

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371

www.science.house.gov

June 6, 2016

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Pritzker,

The House Committee on Science, Space, and Technology, requires information on your obligation to review and make timely determinations on space-based remote sensing applications in accordance with the Land Remote Sensing Policy Act of 1992. This inquiry is part of continued oversight efforts of the House Committee on Science, Space, and Technology and follows previous letters sent to you regarding the licensing of private space-based remote sensing systems. (Please see attached previous letters dated June 10th, 2015, and February 17th, 2016, as well as responses received by the Committee).

Title 51 U.S.C §60121 states that, "The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them."

According to recent press reports, commercial satellite imagery provider DigitalGlobe is still awaiting a license approval to sell high-definition infrared imagery data from its Worldview-3 satellite almost three years after submitting the initial request,¹ well beyond the 120 day requirement. NOAA regulations state that the agency must give a reason for the delay and an estimate of when its review will be completed.² While the law states that applicants shall be informed of any pending issues and of actions required to resolve them, the Committee would

¹ Gruss, Mike, "DigitalGlobe: No clarity on 2013 request to NOAA to sell high-res imagery." *SpaceNews*. May 18, 2016. Retrieved at: <http://spacenews.com/digitalglobe-no-clarity-on-2013-request-to-noaa-to-sell-high-res-imagery/> (Last accessed May 20, 2016).

² 15 CFR Section 960.4. Retrieved at: <http://www.nesdis.noaa.gov/CRSRA/files/15%20CFR%20Part%20960%20Regs%202006.pdf>.

also like to know what has caused the delay in this application and when NOAA anticipates this licensing action will be closed out.

In order to assist the Committee in its oversight responsibilities, under House Rule X(1)(p), X(2)(b)(1)(A), and X(3)(k) please address the following:

1. Please confirm the date at which DigitalGlobe applied for a license to operate the shortwave infrared sensor (SWIR) on Worldview-3.
2. Please confirm the date at which DigitalGlobe first requested permission to sell SWIR data at 3.7 meter resolution.
3. Please provide a copy of DigitalGlobe Worldview-3 license and any materials relevant to the SWIR and DigitalGlobe's request to sell SWIR data, either at 7.5 or 3.7 meter resolution.
4. Please provide a copy of any communications provided to DigitalGlobe, pursuant to 15 C.F.R Part 960.6.
5. Please explain why NOAA is still adjudicating DigitalGlobe's request.
6. Please provide legal justification for the tolling of the 120 day statutory requirement to hundreds, if not thousands, of days.
7. Please provide the Committee with a timeline describing any and all actions performed by NOAA regarding the license application, starting with when the agency received the application to when it plans to approve or deny the application.
8. Please provide the names of the individuals in the inter-agency clearance process responsible for representing their respective department or agency positions on the determination of DigitalGlobe's request to sell SWIR data at 3.7 meter and identify which individuals have not yet made a determination to NOAA on the request.

As appropriate, House Committee on Science, Space, and Technology members and staff are available to receive a classified briefing on this issue.

Please respond to these inquiries by June 24, 2016. If you have any questions related to this request, please contact Dr. Michael Mineiro, Counsel, Subcommittee on Space, at 202-226-0354.

Sincerely,



Lamar Smith
Chairman



Brian Babin
Chairman
Subcommittee on Space

Cc: Eddie Bernice Johnson
Ranking Member

Donna Edwards
Ranking Member
Subcommittee on Space

Congress of the United States

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February 17, 2016

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Pritzker,

The House Committee on Science, Space, and Technology, as part of our oversight responsibility, is concerned that the Department of Commerce may be considering changing the composition of members of the National Oceanic and Atmospheric Administration (NOAA) Advisory Committee on Commercial Remote Sensing (ACCRES).

The purpose of ACCRES is to “provide information, advice, and recommendations to the Under Secretary of Commerce for Oceans and Atmosphere on matters relating to the U.S. commercial remote sensing space industry and NOAA’s activities to carry out the responsibilities of the Department of Commerce set forth in the National and Commercial Space Programs Act of 2010 (51 U.S.C. §60101 *et seq.*).”¹ The composition of ACCRES, according to its charter, “will have a fairly balanced membership consisting of approximately 9 to 15 members serving in a representative capacity.”² Today, ACCRES has 14 members, representing a cross-section of industry and academia, meeting the intent and purpose of the advisory committee. It has come to the attention of the House Science, Space, and Technology Committee that Department of Commerce officials may be considering changing the composition of ACCRES.

