I am so privileged of being confirmed.

I also thank you, Mr. Chairman, for recognizing my family, because it is an honor to have them here. I just want to publicly take a moment to thank my wife. We have had a long journey to this particular place, and without her love, support, I would not be here.

I also want to thank my mother, my sister, and our Rector, as well, for their prayers, their support. My oldest son is here. My youngest son started his summer job today and I told him he cannot miss working—

[Laughter.]

Mr. PRIETO. —so I know that he is here in spirit. But, I am so grateful to all of them and all of the members and friends and family that are here, and also to my community. Because of them, I have this opportunity, and I intend to continue to pay back that particular debt.

But, I am also a product of my family's history. My family has been in this country for two generations. I think today of three uncles who were killed in World War II, my cousins who have served, including one who received the Distinguished Flying Cross during the Vietnam conflict, another cousin who has served in Special Forces during the Afghan situation, and they are my inspiration. I think about them today, both those that have passed, those that are still here, and they have inspired me.

But, I also understand that inspiration has to be coupled with hard work. I learned how to work hard from my grandfather. My grandfather worked in a citrus packing house in Santa Paula, California, for over 50 years, and he loved that job. He woke up every morning, went to work. The bell would come, he would come home for lunch, and he would go back. I worked there a summer and I know how hard he worked. But, that is where I learned how to work hard, and it was because of him and his sacrifices and my grandmother's that we had the opportunities. They supported us in so many different ways, at times financially, our family in Mexico, and it was because of them, again, that I am here.

But, not only inspiration and hard work, but there has to be a purpose, and that purpose has been public service. I am so glad that my mother is here today, because I learned what it is to serve from my mother. My mother was our primary earner. She worked a variety of jobs, and when we were growing up worked in a split schedule so that she could be home when we left and she was home when we got back, and then would go back to work. It is, again, because of that sacrifice that, again, I understand that it is not just enough to be inspired, it is not just enough to work hard, but that you have to have a purpose.

I believe that coming together at this particular time, this is my purpose, and my purpose has been to serve the American public. If confirmed, serving as a General Counsel would be the apex of

my career. I am very proud of my service as a government attorney and I think that that uniquely prepares me, because I do understand the complexities of working with federal legal agencies, the complexities of issues.

I have been privileged to work on some of the most important cases during my time at the Department of Justice and I continue to bring that insight, that work ethic, that understanding in serving in this particular position.

But, in terms of USDA, I also look forward to serving America's farmers, ranchers, rural communities, because they are not only essential contributors to the nation's economy, they are amongst the most challenged segments of American society. Both of my parents grew up in Santa Paula, California. It is the citrus capital of the world, and I know there may be states that may disagree with that. But, because of that product, I understand the importance of agriculture in people's lives. I understand what we gained as a family because of my grandfather's work.

I have been privileged in my life. I have been privileged to work on the issues that I have worked on and I look forward to continuing to do so. I also look forward to working in USDA because we have some of the finest attorneys, some of the finest professional staff that I know not only serve the Department, the American public, but work so closely with you all, and I am committed to continue to do so.

Finally, if you would honor me by recommending me, and should the Senate confirm me, I will do everything in my power to execute the duties of the General Counsel. I intend to execute my duties with the highest level of integrity, skill, and professionalism to earn your trust, to earn your respect, and I am committed to working with the leadership of USDA, with the Congress, to further the best interests of all Americans.

So, I thank you, Mr. Chairman, Ranking Member, for holding this hearing to consider my candidacy. I am grateful for your time and I am glad to answer any questions that you might have.

[The prepared statement of Mr. Prieto can be found on page 15 in the appendix.]

Chairman ROBERTS. Well, Mr. Prieto, we thank you for your humble and most eloquent statement. Thank you, sir.

As members know—Senator Bennet, would you like to be recognized to cast your vote aye on behalf of the Grain Standards Act?

Senator BENNET. Yes, Mr. Chairman.

Chairman ROBERTS. Senator Klobuchar, as well?

Senator KLOBUCHAR. Thank you.

Chairman ROBERTS. We appreciate it.

Senator THUNE. Mr. Chairman? Mr. Chairman, way down here at the end?

[Laughter.]

Chairman ROBERTS. Yes.

Senator THUNE. Could I also be recorded as yes on the Grain Standards—

Chairman ROBERTS. I would be very pleased to acknowledge your vote.

Senator THUNE. Mr. Chairman, thanks.

Chairman ROBERTS. We have some questions. The staff will let us know when the vote starts, and I want to thank members for coming and giving us a quorum.

Mr. Prieto, farmers and ranchers are affected on a daily basis by decisions made at agencies all across our federal government, some of them quite intrusive. They are impacted by rules such as the waters of the U.S. rule at EPA and regulations on transporting farm goods and commodities at the Department of Transportation. You know that. What appropriate role or supporting role, if any, do you envision for the Office of General Counsel during the inter-agency process and discussions as laws affecting our agriculture producers are implemented, sir?

Mr. PRIETO. Mr. Chairman, thank you very much for that question. I see a very robust role, and, obviously, depending on the circumstance. Some of the examples you have provided, USDA is not the lead, and in those particular instances, we serve in a counseling role. That counseling role ensures that the interests of the agricultural community are embodied, that they are raised. We work very, very hard to ensure in working with other federal agencies—and this is, again, an area that I think particular insight—understanding the need for collaboration. I am committed and will continue to ensure that the interests of the agricultural community are raised and considered by other federal agencies as they move forward on those rules and responsibilities that they have primary responsibility over.

Chairman ROBERTS. Thank you, sir.

I want to draw attention to the committee and to everybody present, and to you, Mr. Prieto, there has been recent media attention on federal agencies like the EPA improperly promoting its regulatory actions with regards to waters of the U.S. A recent news article raises questions about EPA's role and actions employed in order to garner public support for the proposed rule and reports that critics believe the EPA inappropriately influenced the campaign, which is prohibited for a federal agency according to the Anti-Lobbying Act.

Now, given your legal expertise, do you believe the EPA violated the law? If confirmed, how would the Office of General Counsel ensure the USDA is compliant with the Anti-Lobbying Act restrictions?

Mr. PRIETO. Again, Mr. Chairman, thank you very much for that question. I can speak to the USDA. We understand the statutory requirements in these particular issues. Clearly, we have significant outreach to our communities. We do it in the way that fits and within the statutory requirements, and I can commit to you, sir, and to this committee, that we will continue to do everything that we do within the statutory requirements of those particular provisions.

Chairman ROBERTS. Thank you, sir.

Now, I have raised this issue because I was disappointed, although not entirely surprised, to learn of EPA's very questionable activities surrounding the manner by which they advanced the WOTUS proposed rule through the rulemaking, especially the public comment process. I am deeply concerned and troubled that the EPA and administration officials may have not only undermined

the meaningful consultation and collaboration with state partners and stakeholders in the rulemaking process, but I am also concerned about their role in manipulating and influencing the outcome of the public comment period.

Now, in March, Administrator McCarthy testified before Congress and said without any hesitation that over one million comments—one million—and 87.1 percent of those comments we have counted—I am quoting her—so far are supportive. Let me repeat. Eighty-seven-point-one percent of those plus one million are supportive of this rule.

Well, given what has come to light in recent days, I find this statement to be completely disingenuous and automatically discredit EPA's objectivity through every facet of the rulemaking process to date. We all know that the EPA will issue the WOTUS rule any day now, probably tomorrow.

This committee heard directly from farmers and ranchers, this committee. They came, they testified, from all regions of the country, ranchers, state agency officials, various industries in Kansas, all throughout the country, about the impacts of EPA's proposed WOTUS rule. It became the number one issue of concern throughout all of rural America with regards to regulatory overreach. This resounding message was communicated before our committee, and it was clear that this was the wrong approach and the wrong rule for agriculture, rural America, and small communities.

