

**Written Questions Submitted to Leslie Kiernan, Nominee to be General Counsel for the
Department of Commerce**

Submitted by Ranking Member, Senator Roger Wicker

Question 1: Recreational Fishing Management

I introduced and passed the bipartisan Modern Fish Act to improve the management of recreational fisheries by incorporating the best available science. In the Gulf of Mexico, states like Mississippi have invested significant time and money to develop a more accurate understanding of how much fish recreational fishermen harvest. Despite this effort, NOAA has proposed ignoring the higher quality state data, and treating the less accurate federal data from the Marine Recreational Information Program as though it is of equal quality. If this occurred, it would have unfairly decreased Mississippi's share of the Red Snapper fishery by 60% in 2021. In addition, the recent "Great Red Snapper Count" suggests that the actual abundance of red snapper in the Gulf is three times higher than what NOAA had estimated.

Recently, the Gulf of Mexico Fisheries Management Council recognized the high quality of Mississippi's state red snapper survey and voted to delay the calibration of state survey data to the incomplete and low-quality federal survey data so that they can continue further study. *Will you commit to working with us to support the Council's actions with regard to red snapper?*

Response: I recognize that saltwater recreational fishing is an integral part of American coastal life, communities, and economies. I also understand the importance of stock assessment data and the need for it to be grounded in the best available science. If confirmed, I would commit to learning more about NOAA's Marine Recreational Information Program and to working with you and NOAA on this issue as the program pertains to Gulf of Mexico fisheries.

Question 2: NTIA Broadband Programs

Ms. Kiernan, the bipartisan Consolidated Appropriations Act of 2021, enacted in December, appropriated over \$1.5 billion to NTIA for broadband-related initiatives. If confirmed, how will you work with NTIA to ensure that this broadband funding is targeted to the intended recipients and not wasted through overbuilding or duplicating existing public or private broadband investments, as we have seen in previous broadband programs administered by NTIA?

Response: Coordination among federal agencies is critical to addressing your concerns. It is my understanding that the recently passed ACCESS BROADBAND Act established new obligations on the National Telecommunications and Information Administration (NTIA), the U.S. Department of Agriculture (USDA) and the Federal Communications Commission (FCC) to track coordination of broadband infrastructure built with federal funds to ensure that those funds are distributed in a targeted and efficient manner.

I further understand that the Consolidated Appropriations Act, 2021 included the Broadband Interagency Coordination Act of 2020 which requires NTIA, FCC and USDA to enter into an agreement requiring coordination for the distribution of funds for broadband deployment under

the FCC High-Cost Programs, USDA Rural Utilities Service (RUS) Programs and broadband programs administered or coordinated through NTIA.

If confirmed as General Counsel, I will work closely with NTIA to ensure coordination with other federal agencies, that programs are implemented and administered consistent with Congress's direction in the most efficient way possible, and that these programs avoid duplication as well as waste, fraud or abuse.

Question 3: Spectrum Management

Ms. Kiernan, in recent months there have been high-profile disputes between NTIA and the FCC about federal and non-federal spectrum allocations and assignments. What do you believe is the role of the general counsel in advising NTIA to resolve those types of disputes with the FCC?

- **Follow Up:** If confirmed, will you commit to working to ensure NTIA speaks for the federal government on matters involving federal spectrum?

Response: It is important to have a government-wide federal spectrum plan, and, if confirmed as General Counsel, I will support efforts to ensure that NTIA leads the federal government on spectrum issues that are critical to both the economic security and the national security of the country. NTIA is the President's principal advisor on telecommunications and information policy matters, including those involving electromagnetic spectrum. Secretary Raimondo has made it clear that NTIA will lead a whole-of-government effort and drive the decision-making process for properly managing federal spectrum.

Question 4: Space Act

Today, the services offered by over 2,000 active satellites underpin much of our modern economy - such as communications, weather prediction, and GPS. But those satellites, as well as astronauts aboard the International Space Station, are threatened by hundreds of thousands of pieces of "junk" or space debris.

In June of 2018, the National Space Council announced Space Policy Directive 3, which designated the Department of Commerce as the lead civil agency for space situational awareness and notification of satellite operators of potential conjunctions or collisions.

