

**Congress of the United States**  
**Washington, DC 20515**

November 19, 2020

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

Dear Secretary Bernhardt,

We are writing to express our concerns with the Bureau of Land Management's (BLM) latest plan to employ controversial surgical sterilization methods on federally protected horses in the Confusion Herd Management Area (HMA) in Utah (DOI-BLM-UT-W020-2018-015-EA). The Environmental Assessment (EA) for this HMA, which encompasses more than 235,000 acres and is home to approximately 551 wild horses, marks the agency's fifth attempt to ovariectomize wild horses despite significant opposition and concerns from federal lawmakers, the American public, veterinarians, and the National Academy of Sciences (NAS).

The primary surgical procedure in question – ovariectomy via colpotomy – involves the manual insertion of a metal rod to blindly locate and sever the ovaries of wild mares. In general, ovariectomies via colpotomy are infrequently performed on horses as the risks can be serious – e.g., evisceration, hemorrhaging, infection, and even death. Other forms of ovariectomy have been employed on domestic horses and may be safer under certain controlled conditions, but performing these often complicated and invasive procedures on ungentled, wild horses poses significant welfare risk. From a broader perspective, the BLM's insistence on ovariectomizing wild horses seems futile at best given that such surgeries cannot practicably or safely be widely implemented on the range in what would likely be non-sterile conditions.

As you are aware, two major academic institutions, Oregon State University and Colorado State University, withdrew their support from the BLM's prior efforts to assess the outcomes of performing ovariectomies on horses in the Warm Springs HMA in Oregon.<sup>1</sup> In November of 2018, a federal court enjoined the BLM from proceeding with its plan to ovariectomize mares, citing concerns about the lack of independent observation and the lack of inquiry into whether the sterilization procedure was “socially acceptable”, a factor the agency previously identified as integral to its efforts.<sup>2</sup>

In the NAS's “Using Science to Improve the BLM Wild Horse and Burro Program”, the comprehensive report on management strategies commissioned by the BLM, experts directly

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<sup>1</sup> As the July 17, 2019 letter signed by eight Senators noted, “[T]he rather troubling and unusual history of the ovariectomy experiments raises serious questions about the validity and merit of pursuing this project... Once OSU and CSU dropped out, rather than seek another research institution with experts in equine behavior and veterinary care, the BLM unilaterally decided to proceed alone, essentially asking the public to take the agency's word for it that it would provide an unbiased assessment of the outcome.”

<sup>2</sup> *Ginger Kathrens, et al. v. Ryan Zinke, et al.*, Case No. 18-cv-1691.

advised against employing ovariectomies. As the NAS noted, “the possibility that ovariectomy may be followed by prolonged bleeding or Peritoneal infection makes it inadvisable for field application.” Indeed, numerous equine veterinarians have criticized the procedure given the risks of pain to the horses subjected to these ovariectomies, the need for lengthy and careful post-operative monitoring, the possibility of severing other organs due to the blind nature of the colpotomy insertion, and the subsequent risks of infection, trauma, or death.<sup>3</sup>

With the proposed Warm Springs experiments, the BLM had sought to quantify the rate of mortality and morbidity from conducting these surgeries on wild horses, an apparent recognition of the significant welfare risks to these federally protected animals. While the BLM previously deemed a research study essential to its efforts to employ ovariectomies more broadly (i.e., in order to gauge the safety, efficacy, and complications of a procedure that has never been studied on wild horses), the agency is evidently abandoning the experimental route altogether – without explanation – in order to integrate ovariectomies directly into its management plans.

As indicated above, we, along with many of our colleagues in both the House and Senate, previously weighed in on this issue, urging the BLM to abandon its plans to ovariectomize mares and instead pursue scientifically supported fertility control projects, namely the use of humane immunocontraceptive vaccines.<sup>4</sup> Similarly, the Fiscal Year 2020 Senate Interior Appropriations report delineated that “any population growth suppression strategies” employed by the BLM “must be proven, safe, and humane” (S. Rept. 116-123). Ovariectomizing wild mares would almost certainly fail to meet that bar. For Fiscal Year 2021, the House of Representatives overwhelmingly passed an amendment to the appropriations package directing the BLM to spend a significant portion of its funding on the safe and proven Porcine Zona Pellucida (PZP) vaccine which has been used successfully for decades to manage herds, but which the BLM to date has not implemented widely.