When I and other members of this committee raised the concerns of our constituents with Administrator McCarthy, we were told that they should submit comments for the record and EPA would take them under consideration. Well, we now know that the EPA stacked the deck against them. Rather than listening to public comments from our agriculture constituents, it appears that EPA has orchestrated a political grassroots lobbying campaign with environmental groups to manipulate the process and disregard legitimate concerns from rural America.

Now, regardless of our position on the rule—we have members of the committee who support the committee, I know that. We have those of us who think that we could certainly at least tweak it, or at least make it more fair, or simply back it off for a while. That is not the issue. I give everybody here the credit for their intent. The issue is having a fair comment period where producers' legitimate concerns are heard and protected, not drowned out by the EPA itself.

So, Mr. Prieto, I raise this issue with you only to say, I encourage you—I encourage you—in your capacity as General Counsel to ensure that the USDA follows the law and not in the footsteps of the EPA, because this committee has the oversight responsibility and we will be watching. I know you will do that job.

The Agriculture Committee has a very full plate this Congress with several pieces of legislation to complete before September 30. There is a long tradition in this committee of OGC being a partner in this task to ensure that we get the language right. Do I have your commitment to make your staff available to assist us in this work?

Mr. PRIETO. You do, Mr. Chairman.

Chairman ROBERTS. There are other questions that I will submit for the record, and I recognize the distinguished Ranking Member.

Senator STABENOW. Well, thank you very much, Mr. Chairman, and welcome again, and let me just indicate I think with the Clean Water Act revisions that the proof will be in the pudding and that we all want to make sure that all the traditional agricultural exemptions and forestry exemptions are in place so that, in fact, agriculture can continue to do what they need to do and also protect the waters of this country, which we all care deeply about, including and specifically our farmers and ranchers who count on this resource, and we are seeing the challenges across the country right now from lack of water. So, we are all in this and need to get it right.

Mr. Prieto, you have a very impressive career in civil service and you received a number of awards throughout your tenure at the Department of Justice. You have now been at the USDA's Office of General Counsel for nearly a year. I wonder if you could speak a little bit more about your experience at the Department of Justice, specifically within the Environment and Natural Resources Division, how you think that experience helped prepare you to be General Counsel of the USDA.

Mr. PRIETO. Thank you, Senator, and I thank you also for the compliments relative to my career. I believe that my time as a federal prosecutor at the Department of Justice has, frankly, prepared me very well for the position at USDA. Many of the cases that I litigated, that I served upon, included a significant number of federal agencies who we were representing, both on the affirmative and on the defensive side. It has given me the experience to work across the government to ensure that consensus is reached, that decisions are reached, so that the United States could speak with a single voice. I think that experience in terms of working across the government will serve me well.

Again, USDA has many partners and it is incredibly important, as both you and the Chairman have raised, in terms of the relationship that USDA has, the role that we play as different rules go forward, as different practices go forward. So, I believe that it has prepared me well to serve in that particular role at USDA.

Senator STABENOW. Thank you.

You are also in charge of managing several deputy and associate general counsels, 12 regional and field offices, I think over 250 people. Could you talk about how your previous experience has helped you be able to get to this point in terms of leading a very large staff and the challenges of moving forward as you work with us.

Mr. PRIETO. Thank you, Senator. I think one of the challenges that anyone faces coming into this position is working with career public servants. I think, based on my experience, I have a very good understanding of the challenges that federal attorneys face. I think that, in itself, has prepared me quite well to work with my now colleagues at USDA.

I also think some of the cases that I worked on, and based on the complexity some of the largest that the United States has brought, allows me also well to understand the challenges that we face. We have a wonderful career staff and I am very proud to be part of that. I think the insights that I bring have allowed me to

work very well with our career staff to continue to serve not only USDA, but Congress, as well.

Senator STABENOW. Thank you.

We have a lot of work still to implement the farm bill. We look forward to continuing to work with you on that. That is obviously incredibly important that we get that right. We put a lot on the USDA's plate and I think they are moving forward very well on all of it.

But, there are new things, or old things that come back, and one of those is country of origin labeling, that is one of the most challenging issues, I think, now, given the decision that we have to deal with. I think, as we look at solutions—I have been focused on this and I know the Chairman has for the last couple of years, looking at how we can find the right balance for U.S. producers and meet our global obligations and so on.

Will you commit to work with us as we develop a solution that can both pass the Senate, but also is responsible in terms of addressing the various needs of our producers and consumers?

Mr. PRIETO. Again, to echo the Secretary, we remain committed to working with Congress to address the particular issues that are raised by the recent decision and we will continue to do so.

Senator STABENOW. Thank you, Mr. Chairman.

Chairman ROBERTS. Well, thank you for that excellent question, Senator, and thank you for your response, sir. We have to fix this situation so we are WTO compliant. We just have to do it, but we have to do it the right way and we have to have a bill that will pass the Senate.

Senator BOOZMAN.

Senator BOOZMAN. Thank you, Mr. Chairman, and thank you very much for being here and your willingness to serve.

This is such an important position, and I know that in the future, you are going to face some really difficult challenges, as has been brought up.

One thing that I would really ask you to remember, your talk, your introduction was very eloquent and I enjoyed hearing about your family, but it is so important to remember that, being in this position, that you are going to represent real people, real ranchers, real farmers, the type of people that you were raised with and is still part of your family. Again, it is just so important to use the power of the office that you will have for good.

I have been disappointed, as well, with the administration's approach with the waters of the United States. How will you ensure that the EPA takes into account concerns that farmers and ranchers have in their methodology?

Mr. PRIETO. Thank you for that question, Senator. I think we will continue to do so in the preparation of the rule. Again, USDA served in a consulting rule to ensure that the interest of the—agricultural interests were considered. It is something that we at OGC and the Department, again, take very, very seriously. We will continue to serve in that role in that particular matter to ensure that it is with clarity, but also to ensure that the stewardship of many of the rural community ranchers, farmers, as they relate to those issues are also reflected. I understand the incredible responsibility.

I also understand who we represent and we will continue to serve in that capacity. I am committed to doing so.

Senator BOOZMAN. Well, again, thank you very much for your willingness to serve, and I yield back, Mr. Chairman.

Chairman ROBERTS. Senator Klobuchar.

I might tell my colleagues, the vote has started. We have about ten minutes left, but please.

Senator KLOBUCHAR. Okay. I guess I will be quick so we can get to other Senators, as well. So, thank you.

Thank you very much, and I know that you have had a lot of experience, including in the Environmental and Natural Resources Division of the Justice Department, the EPA, and the Department of Health and Human Services. So, I know Senator Roberts raised this issue about the waters of the U.S. rule, and we have had two experiences now in the last year. I actually like the EPA Administrator very much. I think she is trying to do some good things and has been really good at reaching out.

However, on both the waters of the U.S. rule and then the flood proposal on the biofuels that came out, from our perspective, a lot of the farmers in my state just feel like they have not had a lot of say over how this works and there have clearly been some, especially with the waters of the U.S., some—there has not been enough input in terms of from the beginning, before the rule came out, as there was with the biofuels rule, also, there was not input, from my perspective. How can you better coordinate, with your experience with the EPA, on issues that affect farmers and ranchers?

Mr. PRIETO. Again, thank you, Senator, and I understand the importance of my role to ensure that we are coordinating. I am committed, again, to continue doing what we are doing. If confirmed, I will continue that OGC serves in that role, that we are raising the issues of importance in any of the processes that we are involved in, and that is definitely one that we are involved in. We will continue to serve in that role to ensure that those interests are considered.