Last year, Senator Cantwell and I introduced the SPACE Act to codify much of this directive. The Office of Space Commerce should be appropriately staffed and resourced to provide timely and accurate tracking and collision warning notifications to the growing number of commercial and international space operators.

Do you agree that the Office of Space Commerce can play an important role in fostering American economic leadership and opportunities in space? Can you assure the committee that it will be appropriately prioritized and resourced?

Response: I believe that the Office of Space Commerce (OSC) and NOAA play key roles in working with the commercial space industry to foster American leadership in space. If

confirmed, I look forward to learning more about OSC and to working with Congress to ensure that it is properly prioritized and resourced to continue serving this important function.

Senator Cantwell and I plan to reintroduce the SPACE Act soon. Will you review that legislation and work with us to protect the space environment?

Response: I understand the importance in providing space situational awareness and traffic management to ensure safe and productive development in the space economy. If confirmed, I look forward to reviewing that legislation and working with you on this important topic.

Question 5: SolarWinds

As highlighted by the recently disclosed SolarWinds nation-state cyberattack, improving our nation's cybersecurity requires working closely with industry to develop and adopt best cybersecurity practices. We can start to address some of our cybersecurity challenges with swift implementation of the HACKED Act, focused on enhancing the National Institute of Standards and Technology's role in advancing the cybersecurity workforce and the CYBER LEAP Act, which directs the Department to carry out competitions to tackle cybersecurity challenges. I sponsored both pieces of legislation and am proud they were included in the Fiscal Year 2021 National Defense Authorization Act. Going forward, it is important to take into account the good work that the Department of Commerce has undertaken on these issues as the executive branch develops its cybersecurity strategy for all federal agencies.

How would you advance the Department of Commerce's role in strengthening our nation's cybersecurity?

Response: Protecting our data, networks and digital infrastructure is vital to our national and economic security. If confirmed, I will make it a priority to work with NIST and other experts in the Department and throughout the government on these issues. I will work with NIST to continue to engage nationally and internationally in cybersecurity standards organizations to ensure our requirements, guidance and technical recommendations are used in the commercial IT products we all rely upon. I am committed to ensuring that the Department is building the tools needed for today's cybersecurity and is continuing research and development to secure our new technology landscapes.

Question 6: Semiconductor Shortage

The global semiconductor shortage highlights the fragility of our nation's supply chains. Many manufacturers, including automotive and trucking manufacturers in Mississippi and across the country, are facing setbacks due to the chip shortage. There may be near-term steps the Administration can take to address this shortage, but in the recent defense authorization bill, Congress also directed the Department of Commerce to incentivize longer-term investment in semiconductor fabrication, assembly, and research and development in the United States.

- *What can the Department of Commerce do in the near and long-term to address the semiconductor shortage?*

Response: It is my understanding that addressing the semiconductor shortage is one of the Department's top priorities. Commerce has been closely engaged with National Economic Council (NEC) and National Security Council (NSC) staff on this issue and has facilitated calls with industry members to discuss the challenges and impact of the shortage of automotive-related semiconductor chips on U.S. automotive manufacturing and employment. Commerce has also coordinated with the State Department on outreach to foreign governments and foreign semiconductor companies to encourage increased production and ensure a fair and equitable distribution of those chips that are available. Many semiconductor producers have already been working to increase production.

For a long-term solution to the current fragility in the semiconductor supply chain, President Biden has requested \$50 billion to fund the efforts outlined in the Fiscal Year 2021 National Defense Authorization Act (NDAA) to incentive the construction of semiconductor fabrication facilities in the U.S., and to invest in the research and development (R&D) and infrastructure necessary to ensure that the next generation of microelectronics can be developed and transitioned to U.S.-led manufacturers.

The Department of Commerce will be central to implementing these plans. Staff at the Bureau of Industry Security (BIS) and the International Trade Administration (ITA) are conducting a 100-day review of the semiconductor supply chain. If confirmed as General Counsel, I will work to ensure that the Department complies with Congress's mandate to incentivize longer-term investment in semiconductor fabrication, assembly, and research and development in the United States.