With respect to the Confusion HMA management plan, the EA specifically notes that “as the surgery would be conducted at a private facility, public observation of the surgical procedure would not be allowed.” A federal court previously found that the BLM’s restrictions on public observation of the procedures likely violated the plaintiffs’ First Amendment rights. While the BLM evidently might grant one non-BLM affiliated veterinarian the opportunity to observe the ovariectomies, questions remain as to whether observations will actually be allowed and if so, how the single observer would be selected. As such, the BLM’s plan again impedes meaningful independent observation given that the BLM is unambiguously seeking to carry out surgical sterilizations away from public view.

The Confusion HMA management plan also appears to constitute a decision to proceed with this surgical procedure in disregard of the fact that the public, including many equine veterinarians, consider it to be inhumane. The BLM has received thousands of comments opposing the surgical sterilizations – many of which have called for the agency to implement fertility control options that enjoy broad support, such as PZP. Moreover, polling shows that an overwhelming majority

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<sup>3</sup> October 28, 2019 letter to the Department of Interior signed by eighty veterinarians, and November 13, 2019 letter signed by 27 veterinarians to the House and Senate Appropriations Committees.

<sup>4</sup> June 21, 2019 letter to the Department of the Interior signed by thirty Representatives and July 17, 2019 letter signed by eight Senators.

of Americans, nearly eighty percent, oppose the use of ovariectomies to “manage” wild horses.<sup>5</sup> In 2018, a federal court found that the BLM’s proposal to experiment on this procedure without any effort to consider whether it is “socially acceptable” was likely unlawful, given that the BLM previously stressed this was a critical inquiry. The BLM’s current plan again disregards this inquiry, claiming, without explanation, that the agency is not required to consider “social acceptability.”

Wild horses are protected under the landmark Wild Free-Roaming Horses and Burros Act and the BLM must take seriously its charge to protect these icons from “harassment or death.” That the agency would attempt to expend taxpayer dollars to push through highly controversial and unsafe surgeries that could result in injuries and infections to, or even the death of, horses under its authority may ultimately contravene its mandate under the law.

We urge the BLM to drop this controversial plan and instead actively pursue humane and scientifically supported immunocontraceptive vaccines, which enjoy broad support and pose significantly less risk of harm to the welfare of federally protected wild horses.

Thank you for your prompt attention to this matter and we look forward to your response.

Sincerely,



Dina Titus  
Member of Congress



Cory A. Booker  
United States Senator

s/ Donald S. Beyer Jr.  
Member of Congress

s/ Earl Blumenauer  
Member of Congress

s/ Thomas R. Carper  
United States Senator

s/ Julia Brownley  
Member of Congress

s/ Vern Buchanan  
Member of Congress

s/ Christopher A. Coons  
United States Senator

s/ David N. Cicilline  
Member of Congress

s/ Steve Cohen  
Member of Congress

s/ Dianne Feinstein  
United States Senator

s/ Gerald E. Connolly  
Member of Congress

s/ J. Luis Correa  
Member of Congress

s/ Edward J. Markey  
United States Senator

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<sup>5</sup> An October 2019 national survey conducted by The Harris Poll found that seventy-seven percent of Americans were opposed to the BLM’s proposed ovariectomy experiments. An October 2019 Public Policy Polling survey found that seventy-nine percent of Americans oppose the surgical sterilization of wild mares via procedures to remove their ovaries.