Senator KLOBUCHAR. Thank you very much.

I have also been working hard on two other issues. One is trade with Cuba. I am leading the bill to lift the trade embargo. As you know, we have got a lot of exports going on under the humanitarian exemption. Minnesota alone is \$20 million. On the bill with me are Senators Enzi and Flake, Paul, Stabenow, Leahy, Durbin, and other Senators have been added this week. Does the U.S. discriminate against other trading partners like we do Cuba? How do you see the Agriculture Department working better in terms of trying to make sure that we use some of the trade promotion monies and other things to further this effort?

Mr. PRIETO. Senator, that is something that, again, USDA obviously has a significant international presence in terms of what we have done—

Senator KLOBUCHAR. They have been very—Secretary Vilsack has been incredibly supportive in terms of trying to get this done.

Mr. PRIETO. We will continue to do so if committed, and I continue to be committed to working with you on these particular issues. They are of incredible importance to USDA and we are committed to working with you, with your staff on these issues.

Senator KLOBUCHAR. Okay. Thank you.

Last, just more to call your attention, because the USDA has helped me with this in the past, particularly Secretary Vilsack, we have too many wolves in Minnesota and we actually went through a process to de-list the wolves. It was successful. We got it done. Our state was managing them. Then not all the groups, not the Wildlife Federation, not a number of them, sort of were letting it be, but then two groups brought—maybe others, but two groups brought a suit, the Center for Biological Diversity and also the Humane Society, once again, on the de-listing, and now we are no longer able to manage the wolves. We have about double the number of wolves we are supposed to have in Minnesota.

I believe in the Endangered Species Act, I truly do, but this has gone on again, and so I am just warning you that this issue will probably be coming across your desk, only because we are out of options here. Obviously, Interior is appealing the decision, which we appreciate, but this is—it just keeps going, and I wish these groups that do respect the Act would understand that at some point, it is not supposed to be used to keep species in the—under the auspices of the Act forever. It is supposed to be used to make sure we have enough of a species, and then at some point, they get out from under the Act. But, that is not how they are using the Act, given the numbers.

The other thing you need to know is one of the reasons given in the court decisions was that we did not have a management plan for all of Minnesota. Well, that is because the wolves are not supposed to live in all of Minnesota. They are supposed to live in Northern Minnesota. They are not supposed to be at the Mall of America or the Mayo Clinic.

So, as a lawyer, when you look at this, I hope you can examine this, as well, because it is important to farmers and ranchers. We have got a lot of, just in the last week, a number of pets that were eaten by these wolves. Some of them are sick and they are running around chasing snowmobiles. It sounds small, but we are concerned about it. While wolves do not necessarily prey on people at all, when they are sick and would naturally not still be around, they do. So, we have had someone bitten on the face and we are getting very concerned about it because our wolves are around cabins. They are not just out in ranches like they might be out in the western part of our country. Okay?

Mr. PRIETO. Thank you, Senator.

Senator KLOBUCHAR. Thank you.

Mr. PRIETO. Thank you very much for that information.

Chairman ROBERTS. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chair.

Senator Klobuchar, you may be surprised that we have a red wolf problem in North Carolina, so I understand some of the concerns.

I am going to be very brief. First, welcome to your family and thank you for the very articulate opening statements.

My question has more to do with—I completely agree with everything the Chairman said about the EPA rulemaking process on WOTUS. I think it is wrong on several levels. I spent Monday with a farmer down in North Carolina—by the way, we are the sweet

potato capital of the world. But, repeatedly, they talk about regulations that maybe at one point in time made sense, but now they have just been layered and layered and layered. There is this ratchet effect with regulations that it seems like no agency ever really goes back and cleans them up, maybe nipping around the edges.

So, what role do you think the Department can play in looking at not only the regulations you are responsible for, but the multiple regulatory agencies that come out to a farm? Frequently, multiple agencies are involved in pushing the same regulations, not unlike the regulatory landscape in the financial markets.

What can we do, or what role do you think the Department can play to go back and say, is this rational? Is there a way to make it more efficient and less intrusive and still achieve the regulatory outcomes? We may disagree that some regulations may or may not be necessary, but we can always agree to evaluate how we can be doing a better job.

Is there a role to be played by the USDA to help our farmers out and still get the regulations right?

Mr. PRIETO. Senator, thank you very much for that question. I believe it is, and it is one that we continue to play. As I indicated, we very strongly play a consulting role to ensure that the interest of USDA, the interest of the agricultural communities are reflected, and I am committed to continuing to play that role. It is a role that the Secretary plays and it is a role that we will continue to play to ensure that the interest of the communities that you have described are reflected, and I think that is what, hopefully, I bring in terms of working with the federal government, understanding that role and to do it as effectively as possible.

Senator TILLIS. Thank you. In the interest of time, I am just going to submit other questions. I look forward to supporting your confirmation.

Mr. Chair, I would like to say that I stand proud here with you as the lone member left.

[Laughter.]

Chairman ROBERTS. Well, Marines are used to that.

Mr. Prieto, thank you for your time and willingness to be considered, for your service at the Department as the General Counsel. We look forward to that.

As you know, we are not voting on your nomination today, but I promise you we will work to schedule a business meeting as expeditiously—hopefully off the floor—as possible for a committee vote. To that end, I ask members to submit any additional questions for the record by 5:00 tomorrow, Friday, May 2.

I just want to say one thing with regard to Senator Klobuchar's remark about farmers in her State concerned about not being heard on this waters of the U.S. situation. They are being heard. We had a hearing right here in this room. This place was packed with people, and we had representatives from all over the country expressing their concern about this rule.

We heard them nine months ago when we were talking with nine Senators, a bipartisan group, with the Administrator of EPA, Gina McCarthy. I pointed out there were two lines in the legislation, "Normal cropping operations are exempted," and then we went into

88 pages in the Federal Register where still people are trying to figure it out.

Every farm organization, every farm group, every commodity group, everybody involved in agriculture, every small community sent in their commentary. So, yes, we are heard, but they did not listen. They stacked the deck, and they stacked the deck in a way that I think could have broken federal law. As you can tell, I am pretty upset about it.

So, we are going to continue our oversight responsibility. I credit Senator Jim Inhofe for asking for some consideration with regards to an investigation by the GAO. We will be following that closely. He has the jurisdiction with regards to legislation, but we set the predicate, and I want everybody in this room to understand that farmers were heard. The fact that EPA stacked the deck against them, this is—it is not only disingenuous, it tears at the very basic commentary system that we have in this country were Congress—or some agency with an agenda passes a rule, and then we have a commentary period. Why even have a commentary period if we are not going to listen? Further observations, I will offer, if not.

But, the committee stands adjourned.

[Whereupon, at 10:33 a.m., the committee was adjourned.]

A P P E N D I X

MAY 21, 2015

**Statement of Senator Debbie Stabenow
Senate Committee on Agriculture, Nutrition, and Forestry
Nomination Hearing of Jeffrey Prieto
May 21, 2015**

Thank you, Mr. Chairman and welcome Mr. Prieto – congratulations on your nomination to be General Counsel of the United States Department of Agriculture.

I would also like to recognize your family and friends here today, including your wife - Sheryl, son - Daniel, sister - Julie, and mother - Lucy who are with us today.

Considering and approving Presidential nominations is a fundamental responsibility of the Senate – and one that this Committee takes seriously.

That's why we meet today.

As the chief legal officer at USDA – the General Counsel provides the Secretary – and the many agencies within the Department – legal guidance on a wide range of complex issues from how our farmers and ranchers run their businesses to the safety and abundance of the food we eat.

As we continue the implementation of the Farm Bill, the General Counsel will be vital to ensuring our nation's farmers and ranchers, families and rural communities have the tools and resources they need to thrive.

