



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 29 2017

The Honorable Rob Bishop
Chairman
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

The Honorable Raúl M. Grijalva
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Bishop and Ranking Member Grijalva:

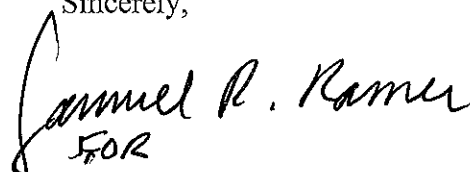
The Department of Justice wishes to notify Congress of a constitutional concern with H.R. 2199, the "Federal Lands Asset Inventory Reform Act of 2017," as ordered reported by the Committee on Natural Resources. We have the following constitutional concern and recommendation.

Section 2(c)(7) would violate the Recommendations Clause by requiring the Secretary of the Interior to submit a report to congressional committees that includes "recommendations for any legislation necessary to increase the cost-savings and enhance the effectiveness and efficiency of replacing, eliminating, or consolidating real property inventories or any components of a cadastre currently authorized by law or conducted by the Department of the Interior." U.S. Const. art. II, § 3 (obligating the President to "recommend to [Congress's] Consideration such Measures as *he shall judge* necessary and expedient") (emphasis added). "[L]aws that purport to require the President"- or his agents in the Executive Branch —"to propose legislation to Congress, regardless of whether the President judges such legislation necessary and expedient[,] . . . are unconstitutional." Application of the Recommendations Clause to Section 802 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, 40 Op. O.L.C. __, *9 (Aug. 16, 2016), <https://www.justice.gov/opinion/file/929881/download>. To make the recommendation of legislation in section 2(c)(7) discretionary rather than mandatory, we recommend inserting "and appropriate" after "necessary."

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The Honorable Raúl M. Grijalva
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Thank you for the opportunity to present our views. Please do not hesitate to contact this office if we may be of further assistance on this legislation. The Office of Management and Budget has advised us that, from the perspective of the Administration's program, that there is no objection to the submission of this letter.

Sincerely,


FOR
Stephen E. Boyd
Assistant Attorney General



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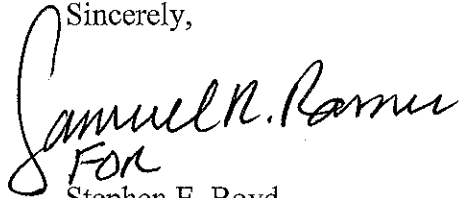
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Sincerely,

A handwritten signature in black ink that reads "Samuel R. Barnes". The signature is written in a cursive style with a large initial "S".

FOR
Stephen E. Boyd

Assistant Attorney General