s/ Peter A. DeFazio  
Member of Congress

s/ Ted Deutch  
Member of Congress

s/ Robert Menendez  
United States Senator

s/ Brian K. Fitzpatrick  
Member of Congress

s/ Jesús G. "Chuy" García  
Member of Congress

s/ Tom Udall  
United States Senator

s/ Raúl M. Grijalva  
Member of Congress

s/ Deb Haaland  
Member of Congress

s/ Chris Van Hollen  
United States Senator

s/ Alcee L. Hastings  
Member of Congress

s/ Pramila Jayapal  
Member of Congress

s/ Marcy Kaptur  
Member of Congress

s/ John Katko  
Member of Congress

s/ Ro Khanna  
Member of Congress

s/ Peter T. King  
Member of Congress

s/ Raja Krishnamoorthi  
Member of Congress

s/ Ann McLane Kuster  
Member of Congress

s/ James R. Langevin  
Member of Congress

s/ Barbara Lee  
Member of Congress

s/ Andy Levin  
Member of Congress

s/ Ted W. Lieu  
Member of Congress

s/ Alan Lowenthal  
Member of Congress

s/ Carolyn B. Maloney  
Member of Congress

s/ Sean Patrick Maloney  
Member of Congress

s/ James P. McGovern  
Member of Congress

s/ Grace Meng  
Member of Congress

s/ Grace F. Napolitano  
Member of Congress

s/ Joe Neguse  
Member of Congress

s/ Eleanor Holmes Norton  
Member of Congress

s/ Katie Porter  
Member of Congress

s/ David E. Price  
Member of Congress

s/ Mike Quigley  
Member of Congress

s/ Jamie Raskin  
Member of Congress

s/ Lucille Roybal-Allard  
Member of Congress

s/ Jan Schakowsky  
Member of Congress

s/ David Schweikert  
Member of Congress

s/ Adam Smith  
Member of Congress

s/ Thomas R. Suozzi  
Member of Congress

s/ Norma J. Torres  
Member of Congress

s/ Nydia M. Velázquez  
Member of Congress

s/ Bonnie Watson Coleman  
Member of Congress

s/ Susan Wild  
Member of Congress

s/ Derek Kilmer  
Member of Congress

s/ Catherine Cortez Masto  
United States Senator



Congress of the United States  
House of Representatives  
Washington, DC 20515

June 21, 2019

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

Dear Secretary Bernhardt:

We write today to express our concern with the Bureau of Land Management's (BLM) proposed surgical sterilization experiment to be conducted on wild horses in the Warm Springs Herd Management Area in Oregon (DOI-BLM-ORWA-B 050-2019-0013-EA (Spay Feasibility and On-Range Outcomes Environmental Assessment)).

While we understand the BLM's need to manage populations of wild horses, we are concerned about the rationale behind the decision to employ the "ovariectomy via colpotomy" method as a means of mass sterilization and are seeking clarification as to whether the agency has taken into account some of the unusual circumstances and disconcerting factors surrounding this project. In light of the November 2018 federal court ruling against the BLM, effectively blocking the agency from conducting the prior iteration of these experiments due to concerns over potential First Amendment public observation rights violations and because certain changes to the experimental protocol appeared arbitrary and capricious<sup>[1]</sup>, we would urge the BLM to abandon plans to pursue these experiments.

In its comprehensive 2013 report outlining strategies for improving wild horse management in the United States, the National Academy of Sciences (NAS) explicitly warned against employing ovariectomy via colpotomy on wild horses, noting that the "possibility that ovariectomy may be followed by prolonged bleeding or peritoneal infection makes it inadvisable for field application."<sup>[2]</sup> In 2015, a NAS panel charged with considering various research proposals recommended against funding an ovariectomy via colpotomy project, noting that the procedure did not warrant further research, while also indicating that complication rates may be higher than expected.

It is our understanding the current proposal is substantially similar to, and indeed attempts to revive portions of, the discarded 2016 (DOI-BLM-OR-B000-2015-0055-EA) and 2018 (DOI-

BLM-ORWA-B050-2018-0016-EA) proposals on which the BLM sought to partner first with Oregon State University (OSU) and then with Colorado State University (CSU) in conducting and overseeing surgical sterilization experiments on wild horses.