That's why we need to move swiftly to confirm Mr. Prieto as General Counsel.

This week I had pleasure of meeting with Mr. Prieto and I am confident that he has both the technical skill and passion for public service that will serve the Department and our nation's farmers and ranchers well as General Counsel.

Mr. Prieto has overcome many hurdles on his way to a distinguished law career at the Department of Justice and USDA and I know he will continue to serve the Department well.

Again, congratulations Mr. Prieto on your nomination and I look forward to working closely with you after your confirmation.

Thank you.

**Statement by
Jeffrey Prieto
Nominee for General Counsel, US Department of Agriculture
Before the Senate Committee on Agriculture
May 21, 2015**

Good morning. Greetings Mr. Chairman, Ranking Member Stabenow and other distinguished members of the Committee. I thank you all for your willingness to hold this hearing. It is an honor and a privilege to appear before you as President Obama's nominee for the General Counsel of the Department of Agriculture. I am humbled by the trust this nomination represents, and I am grateful to President Obama and Secretary Vilsack for providing me this opportunity. Should I have the privilege of being confirmed, I look forward to continuing to serve the American public.

I am also grateful for a wonderful family who has supported my endeavors. My wife, Sheryl, and my oldest son, Daniel, are with me today. Matthew, my youngest son, just started his summer job this week and is unable to join us. I want to publicly thank my wife for her support, understanding, and patience throughout my career. I could not have done what I have done without her. I am also joined by my mother, sister, and our Rector. I am so grateful to them for their prayers and love. Members of my family and my community have sacrificed much so that I could have opportunities. I have attempted throughout my career to repay this debt by serving the public.

I am a product of my family's history in this country. My life is the result of their examples and sacrifices. I especially think today of my three uncles who died serving this country during World War II, and my other family members who have also served this country in the military, including a cousin who received a Distinguished Flying Cross for his service in Vietnam and another who served in the special forces in Afghanistan. I am inspired by their sacrifice.

I understand that inspiration must be coupled with hard work. I learned about hard work from my grandfather, Leo Alvarez, who was employed by a lemon packinghouse in Santa Paula, California, for over fifty years. It was his dream that his grandchildren would be the first in our family to graduate from college. He and my grandmother used what they earned to benefit our family, both here and in Mexico. Their love and generosity changed many lives, including mine.

Finally, inspiration and hard work must have a purpose. In my case, my career, as an urban planner, White House Fellow, and Department of Justice attorney, has been dedicated to public service. I learned how inspiration, hard work, and service can come together from my mother. She never fulfilled her dream of graduating from college, but she worked so that her children could take advantage of the opportunities provided. She was the primary earner for our family. She worked a variety of jobs as we grew up, including working a split shift schedule as a secretary at the local community college so she could be home when her children left for and returned from school. She never lost hope in me, even during those time when there was little room for hope.

If confirmed, serving as General Counsel would be the apex of 15 years of public service at the Department of Justice and USDA. The honor of serving as USDA's chief legal officer will allow me to continue to do what I have done throughout my legal career, serve the American people. It

will also allow me to contribute the skills and experiences I have acquired as an attorney responsible for a broad portfolio of public policy issues and complex civil litigation, including some of the most important matters brought on behalf of the American public.

I look forward to serving America's farmers, ranchers and rural communities because they are not only essential contributors to our Nation's economy but also among the most challenged segments of American society. Both my parents were raised in Santa Paula, the "Citrus Capital of the World." I understand and appreciate the challenges facing our country's farmers and ranchers, rural communities and agribusinesses.

I have been privileged as a Federal Government attorney to work on some of the most challenging issues in my field. My previous positions have prepared me to serve as the General Counsel. My Federal Government experience allows me to understand the challenges facing Federal Agencies. If confirmed, I am committed to using my experience and skills to ensure that legal counsel and services are provided in an effective manner. Whether it relates to nutrition assistance programs, rural loans programs, access to broadband, housing, and energy in rural communities, natural resources management, or biotechnology, I look forward to continuing to work with what I consider some of the finest attorneys and professional staff in the country to provide USDA leaders legal advice in a professional, efficient, and expeditious manner.

Finally, should you honor me by recommending me and should the Senate confirm me, I will do everything in my power to execute the duties of the General Counsel. I intend to execute my duties with the highest level of integrity, skill, and professionalism, so as to earn your trust and respect. I am committed to working with the leadership of USDA, and Congress, to further the best interests of all Americans.

Again, thank you very much for holding this hearing to consider my candidacy. I am grateful for your time and glad to answer the Committee's questions.

DOCUMENTS SUBMITTED FOR THE RECORD

MAY 21, 2015

**U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY
 Questions for Executive Nominees
 113th Congress**

1. Basic Biographical Information

Please provide the following information.

| <i>Position to Which You Have Been Nominated</i> | |
|--|---------------------------|
| <u>Name of Position</u> | <u>Date of Nomination</u> |
| General Counsel, USDA | |

| <i>Current Legal Name</i> | | | |
|---------------------------|--------------------|------------------|---------------|
| <u>First Name</u> | <u>Middle Name</u> | <u>Last Name</u> | <u>Suffix</u> |
| Jeffrey | Michael | Prieto | |

| <u>Residential Address</u> (do not include street address) | | <u>Office Address</u> (include street address) | |
|---|------------|---|------------|
| City: Bethesda | State: MD | City: Washington | State: DC |
| | Zip: 20817 | Street: 1400 Independence Avenue, SW | Zip: 20250 |

| <i>Other Names Used</i> | | | | | | |
|-------------------------|--------------------|------------------|---------------|---|--|--|
| <u>First Name</u> | <u>Middle Name</u> | <u>Last Name</u> | <u>Suffix</u> | <small>Check if Maiden Name</small> | <u>Name Used From</u> (Month/Year) (Check box if estimate) | <u>Name Used To</u> (Month/Year) (Check box if estimate) |
| | | | | | Est <input type="checkbox"/> | Est <input type="checkbox"/> |

| <i>Birth Year and Place</i> | |
|---|-----------------------|
| <u>Year of Birth</u> (Do not include month and day.) | <u>Place of Birth</u> |
| 1960 | Ventura, CA |

| <i>Marital Status</i> | | | | |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Check All That Describe Your Current Situation: | | | | |
| Never Married | Married | Separated | Annulled | Widowed |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | Divorced | |
| | | | <input type="checkbox"/> | |

| <i>Spouse's Name (current spouse only)</i> | | | |
|--|-----------------------------|---------------------------|------------------------|
| <u>Spouse's First Name</u> | <u>Spouse's Middle Name</u> | <u>Spouse's Last Name</u> | <u>Spouse's Suffix</u> |
| Sheryl | Elizabeth | Prieto | |

| <i>Spouse's Other Names Used (current spouse only)</i> | | | | | | | | | | | | | | | | | | |
|--|--------------------|------------------|---------------|-----------------------------|---|--|-----|-------------|------------|---|---|--|-----|-----|--|--|--|--|
| <u>First Name</u> | <u>Middle Name</u> | <u>Last Name</u> | <u>Suffix</u> | <u>Check if Maiden Name</u> | <u>Name Used From (Month/Year) (Check box if estimate)</u> | <u>Name Used To (Month/Year) (Check box if estimate)</u> | | | | | | | | | | | | |
| Sheryl | Elizabeth | Waalcr | | X | <table border="0"> <tr> <td>Est</td> <td>Est</td> </tr> <tr> <td>August 1967</td> <td>March 1989</td> </tr> <tr> <td>X</td> <td>X</td> </tr> </table> | Est | Est | August 1967 | March 1989 | X | X | <table border="0"> <tr> <td>Est</td> <td>Est</td> </tr> <tr> <td></td> <td></td> </tr> <tr> <td></td> <td></td> </tr> </table> | Est | Est | | | | |
| Est | Est | | | | | | | | | | | | | | | | | |
| August 1967 | March 1989 | | | | | | | | | | | | | | | | | |
| X | X | | | | | | | | | | | | | | | | | |
| Est | Est | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |

| <i>Children's Names (if over 18)</i> | | | |
|--------------------------------------|--------------------|------------------|---------------|
| <u>First Name</u> | <u>Middle Name</u> | <u>Last Name</u> | <u>Suffix</u> |
| Daniel | Emiliano | Prieto | |
| Matthew | Cesar | Prieto | |

