
January 29, 2019

The Honorable David Bernhardt
Acting Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington D.C. 20240

Dear Acting Secretary Bernhardt:

Information-sharing between states and the U.S. Department of the Interior (DOI) is essential to the effective management of public lands. State data can improve federal decision-making and reduce duplication. Accordingly, states encourage the appropriate use of state information and expertise by their federal partners. In some cases, however, states may elect not to share certain data due to concerns regarding federal disclosure of information that is sensitive or protected under state law.

Since 2014, Congress has directed federal agencies to engage states in early and substantive consultation to realize the utilization of state fish and wildlife data and analyses as to inform land use, planning, and related natural resource decisions.¹ Members of Congress have also advocated for greater transparency of the data used in federal management and decision-making under the Freedom of Information Act (FOIA). State data – particularly non-aggregated raw data – is subject to differing levels of statutory protection under various state laws or may need to be protected to the greatest extent possible due to privacy, cybersecurity, or other considerations. This circumstance may at times create tension between these two congressional objectives. Consequently, Western Governors are eager to engage in conversations with DOI about these congressional directives and other issues presented by the sharing of state and federal information.

States and the federal government must be able to communicate and exchange information in an effective manner to discharge our joint responsibilities to constituents. Western Governors invite the Department to discuss state and federal data-sharing, as well as disclosure concerns and potential solutions. For example, procedures requiring meaningful consultation between states and the federal government may provide an important mechanism to articulate and address many of these data disclosure concerns.

An opportunity to formalize these procedures is presented by Section 2.13 of DOI's recently proposed FOIA regulations ([83 FR 67175, December 28, 2018](#)), which addresses consultations between bureaus and other agencies. The Department could also address

¹ [164 Cong. Rec. No. 50- Book II, at H2609 \(2018\)](#); [163 Cong. Rec. No. 76- Book II, at H3874 \(2017\)](#); [H. Rept. No. 114-632, at 6 \(2016\)](#); [H. Rept. No. 114-170, at 6 \(2015\)](#); [H. Rept. No. 113-551, at 7 \(2014\)](#).

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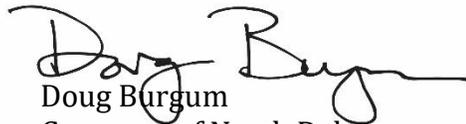
consultation with states on data or information provided by states to DOI that may be subject to FOIA disclosure. Federal protocols for the handling of state information merit a broader conversation outside of, and in addition to, the public comment process for the Department's proposed FOIA regulations.

Western Governors look forward to working with you on this important matter and continuing to improve the state-federal relationship and the quality of the services we provide to our citizens.

Sincerely,



David Ige
Governor of Hawai'i
Chair, WGA



Doug Burgum
Governor of North Dakota
Vice Chair, WGA