In 2016, OSU withdrew from this project, leading the BLM to find a new academic institution – Colorado State University – to partner with for the 2018 proposal. CSU’s experts were slated to monitor the procedure and provide follow-up welfare assessments of the horses that underwent the surgery. However, on August 8, 2018, CSU terminated its partnership with the BLM in conducting the ovariectomy research study such that the university would no longer be involved in any capacity. On August 22, 2018, the BLM announced it would move forward with the project regardless, dropping plans to partner with an academic institution to help oversee and carry out the experiment and issuing a revised Environmental Assessment without the CSU components. On November 13, 2018, a U.S. District Court granted a preliminary injunction halting the project for the aforementioned reasons, and later that month the Interior Board of Land Appeals formally vacated the Decision Record authorizing the experiments. Indeed, in a positive turn of events, the BLM announced in February of 2019 that it planned to return some of the rounded-up horses to the range and administer scientifically-proven immunocontraceptive vaccines to stabilize population growth.

We ask that you shed light on the BLM’s reversal and new decision to push forward with the ovariectomy project – after three failed attempts to undertake the surgical sterilization experiments – as well as the decision to forgo working closely with an academic institution for the purposes of conducting this type of research study. At what stage did the BLM decide that identifying an academic partner that would provide expertise in equine veterinary medicine and welfare was no longer necessary to the project?

It is especially perplexing that in the new 2019 EA, as well as in the 2018 revised EA, the BLM continues to rely on CSU’s Institutional Animal Care and Use Committee (IACUC) approval as a justification for continuing the project, despite CSU’s withdrawal. The IACUC’s approval was premised on CSU’s participation and ability to provide oversight; the proposed experiment fundamentally changed at the point where CSU removed itself (and its team of veterinary and behavioral experts) from the project – most notably, through the absence of the welfare observations, which formed a crux of the proposal published on June 29, 2018, but are no longer a component of the project the BLM is attempting to yet again undertake.

The BLM received thousands of comments in opposition to the experiment. However, the current and previous proposals do not appear to incorporate any substantive revisions based on public input. Again, we would ask that the agency refrain from implementing this controversial mass surgical sterilization project given the agency’s statutory mandate to uphold the welfare of these animals and the serious constitutional concerns that have been raised.

The BLM is charged with protecting wild horses under the landmark 1971 Wild and Free-Roaming Horses and Burros Act.<sup>[3]</sup> From a welfare perspective, the “spay” experiment raises serious concerns. Ovariectomy via colpotomy (where a rod and chain is inserted blindly in order to sever the ovaries) carries risks of infection, trauma, hemorrhage, evisceration, and even death. Indeed, part of the stated experimental goal is to quantify morbidity and mortality (the 2018 EA

also considered factors such as the incidence of aborted foals resulting from ovariectomizing pregnant mares). It seems that the agency understands the risky nature of the procedure but is nevertheless aiming to quantify precisely how dangerous it is using federally-protected animals. This is especially disconcerting given the BLM's pronouncement that no post-operative antibiotics will be administered and that no veterinary interventions will be undertaken for any recovering horses returned to the range. The risk of infection or other complications is exacerbated by the fact that, by the agency's own admission, the surgeries will be conducted in an operating space that "may not be entirely sterile".[4]

At an absolute minimum, independent veterinary and welfare oversight (not unlike what we presume the BLM was hoping to achieve through partnerships with CSU and, before that, OSU) is necessary if a project of this type is to move forward in any respect. From a broader perspective, we would urge the BLM to drop this controversial plan and instead actively pursue humane and scientifically-supported fertility control projects (e.g., the Porcine Zona Pullucida vaccine) that enjoy broad support among key stakeholders and the public at large and that pose fewer harms to the welfare of federally protected wild horses.

Thank you for your consideration.

Sincerely,



Earl Blumenauer  
Member of Congress



Ro Khanna  
Member of Congress



Andy Levin  
Member of Congress



Ann McLane Kuster  
Member of Congress

[1] *Ginger Kathrens, et al. v. Ryan Zinke, et al.*, Case No. 18-cv-1691.

[2] National Research Council. 2013. *Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/13511>.

[3] The Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195). See "Section 1333. Powers and duties of the Secretary": "The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands ..."

[4] DOI-BLM-ORWA-B050-2019-0013-EA, "Spay Feasibility and On-Range Outcomes", Page 30.