2. Education

List all post-secondary schools attended.

| Name of School | Type of School (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school) | Date Began School (month/year) (check box if estimate) (check box if still in school) | Date Ended School (month/year) (check box if estimate) (check "present" box if still in school) | Degree | Date Awarded |
|---|---|--|--|---------|--------------|
| University of California, Santa Barbara | University | Est X Sept. 1977 | Est Present X June 1983 | BA | June 1983 |
| University of California, Los Angeles | Law School | Est X Sept. 1992 | Est Present X May 1995 | JD | May 1995 |
| School of Law Princeton University | Graduate School | Est X Sept. 1995 | Est Present X June 1997 | MPA-URP | June 1997 |

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

| Type of Employment (Active Military Duty Station, National Guard/Reserve, USFHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, | Name of Your Employer/ Assigned Duty Station | Most Recent Position Title/Rank | Location (City and State only) | Date Employment Began (month/year) (check box if estimate) | Date Employment Ended (month/year) (check box if estimate) (check "present" box if still |
|--|---|------------------------------------|-----------------------------------|---|---|
|--|---|------------------------------------|-----------------------------------|---|---|

| Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other | | | | | | | | employed) |
|--|---|--|---|-------------------|--|------------|-------|------------------|
| Non-Government | Sears | | Sales Associate | Santa Barbara, CA | | Jan. 1979 | Est X | Aug. 1984 Est X |
| Local Government | City of Santa Barbara | | Environmental Analyst | Santa Barbara, CA | | Aug. 1984 | Est X | Sept. 1990 Est X |
| Non-Government | JM Consulting Group | | Sr. Environmental Planner | Santa Barbara, CA | | Sept. 1990 | Est X | July 1992 Est X |
| Non-Government | UCLA School of Law Grant (MALDEF) | | Legal Clerk | Los Angeles, CA | | June 1993 | Est X | Aug. 1993 Est X |
| Non-Government | Natural Resources Defense Council | | Legal Clerk | New York, NY | | June 1996 | Est X | Aug. 1996 Est X |
| Federal Government | White House Fellows Program | | Fellow | Washington, DC | | Sept. 1997 | Est X | Aug. 1998 Est X |
| Federal Government | United States Environmental Protection Agency, Office of Water | | Attorney-Advisor | Washington, DC | | Aug. 1998 | Est X | Aug. 1999 Est X |
| Federal Government | United States Department of Justice, Environment and Natural Resources Division | | Trial Attorney | Washington, DC | | Aug. 1999 | Est X | Feb. 2010 Est X |
| Federal Government | United States Department of Justice, Environment and Natural Resources Division | | Counsel to the Assistant Attorney General | Washington, DC | | Feb. 2010 | Est X | Nov. 2012 Est X |
| Federal Government | United States Department of Justice, Environment and Natural Resources Division | | Deputy Executive Officer and | Washington, DC | | Nov. 2012 | Est X | June 2014 Est X |

| | and Natural Resources Division | General Counsel | | | |
|--------------------|--|----------------------------------|----------------|-----------|---------------|
| Federal Government | United States Department of Agriculture, Office of the General Counsel | Principal Deputy General Counsel | Washington, DC | June 2014 | Est X Present |
| Federal Government | United States Department of Agriculture, Office of the General Counsel | Acting General Counsel | Washington, DC | Nov. 2014 | Est X Present |

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

| Name of Government Entity | Name of Position | Date Service Began (month/year) (check box if estimate) | Date Service Ended (month/year) (check box if estimate) (check "present" box if still serving) |
|---------------------------|-----------------------|---|--|
| City of Santa Barbara | Planning Commissioner | Jan. 1991 Est X | July 1992 Est Present X |

4. Honors and Awards

List all scholarships, fellowships, honorary degrees, honorary service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

- Phi Alpha Theta, International History Honor Society (1982)
- UCSB Outstanding Community Service Award (1983)
- MALDEF Valerie Kantor Scholarship (1993)
- UCLA Moot Court, Distinguished Advocate Honorable Mention (1993-1994)
- National Science Foundation Minority Graduate Fellowship Honorable Mention (1996)
- 100 Most Influential Hispanics, *Hispanic Business Magazine* (1997)

- EPA Silver Medal for Exceptional Service (Storm Water Phase II Final Rule-2000)
- DOJ Special Achievement Award for Sustained Superior Performance of Duty (IBP-2002)
- EPA Gold Medal for Exceptional Service (IBP-2002)
- Princeton University Woodrow Wilson School Edward P. Bullard Alumnus Award (2003)
- DOJ Special Achievement Award (Kentucky Utilities-2009)
- DOJ Assistant Attorney General Award for Excellence (Diversity Team-2009)
- DOJ Assistant Attorney General Award (Deepwater Horizon Team-2011)

5. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

| <u>Name of Organization</u> | <u>Dates of Your Membership</u> (You may approximate.) | <u>Position(s) Held</u> |
|---|--|--------------------------------|
| Cesar Chavez Public Charter High School for Public Policy | 1999-2000 | Board of Directors Member |
| Hispanic Bar Association of DC | 1999-2001 | Board of Directors Member |
| St. Luke's Episcopal Church | 2005-2007 | Vestry Board Member |
| American Bar Association Standing Committee Environmental Law | 2005-2007 | Board of Directors Member |

| | | |
|---|--------------|-----------------------|
| Princeton University Scholars in the Nation's Service | 2011-Present | Dean's Advisory Group |
|---|--------------|-----------------------|

6. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

| Name of Office | Elected/Appointed/Candidate Only | Year(s) Election Held or Appointment Made | Term of Service (if applicable) |
|---|----------------------------------|---|---------------------------------|
| City of Santa Barbara Planning Commissioner | Appointed | 1991 | 1992 |
| | | | |

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere. (N/A)

| Name of Party/Election Committee | Office/Services Rendered | Responsibilities | Dates of Service |
|----------------------------------|--------------------------|------------------|------------------|
| | | | |

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year. (N/A)

| <u>Name of Recipient</u> | <u>Amount</u> | <u>Year of Contribution</u> |
|--------------------------|---------------|-----------------------------|
| | | |

7. Publications

List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. (N/A)

| <u>Title</u> | <u>Publisher</u> | <u>Date(s) of Publication</u> |
|--------------|------------------|-------------------------------|
| | | |

8. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State). (No)

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



MAR 30 2015

The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jeffrey M. Prieto, who has been nominated by President Obama for the position of General Counsel, Department of Agriculture.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "David J. Apol", is written over a light-colored background.

David J. Apol
General Counsel

Enclosures

March 26, 2015

Mr. Stuart A. Bender
Designated Agency Ethics Official
U.S. Department of Agriculture
Washington, DC 20250-0122

Dear Mr. Bender:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of General Counsel, U.S. Department of Agriculture (USDA).