In order to assist the Committee in its oversight responsibilities, please address the following:

- Are Department of Commerce officials considering removing industry and academic members and replacing them with government officials from other Federal agencies?

¹ ACCRES Charter (March 3rd, 2014), available online at:

<http://www.nesdis.noaa.gov/CRSRA/files/ACCRES_Charter_3-13-14.pdf> (last accessed January 14th, 2016).

² *Id.*

- If Department of Commerce officials are considering removing industry and academic members and replacing them with government officials from other Federal agencies, please explain why NOAA/NESDIS is not able to communicate with and receive such information from other government agencies without going through a Federal advisory committee.
- In addition, please inform the Committee of any activities the Department is undertaking to change the Charter of ACCRES or the composition of its members to include government officials.

The Committee appreciates your consideration of this important issue. ACCRES serves an important role in providing advice to the Under Secretary of Commerce for Oceans and Atmosphere on matters relating to the U.S. commercial remote sensing space industry and the Committee supports the Department of Commerce's decision to reconstitute ACCRES in 2012.

Please respond to these inquiries by January 29, 2016. If you have any questions related to this request, please contact Dr. Michael Mineiro, Counsel, Subcommittee on Space, at 202-226-0354.

Sincerely,



Lamar Smith
Chairman



Brian Babin
Chairman
Subcommittee on Space



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230
OFFICE OF LEGISLATIVE AFFAIRS

March 3, 2016

The Honorable Lamar Smith
Chairman
Committee on Science, Space, and Technology
U.S. House of Representatives
Washington, DC 20515

The Honorable Brian Babin
Chairman, Subcommittee on Space
Committee on Science, Space, and Technology
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith and Chairman Babin:

Thank you for your February 17, 2016 letter regarding the Advisory Committee on Commercial Remote Sensing (ACCRES or committee). ACCRES, established by the Department of Commerce (Department) in 2002, provides invaluable information, advice, and recommendations on matters relating to the U. S. commercial remote sensing industry as the Department implements its responsibilities as set forth in the National and Commercial Space Programs Act, 51 U.S.C. § 60101 et seq. The Department remains committed to a diverse and balanced membership of ACCRES, which provides a unique forum for the discussion of issues involving the relationship between industry activities and Government policies, programs, and regulatory requirements. Current membership includes representatives of industry, the research community and other interests.

The Department manages the ACCRES through biennial Charters that comply with the General Service Administration's authorities for Federal Advisory Committee Act groups. Your letter refers to discussions that are ongoing as the Department develops the 2016 ACCRES Charter. While final action has not been taken, the Department intends to authorize an increase of the number of members from no more than 15 to no more than 20. In particular, this increase will allow inclusion of approximately three federal agency representatives on the committee.

The Department believes these changes will allow ACCRES to better achieve its purpose of providing advice to help the Department address increasingly challenging regulatory and policy issues with this dynamic industry. We believe that ACCRES can be most effective by facilitating meaningful interaction between government experts, knowledgeable industry representatives, and representatives of other interests. This kind of interaction is likely to yield consensus advice that is useful to the Department, as was our experience when government agencies were represented on the committee in years past.



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To answer your specific questions in its February 17, 2016 correspondence: Although ACCRES membership is rolling, the Department is not considering removing industry and academic members and replacing them with government officials. As noted above, the Department intends to change the 2016 ACCRES Charter to expand ACCRES membership from no more than 15 members, to no more than 20 members. This will enable the addition of approximately three representatives from government agencies who will provide expert advice concerning regulatory and policy matters to be addressed by the committee.

We appreciate your inquiry and thank you for your continued support of ACCRES. If you have any questions, please contact me at 202-482-5448.

Sincerely,

A handwritten signature in black ink, appearing to read "Coby Dolan". The signature is fluid and cursive, with the first name "Coby" and last name "Dolan" clearly distinguishable.

Coby Dolan
Director
Office of Legislative and
Intergovernmental Affairs

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

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June 10, 2015

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

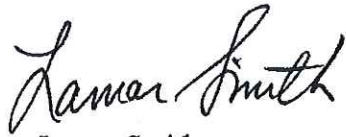
Dear Secretary Pritzker,

The House Committee on Science, Space, and Technology, as part of our oversight responsibility, recently requested information from your Department to assist our Committee in understanding the capacity and capabilities of the Office of Space Commercialization. The Committee appreciates your Department partially responding to our request on December 1, 2014. However, the Committee requested your assistance in answering the following inquiries and these inquiries have not been answered.