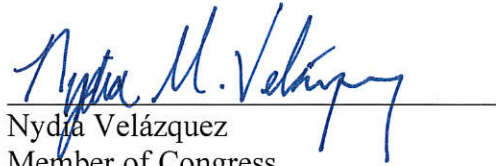
Brian K. Fitzpatrick  
Member of Congress



Lucille Roybal-Allard  
Member of Congress



Steve Cohen  
Member of Congress



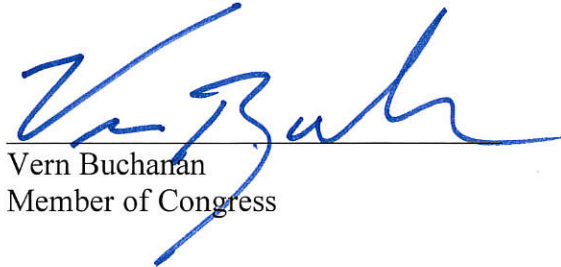
Nydia Velázquez  
Member of Congress



Jan Schakowsky  
Member of Congress



Paul Tonko  
Member of Congress



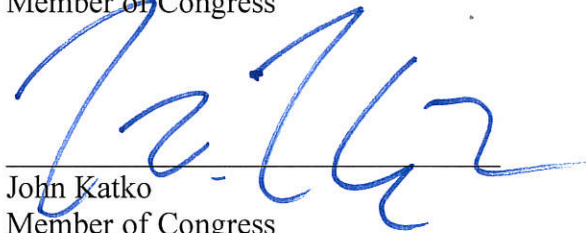
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Member of Congress



Kathleen M. Rice  
Member of Congress



Bonnie Watson Coleman  
Member of Congress



John Katko  
Member of Congress



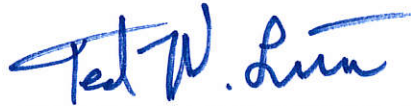
Dina Titus  
Member of Congress



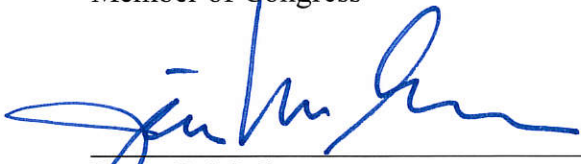
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Member of Congress



John Yarmuth  
Member of Congress



Ted Lieu  
Member of Congress



James P. McGovern  
Member of Congress



Mark DeSaulnier  
Member of Congress



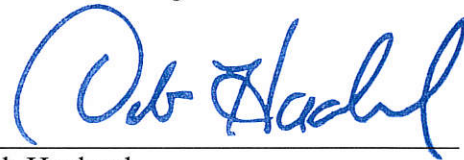
J. Luis Correa  
Member of Congress



Katie Porter  
Member of Congress



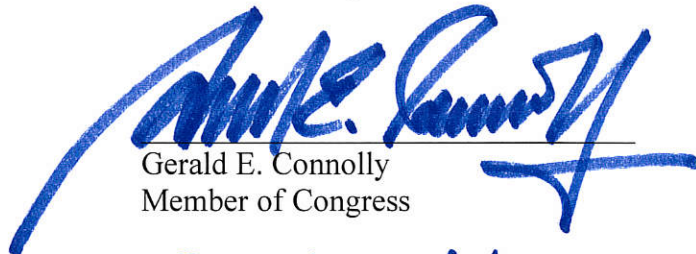
Donald S. Beyer  
Member of Congress



Deb Haaland  
Member of Congress



Julia Brownley  
Member of Congress



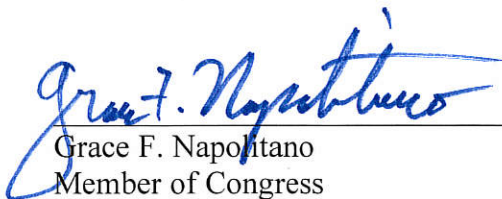
Gerald E. Connolly  
Member of Congress



Joe Neguse  
Member of Congress



Raúl M. Grijalva  
Member of Congress



Grace F. Napolitano  
Member of Congress



Matt Gaetz  
Member of Congress

# United States Senate

WASHINGTON, DC 20510

July 17, 2019

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

Dear Secretary Bernhardt:

We are writing to express our concern with the Bureau of Land Management's current proposal to test a controversial surgical sterilization method known as "ovariectomy via colpotomy" on federally protected horses in the Warm Springs Herd Management Area (DOI-BLM-ORWA-B 050-2019-0013-EA).