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

My spouse is employed by the Federal Home Loan Mortgage Corporation (FHLMC), in a position for which she receives a fixed annual salary. For as long as my spouse continues to work for FHLMC, I will not participate personally and substantially in any particular matter involving specific parties in which I know FHLMC is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13490) that I previously signed and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Jeffrey M. Prieto

| | | | | | | | |
|---|--|--|--|--|--|---|--|
| Date of Appointment, Candidacy, Election, or Re-election (Month, Day, Year) 3/25/15 | | Reporting Status (Check appropriate box) <input type="checkbox"/> Incumbent <input checked="" type="checkbox"/> New President Nominee or Candidate | | Calendar Year Covered by Report 2015 | | Termination Date (Month, Day, Year) <input type="checkbox"/> Filer <input type="checkbox"/> Candidate | |
| Reporting Individual's Name Pribo | | First Name and Middle Initial Jeffrey M. | | Department or Agency (If Applicable) U.S. Department of Agriculture | | | |
| Position for Which Filing General Counsel | | Title of Position General Counsel | | Telephone No. (include Area Code) [202] 720-3351 | | | |
| Location of Present Office (for forwarding address) 1400 Independence Avenue, S.W., Washington, DC 20260 | | Address (Number, Street, City, State, and ZIP Code) | | Title of Position(s) and Date(s) Held Deputy General Counsel/Acting General Counsel, U.S. Department of Agriculture -- 6/15/14 - Present Deputy Executive Officer/General Counsel, Environmental and Natural Resources Division, DOJ -- 11/1/12 to 6/14/14 | | | |
| Presidential Nominees Subject to Senate Confirmation | | Name of Congressional Committee Considering Nomination Do You Intend to Create a Qualified Diversified Trust? | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | |
| Certification I CERTIFY that the statements I have made on this form and all attached schedules are true and correct to the best of my knowledge. | | Signature of Reporting Individual Jeffrey M. Pribo | | Date (Month, Day, Year) 3/26/15 | | | |
| Other Review (if desired by agency) | | Signature of Other Reviewer | | Date (Month, Day, Year) | | | |
| Agency Ethics Official's Opinion On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the last column). | | Signature of Designated Agency Ethics Official/Reviewing Official Stuart B. D'Amico | | Date (Month, Day, Year) 3/26/15 | | | |
| Office of Government Ethics Use Only | | Signature Stuart B. D'Amico | | Date (Month, Day, Year) 3/26/15 | | | |
| Comments of Reviewing Officials (if additional space is required, use the reverse side of this sheet) | | | | | | | |
| (Check box if filing extension granted & indicate number of days _____) <input type="checkbox"/> | | | | | | | |
| Agency Use Only Rec'd 3/26/15 | | | | OGE Use Only | | | |

OGE Form 278 (Rev. 12/2011)
 5 C.F.R. Part 2634
 U.S. Office of Government Ethics

| BLOCK A Assets and Income | | BLOCK B Valuation of Assets at close of reporting period | | | | | | | | | | | | BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. | | | | | | | | | | | | |
|---|---|---|---|---------------------|----------------------|-----------------------|-----------------------|-------------------------|-------------------------|---------------------------|----------------------------|-----------------------------|-----------------------------|---|---|-------------------|-------------------|--------------------|---------------------|----------------------|-------------------------|-------------------------|-------------------|------------------|--|--|
| | | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | \$25,000,001 - \$50,000,000 | Over \$50,000,000 | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | Over \$1,000,000* | Over \$5,000,000 | | | |
| BLOCK A Assets and Income | | Type | BLOCK B Valuation of Assets at close of reporting period | | | | | | | | | | | | BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. | | | | | | | | | | | |
| | | | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | \$25,000,001 - \$50,000,000 | Over \$50,000,000 | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | Over \$1,000,000* | Over \$5,000,000 | | |
| For you, your spouse, and dependent children, report the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period, or which generated more than \$200 in gross income during the reporting period, together with such income. For yourself, also report the source and actual amount of each US income exceeding \$200 (other than US interest) that you received during the reporting period but not the amount of earned income of more than \$1,000 (except report the actual amount of any honoraria over \$200 of your spouse). None <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Examples Central Airlines Common Doe, James & Smith, Hometown, State Keoprouse Equity Fund IRA: Heartland 500 Index Fund | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | Federal Home Loan Mortgage Corporation, McLean, VA (S) | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | Federal Home Loan Mortgage Corporation, Thrift/401(K) Retirement Savings Plan (S) | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | -- Vanguard Target Retirement 2025 Fund (VTIVX) | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | | | | | | | | | | |
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* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

CCES Form 279 (Rev. 12/2011) Do not complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate
 U.S. Office of Government Ethics

Reporting Individual's Name: **Priolo, Jeffrey M.** Page Number: **3** of **3**
SCHEDULE B