- 1) Please list the names, positions, and dates of all SES positions filled within the Department of Commerce since the Director's position of the Office of Space Commercialization was vacated.
- 2) Please list any and all SES positions created in the Department since the position of Director, Office of Space Commercialization, was vacated.
- 3) Please list any and all SES positions created in the National Oceanic and Atmospheric Administration (NOAA) since the position of Director, Office of Space Commercialization, was vacated.
- 4) Please list any and all SES positions created related to climate change, the Climate Program Office, the proposed Climate Service, or any other climate function at NOAA, since the position of Director, Office of Space Commercialization was vacated.

Furthermore, the Committee would like to be informed of any activities the Department is undertaking to address the absence of a Director's position or to strengthen the Office of Space Commercialization.

Please respond to these inquiries by June 17, 2015. If you have any questions related to this request, please contact Dr. Michael Mineiro, Counsel, Subcommittee on Space, at 202-226-0354.



Lamar Smith
Chairman

Sincerely,



Brian Babin
Chairman
Subcommittee on Space

Attachments (2): Letter dated October 1, 2014; letter dated December 2, 2014

CC: Rep. Eddie Bernice Johnson
Ranking Member

Rep. Donna Edwards
Ranking Member
Subcommittee on Space



UNITED STATES DEPARTMENT OF COMMERCE
Assistant Secretary for Legislative
and Intergovernmental Affairs
Washington, D.C. 20230

August 24, 2015

The Honorable Lamar Smith
Chairman
Committee on Science, Space and Technology
U.S. House of Representatives
Washington, DC 20515

The Honorable Brian Babin
Chairman, Subcommittee on Space
Committee on Science, Space and Technology
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith and Chairman Babin:

Thank you for your June 10, 2015 letter regarding the Department of Commerce's Office of Space Commercialization, which is a part of the National Oceanic and Atmospheric Administration (NOAA). The request asks about recent activities undertaken by the Department to address the absence of a permanent Director of the Office of Space Commercialization or to strengthen the Office. As noted in our December 2, 2014 letter, Acting Director Mark Paese is leading the Office of Space Commercialization in the absence of a permanent Director. In addition, NOAA has taken a number of steps with respect to the Office. For example, NOAA has designated the Office of Space Commercialization as the single NOAA entry point for commercial sector engagement, providing a U.S. Government-wide perspective on potential commercial space business and partnership arrangements. NOAA also has arranged for the Office of Space Commercialization to attend the NOAA Observing Systems Council, which endorses data requirement validation processes. The Office is continuing to work on business models for NOAA to leverage industry data, and joining the Observing Systems Council will aid the Office as it guides commercial data suppliers in their proposals.

The request also asks about Senior Executive Service (SES) positions within the Department and NOAA since the Office of Space Commercialization's Director position was vacated. As noted in our December 2, 2014 letter, the Office's Director position was last filled on a permanent basis by Edward Morris, who led the Office from January 2006 to November 2008. Accordingly, our response below, which is based on our available records, focuses on SES positions within the Department and NOAA since the end of 2008.

As of June 2015, our records reflect that approximately 400 of approximately 475 SES positions within the Department were filled.¹ Of those approximately 400 SES members, our records indicate that approximately 290 had been appointed to an SES position within the Department since December 2008. The Department currently has approximately 25 more SES positions than it had in December 2008. As reflected in the attached lists of Department SES positions as of December 2008 and June 2015, the increase is attributable in part to the growth of the United States Patent and Trademark Office (e.g., new administrative judgeships, patent executives, and patent examination group directors).

With regard to NOAA, as of June 2015, our records reflect that approximately 103 of approximately 130 SES positions within NOAA were filled. Of those approximately 103 SES members, our records indicate that approximately 84 had been appointed to an SES position within NOAA since December 2008. NOAA currently has approximately 2 fewer SES positions than it had in December 2008. A number of SES positions within NOAA have changed in title and substance since December 2008, as reflected in the attached lists. A number of these positions support a variety of functions across NOAA. To the best of our knowledge, no SES positions have been added within the Climate Program Office since December 2008.

If we can be of further assistance, please do not hesitate to contact me at (202) 482-3663.

Sincerely,



Jim Stowers

Acting Assistant Secretary for
Legislative and Intergovernmental Affairs

Enclosures

cc: The Honorable Eddie Bernice Johnson
Ranking Member
Committee on Homeland Security and Governmental Affairs

The Honorable Donna F. Edwards
Ranking Member, Subcommittee on Space
Committee on Commerce, Science, and Transportation

¹ These figures include the Department's Office of Inspector General and the United States Patent and Trademark Office, which are sometimes considered separately from the rest of the Department for purposes of SES positions.