The proposal, which was released earlier this summer, marks the agency's fourth attempt to proceed with these surgical sterilization experiments, despite two major academic institutions withdrawing their support from previous iterations of the project, significant public opposition to implementing this plan, and a federal court ruling enjoining the BLM from conducting the experiments.<sup>1</sup>

The specific surgical procedure in question involves the manual insertion of a metal rod to blindly locate and sever the ovaries of wild mares. The surgeries – with as many as 25 being performed per day – would be performed at a holding facility and corral, which by the BLM's own admission may not provide aseptic operating conditions (thus further exacerbating the potential for complications to arise). Horses would remain conscious during the procedure and would receive minimal post-operative care.

In the National Academy of Sciences' "Using Science to Improve the BLM Wild Horse and Burro Program" – the comprehensive report on management strategies commissioned by the BLM – experts directly advised against employing the "ovariectomy via colpotomy" method. As the NAS noted, "the possibility that ovariectomy may be followed by prolonged bleeding or Peritoneal infection makes it inadvisable for field application." Indeed, numerous equine veterinarians have criticized the procedure given the risks of pain to the horses subjected to these ovariectomies, the need for lengthy and careful post-operative monitoring, the possibility of severing other organs due to the blind nature of the insertion, and the subsequent risks of infection, trauma, or death.

To this last point, the BLM's stated experimental goal is to quantify the rate of mortality and morbidity from conducting these surgeries on wild horses – an apparent recognition of the significant welfare risks to these federally protected animals. The 2018 iteration of the

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<sup>1</sup> *Ginger Kathrens, et al. v. Ryan Zinke, et al.*, Case No. 18-cv-1691.

experiments – which a federal court blocked from proceeding – also sought to quantify the incidence of aborted foals after performing ovariectomies on pregnant mares.

From a broader perspective, the rather troubling and usual history of the ovariectomy experiments raises serious questions about the validity and merit of pursuing this project. Both Oregon State University and Colorado State University terminated partnerships with the BLM in helping to conduct and oversee the experiments, thereby removing any outside and independent veterinary oversight. A federal court ruled against the BLM in the 2018 proposal in part because of the lack of meaningful independent observation. Once OSU and CSU dropped out, rather than seek another research institution with experts in equine behavior and veterinary care, the BLM unilaterally decided to proceed alone, essentially asking the public to take the agency's word for it that it would provide an unbiased assessment of the outcome.

The BLM has received thousands of comments opposing the surgical sterilization experiments – many of which have called for the agency to implement fertility control options that enjoy broad support. As recently as February of 2019, the BLM announced that it would implement an immunocontraceptive vaccine program to manage the Warm Springs HMA horses – an encouraging development given the scientific consensus that such vaccines are safe, appropriate, and practical. We would ask the BLM to explain its decision to backtrack on this decision to implement a far more widely supported and humane fertility control strategy.

Wild horses are of course protected under the landmark Wild and Free-Roaming Horses and Burros Act and the BLM must take seriously its charge to protect these icons from “harassment or death.” That the agency would attempt to expend taxpayer dollars pushing through a highly controversial project that could result in injuries and infections to, or even the death of, horses under its authority may ultimately contravene its mandate under the law.

We urge the BLM to drop this controversial plan and instead actively pursue humane and scientifically-supported fertility control projects, such as the Porcine Zona Pellucida vaccine, that enjoy broad support and pose significantly less risk of harm to the welfare of federally protected wild horses. At a minimum, independent veterinary and welfare oversight is necessary if this project is to move forward.

Thank you for your prompt attention to this matter and we look forward to your response.

Sincerely,



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Cory A. Booker  
United States Senator



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Tom Udall  
United States Senator

Kamala D. Harris  
United States Senator

Edward J. Markey  
United States Senator

Richard Blumenthal  
United States Senator

Robert Menendez  
United States Senator

Christopher A. Coons  
United States Senator

Dianne Feinstein  
United States Senator