Part I: Transactions

Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

None

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 | 56 | 57 | 58 | 59 | 60 | 61 | 62 | 63 | 64 | 65 | 66 | 67 | 68 | 69 | 70 | 71 | 72 | 73 | 74 | 75 | 76 | 77 | 78 | 79 | 80 | 81 | 82 | 83 | 84 | 85 | 86 | 87 | 88 | 89 | 90 | 91 | 92 | 93 | 94 | 95 | 96 | 97 | 98 | 99 | 100 | 101 | 102 | 103 | 104 | 105 | 106 | 107 | 108 | 109 | 110 | 111 | 112 | 113 | 114 | 115 | 116 | 117 | 118 | 119 | 120 | 121 | 122 | 123 | 124 | 125 | 126 | 127 | 128 | 129 | 130 | 131 | 132 | 133 | 134 | 135 | 136 | 137 | 138 | 139 | 140 | 141 | 142 | 143 | 144 | 145 | 146 | 147 | 148 | 149 | 150 | 151 | 152 | 153 | 154 | 155 | 156 | 157 | 158 | 159 | 160 | 161 | 162 | 163 | 164 | 165 | 166 | 167 | 168 | 169 | 170 | 171 | 172 | 173 | 174 | 175 | 176 | 177 | 178 | 179 | 180 | 181 | 182 | 183 | 184 | 185 | 186 | 187 | 188 | 189 | 190 | 191 | 192 | 193 | 194 | 195 | 196 | 197 | 198 | 199 | 200 | 201 | 202 | 203 | 204 | 205 | 206 | 207 | 208 | 209 | 210 | 211 | 212 | 213 | 214 | 215 | 216 | 217 | 218 | 219 | 220 | 221 | 222 | 223 | 224 | 225 | 226 | 227 | 228 | 229 | 230 | 231 | 232 | 233 | 234 | 235 | 236 | 237 | 238 | 239 | 240 | 241 | 242 | 243 | 244 | 245 | 246 | 247 | 248 | 249 | 250 | 251 | 252 | 253 | 254 | 255 | 256 | 257 | 258 | 259 | 260 | 261 | 262 | 263 | 264 | 265 | 266 | 267 | 268 | 269 | 270 | 271 | 272 | 273 | 274 | 275 | 276 | 277 | 278 | 279 | 280 | 281 | 282 | 283 | 284 | 285 | 286 | 287 | 288 | 289 | 290 | 291 | 292 | 293 | 294 | 295 | 296 | 297 | 298 | 299 | 300 | 301 | 302 | 303 | 304 | 305 | 306 | 307 | 308 | 309 | 310 | 311 | 312 | 313 | 314 | 315 | 316 | 317 | 318 | 319 | 320 | 321 | 322 | 323 | 324 | 325 | 326 | 327 | 328 | 329 | 330 | 331 | 332 | 333 | 334 | 335 | 336 | 337 | 338 | 339 | 340 | 341 | 342 | 343 | 344 | 345 | 346 | 347 | 348 | 349 | 350 | 351 | 352 | 353 | 354 | 355 | 356 | 357 | 358 | 359 | 360 | 361 | 362 | 363 | 364 | 365 | 366 | 367 | 368 | 369 | 370 | 371 | 372 | 373 | 374 | 375 | 376 | 377 | 378 | 379 | 380 | 381 | 382 | 383 | 384 | 385 | 386 | 387 | 388 | 389 | 390 | 391 | 392 | 393 | 394 | 395 | 396 | 397 | 398 | 399 | 400 | 401 | 402 | 403 | 404 | 405 | 406 | 407 | 408 | 409 | 410 | 411 | 412 | 413 | 414 | 415 | 416 | 417 | 418 | 419 | 420 | 421 | 422 | 423 | 424 | 425 | 426 | 427 | 428 | 429 | 430 | 431 | 432 | 433 | 434 | 435 | 436 | 437 | 438 | 439 | 440 | 441 | 442 | 443 | 444 | 445 | 446 | 447 | 448 | 449 | 450 | 451 | 452 | 453 | 454 | 455 | 456 | 457 | 458 | 459 | 460 | 461 | 462 | 463 | 464 | 465 | 466 | 467 | 468 | 469 | 470 | 471 | 472 | 473 | 474 | 475 | 476 | 477 | 478 | 479 | 480 | 481 | 482 | 483 | 484 | 485 | 486 | 487 | 488 | 489 | 490 | 491 | 492 | 493 | 494 | 495 | 496 | 497 | 498 | 499 | 500 | 501 | 502 | 503 | 504 | 505 | 506 | 507 | 508 | 509 | 510 | 511 | 512 | 513 | 514 | 515 | 516 | 517 | 518 | 519 | 520 | 521 | 522 | 523 | 524 | 525 | 526 | 527 | 528 | 529 | 530 | 531 | 532 | 533 | 534 | 535 | 536 | 537 | 538 | 539 | 540 | 541 | 542 | 543 | 544 | 545 | 546 | 547 | 548 | 549 | 550 | 551 | 552 | 553 | 554 | 555 | 556 | 557 | 558 | 559 | 560 | 561 | 562 | 563 | 564 | 565 | 566 | 567 | 568 | 569 | 570 | 571 | 572 | 573 | 574 | 575 | 576 | 577 | 578 | 579 | 580 | 581 | 582 | 583 | 584 | 585 | 586 | 587 | 588 | 589 | 590 | 591 | 592 | 593 | 594 | 595 | 596 | 597 | 598 | 599 | 600 | 601 | 602 | 603 | 604 | 605 | 606 | 607 | 608 | 609 | 610 | 611 | 612 | 613 | 614 | 615 | 616 | 617 | 618 | 619 | 620 | 621 | 622 | 623 | 624 | 625 | 626 | 627 | 628 | 629 | 630 | 631 | 632 | 633 | 634 | 635 | 636 | 637 | 638 | 639 | 640 | 641 | 642 | 643 | 644 | 645 | 646 | 647 | 648 | 649 | 650 | 651 | 652 | 653 | 654 | 655 | 656 | 657 | 658 | 659 | 660 | 661 | 662 | 663 | 664 | 665 | 666 | 667 | 668 | 669 | 670 | 671 | 672 | 673 | 674 | 675 | 676 | 677 | 678 | 679 | 680 | 681 | 682 | 683 | 684 | 685 | 686 | 687 | 688 | 689 | 690 | 691 | 692 | 693 | 694 | 695 | 696 | 697 | 698 | 699 | 700 | 701 | 702 | 703 | 704 | 705 | 706 | 707 | 708 | 709 | 710 | 711 | 712 | 713 | 714 | 715 | 716 | 717 | 718 | 719 | 720 | 721 | 722 | 723 | 724 | 725 | 726 | 727 | 728 | 729 | 730 | 731 | 732 | 733 | 734 | 735 | 736 | 737 | 738 | 739 | 740 | 741 | 742 | 743 | 744 | 745 | 746 | 747 | 748 | 749 | 750 | 751 | 752 | 753 | 754 | 755 | 756 | 757 | 758 | 759 | 760 | 761 | 762 | 763 | 764 | 765 | 766 | 767 | 768 | 769 | 770 | 771 | 772 | 773 | 774 | 775 | 776 | 777 | 778 | 779 | 780 | 781 | 782 | 783 | 784 | 785 | 786 | 787 | 788 | 789 | 790 | 791 | 792 | 793 | 794 | 795 | 796 | 797 | 798 | 799 | 800 | 801 | 802 | 803 | 804 | 805 | 806 | 807 | 808 | 809 | 810 | 811 | 812 | 813 | 814 | 815 | 816 | 817 | 818 | 819 | 820 | 821 | 822 | 823 | 824 | 825 | 826 | 827 | 828 | 829 | 830 | 831 | 832 | 833 | 834 | 835 | 836 | 837 | 838 | 839 | 840 | 841 | 842 | 843 | 844 | 845 | 846 | 847 | 848 | 849 | 850 | 851 | 852 | 853 | 854 | 855 | 856 | 857 | 858 | 859 | 860 | 861 | 862 | 863 | 864 | 865 | 866 | 867 | 868 | 869 | 870 | 871 | 872 | 873 | 874 | 875 | 876 | 877 | 878 | 879 | 880 | 881 | 882 | 883 | 884 | 885 | 886 | 887 | 888 | 889 | 890 | 891 | 892 | 893 | 894 | 895 | 896 | 897 | 898 | 899 | 900 | 901 | 902 | 903 | 904 | 905 | 906 | 907 | 908 | 909 | 910 | 911 | 912 | 913 | 914 | 915 | 916 | 917 | 918 | 919 | 920 | 921 | 922 | 923 | 924 | 925 | 926 | 927 | 928 | 929 | 930 | 931 | 932 | 933 | 934 | 935 | 936 | 937 | 938 | 939 | 940 | 941 | 942 | 943 | 944 | 945 | 946 | 947 | 948 | 949 | 950 | 951 | 952 | 953 | 954 | 955 | 956 | 957 | 958 | 959 | 960 | 961 | 962 | 963 | 964 | 965 | 966 | 967 | 968 | 969 | 970 | 971 | 972 | 973 | 974 | 975 | 976 | 977 | 978 | 979 | 980 | 981 | 982 | 983 | 984 | 985 | 986 | 987 | 988 | 989 | 990 | 991 | 992 | 993 | 994 | 995 | 996 | 997 | 998 | 999 | 1000 |
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| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

ODGE Form 278 (Rev. 12/2011)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

SCHEDULE C

Page Number: 4 of 4

Reporting Individual's Name: Prichard, Jeffrey M.

Part I: Liabilities
 None
 Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude accounts.
 a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

| Examples | Creditor (Name and Address) | Type of Liability | Date Acquired | Interest Rate | Term, if applicable | Category of Amount or Value (x) |
|----------|--|--|---------------|---------------|---------------------|--|
| 1 | JP Morgan Chase Bank, Washington, DC John Jones, Washington, DC | Mortgage on Rental Property, Reverse Promissory note | 2014 | 4.25% | 30 years on demand | Over \$50,000,000 \$50,000,000 - \$75,000,000 \$75,000,000 - \$1,000,000 \$1,000,000 - \$5,000,000 \$5,000,000 - \$10,000,000 \$10,000,000 - \$25,000,000 \$25,000,000 - \$50,000,000 \$50,000,000 - \$100,000,000 \$100,000,000 - \$500,000,000 Over \$500,000,000 |
| 2 | Mohele Chesterfield, MO | Residential Mortgage | 2010 | 3.75% | 30 years | X |
| 3 | Sally Mae Wilkes-Barre, PA | Student Loan (S) | 1988 | 8.0% | 20 years | X |
| 4 | JP Morgan Chase Bank, Columbus, Ohio | Home Equity Loan (Paid off completely in June, 2014) | 2005 | 2.89% | 10 years | X |
| 5 | | | | | | |
| 6 | | | | | | |

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements
 Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

| Example | Status and Terms of any Agreement or Arrangement | Parties | Date |
|---------|---|------------------------------------|------|
| 1 | Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00. | Doe Jones & Smith, Hometown, State | 7/85 |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |

None

OGE Form 278 (Rev. 12/2011)
 5 C.F.R. Part 2634
 U.S. Office of Government Ethics

| SCHEDULE D | | Page Number 12 of 15 |
|---|---|---|
| Reporting Individual's Name Prieto, Jeffrey M. | | |
| <p>Part I: Positions Held Outside U.S. Government Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature. None <input checked="" type="checkbox"/></p> | | |
| Examples | Organization (Name and Address) | Position Held |
| 1 | Na'l Assn. of Recy. Collectors, NY, NY Doe Jones & Smith, Hometown, State | President Partner From 6/92 To 6/92 7/85 1/00 |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| <p>Part II: Compensation in Excess of \$5,000 Paid by One Source Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes compensation from your spouse, partner, corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services. Compensation of more than \$5,000 from the U.S. Government as a source. None <input checked="" type="checkbox"/></p> | | |
| Examples | Source (Name and Address) | Brief Description of Duties |
| 1 | Doe Jones & Smith, Hometown, State Metro University (Client of Doe Jones & Smith), Hometown, State | Legal services Legal services in connection with university construction |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |

May 20, 2015

The Honorable Pat Roberts, Chairman
The Honorable Debbie Stabenow, Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate
Washington, D.C. 20510-6000

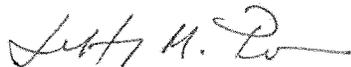
Dear Mr. Chairman and Ranking Member Stabenow:

On March 26, 2015, a copy of my OGE-278, Executive Branch Public Financial Disclosure Report, required in connection with my nomination to serve as General Counsel at the United States Department of Agriculture was submitted to the U.S. Office of Government Ethics. That report contained all required financial information for calendar year 2014 and for the current calendar year through March 26, 2015.

The Ethics in Government Act of 1978, as amended, also requires that I update certain of the information reported on the OGE-278, i.e., that required by section 102(a)(1)(A) of the Act, respecting income (other than dividends, interest, rents, and capital gains) and honoraria, to date which occurs not more than five days before the date of the hearing to be held by your Committee to consider my nomination. The hearing to be held on my nomination is scheduled for May 21, 2015. The purpose of this letter is to report that since I filed that Financial Disclosure Report, I earned no such income.

I trust that this letter satisfies the additional applicable reporting requirements contained in the Ethics in Government Act.

Sincerely,



Jeffrey M. Prieto
Nominee for General Counsel
U.S. Department of Agriculture

QUESTIONS AND ANSWERS

MAY 21, 2015

Senate Committee on Agriculture, Nutrition & Forestry
 Nomination Hearing
 Thursday, May 21, 2015
 Responses to Questions for the Record
 Mr. Jeffrey Prieto

Chairman Pat Roberts & Ranking Member Debbie Stabenow

- 1) *If other law enforcement agencies are unable or unwilling to provide security to protect Federal Grain Inspectors, does the Federal Grain Inspection Service have existing authority, under current law, to hire private security personnel to protect the safety of federal grain inspectors if it were necessary to fulfill its statutory obligation to provide for timely inspection of grain destined for export?*

Response

Yes. Under the U.S. Grain Standards Act, 7 U.S.C. §§ 71 et seq., the Secretary has broad authority to carry out his obligation to cause official inspection, 7 U.S.C. § 79(a), and official weighing of grain for export, 7 U.S.C. § 79a(a), including hiring security personnel. Under 7 U.S.C. §§ 79(j) and 79a(l), the Secretary may charge fees to cover estimated costs incident to the performance of official inspection and weighing, respectively. Section 87e(i) also authorizes the Secretary to provide other services he deems appropriate and to charge a fee to cover the estimated costs of such services.

Senator Michael Bennet

- 1) *Conservation Easement Access for Monitoring and Enforcement.*
Mr. Prieto, USDA's NRCS has developed guidelines (Instructions and Guidance for Addressing Access to Conservation Easements Acquired Under the Agricultural Land Easement Component of the Agricultural Conservation Easement Program (ACEP-ALE), the Farm and Ranch Lands Protection Program (FRPP) and the Cooperative Agreement Component of the Grassland Reserve Program (GRP)) for determining whether access across other lands owned by the United States provides sufficient access for monitoring and enforcement of a conservation easement. These guidelines have generally resolved the situation where practical access was available across other federal lands, but where the "lack of access" title exception was not capable of being removed from the title policy.
Are you supportive of this Instruction and Guidance?

Response

The responsibility of the Office of the General Counsel (OGC) is to provide the best legal analysis to ensure that the Department of Agriculture and its agencies are taking actions consistent with the law, regulations, guidance, and departmental policy. OGC has sought to work collaboratively with decision-making officials and Congress to provide an independent legal analysis of all options so that the decision-making officials have the best

and most comprehensive array of choices, within the confines of the law. Once the policy decision is made, OGC then clears regulations and guidance to ensure legal sufficiency. If confirmed, I plan to continue this collaborative approach with my colleagues at USDA, and with the Congress, and to continue to assure that all USDA policies are consistent with law, regulations, guidance, and departmental policy.

2) *The Ability of NRCS to Monitor Conservation Easements Under the Right of Enforcement of the United States.*

Mr. Prieto, our land trust community in Colorado understands the necessity of USDA having the right to step in and enforce the terms of a conservation easement funded by NRCS if the terms of the conservation easement are not enforced by the third party land trust holder. However, the success of the Farm and Ranch Lands Protection Program (FRPP) relied on the relationship between the landowner and the third party land trust holder, with the landowner knowing that their relationship for monitoring the conservation easement was with that third party holder. It has not been a part of the FRPP third party conservation easements for NRCS to exercise an independent right to go on the landowner's property to monitor the conservation easement where the third party land trust is monitoring the easement and documenting the same annually with NRCS. The land trust community accepts that NRCS should have the ability to monitor conservation easements (i) when it exercises the U.S. Right of Enforcement, (ii) when the third party holder does not provide annual monitoring information sufficient to determine compliance with the conservation easement, or (iii) when an emergency occurs and monitoring is necessary to prevent a violation. However, the interim rules for the ALE program suggest that there is an independent ability for NRCS to monitor conservation easements, even when not triggered by the circumstances I just mentioned. Do you support the position that the right to inspect by NRCS exists in those specific circumstances I just described above, and that the duty of annual monitoring of the ALE conservation easements is the responsibility of the third party land trust holder? If you do not support this position, why not?

Response

Consistent with the role of the Office of the General Counsel (OGC), OGC has advised NRCS on the legal issues involved, allowing NRCS to craft a rule that both protects the interests of the United States and maximizes the interests of the stakeholders and eligible program participants. NRCS does have a right to inspect the landowner compliance with the terms of the agricultural land easements funded through the Agricultural Conservation Easement Program, inherent in the United States Right of Enforcement required by Section 1265A(1)(B) of the 1985 Farm Bill. However, NRCS voluntarily limited the exercise of this right of inspection in the ACEP-ALE interim rule. The ACEP-ALE interim rule at 7 CFR § 1468.28 does not state that NRCS will enter onto the property at any time; rather it identifies the limited circumstances under which NRCS will enter onto the easement. If confirmed, I plan to continue this collaborative approach with my colleagues at USDA, and with the Congress, and to continue to assure that all USDA policies are consistent with law, regulations, guidance, and departmental policy.