

January 16, 2018

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

Dear Secretary Zinke,

The undersigned hunting, fishing, conservation, professional society, outdoor-industry and landowner organizations are writing in regard to the Department of the Interior's (DOI) mitigation policies that are under review and development. Our organizations support responsible development of our nations' natural resources that is balanced with fish and wildlife habitat needs and access for the public to enjoy quality recreational experiences. However, to achieve responsible and balanced development, we believe more strategic and comprehensive planning coupled with effective mitigation policy is critical for successful outcomes all stakeholders and the public desire.

Mitigation (avoidance, minimization, and compensation) is an essential tool for advancing fish, wildlife and natural resources conservation and management. Mitigation can be applied to prevent impacts to the most critical lands and waters in a predictable manner and, when impacts cannot be avoided or minimized, balance impacts with conservation and restoration efforts elsewhere.

Mitigation "done right" involves smart planning, efficient and effective decision-making, and predictability for project proponents, as well as a multitude of other stakeholder interests, which can result in positive outcomes for all – the public, communities, businesses, and the environment. Better landscape planning that clearly defines areas 1) to be avoided because of irreplaceable natural resource values; 2) where development can occur with minimal controversy; and 3) where compensatory mitigation should be carried out to best replace or enhance lost ecological function, greatly improves certainty for developers and natural resource stakeholders. Such planning effort also reduces conflicts and communicates what is expected early in the process, thus reducing time and costs while better assuring effectiveness. Avoidance is the best form of mitigation because a resource not impacted yields the least amount of work required to offset impacts.

Secretarial Order 3349 directed the Department to review the mitigation policies of the Department. We believe that through many of its existing statutory authorities, DOI and the Bureau of Land Management (BLM) have the authority to apply the full mitigation hierarchy, including compensatory mitigation. The Department's December 22 Order (Order No. 3360) rescinded two BLM mitigation policies (Bureau of Land Management, Manual Section 1794 - Mitigation (December 22, 2016) and Bureau of Land Management, Mitigation Handbook H-1794-1 (December 22, 2016)) and directed the BLM to revise and reissue Instruction Memorandum No. 2008-204 on "Offsite Mitigation" within 30 days.

We urge the BLM in its updated compensatory mitigation IM to clearly affirm the authority of the Bureau to require compensatory mitigation. We also strongly suggest that the BLM revise, as needed, and reissue the Mitigation Handbook and Manual to ensure that field staff has the resources they need to efficiently, predictably, and transparently implement its mitigation authorities.

In the sage-grouse context, we are aware that several states have indicated preference for using their states' mitigation approaches on federal lands rather than having two standards. While we agree that having multiple standards is not desirable, some states have not developed mitigation programs that meet science-based standards for good mitigation policy and almost all of the state programs are voluntary. Also, the federal agencies are required to ensure proper stewardship of the public resources and mitigation can, and should, be used to ensure that outcome.

We believe that the federal government should play a leadership role in establishing common and consistent standards for mitigation programs that will be applied on public lands, but could defer to a state mitigation program as long as those minimum requirements are met.

With rescission of the Departmental Manual chapter on Landscape-Scale Mitigation (Part 600, Chapter 6), the DOI does not have in place a clear statement of standards to which all of its mitigation policies and programs should adhere. We recommend that the Department reissue a manual chapter or other Department-wide statement summarizing such principles and that these principles should include the following, at a minimum:

- Apply the full mitigation hierarchy (avoid, minimize, compensate) as defined by Council on Environmental Quality regulations (40 CFR 1508.20), when supported by existing authorities, and followed sequentially.
- Establish a mitigation goal before projects are approved and impacts occur.
- Utilize a no-net-loss standard, while recognizing that there may be contexts wherein it is appropriate to apply a higher goal.
- Make decisions about the resources to avoid and where to direct compensatory mitigation at the appropriate scale and location, informed by science on the species and habitats involved.
- Ensure that mitigation success metrics are science-based, measurable, and designed to track compliance, effectiveness, and inform any needed adjustments for improvement.
- Ensure that decisions about the amount and type of compensation are commensurate with impacts and account for habitat function (not just acre-for-acre replacement), time lag, and risk.
- Ensure that compensatory mitigation actions result in conservation actions that eliminate or ameliorate threats to a species, group of species, habitat or ecosystem function.
- Provide compensatory benefits that are durable and in place at least as long as the duration of the direct and indirect impacts.
- Provide for certainty and transparency to regulators, developers and the public.

For the nation's public lands, we also recommend that DOI develop land use plans, habitat objectives and mitigation strategies in close cooperation with each state's fish and wildlife agency. We are concerned that current BLM Resource Management Plans and management activities administered by the agency (e.g., energy development, including mitigation) do not adequately or consistently address population objectives for big game and other species set forth by each state. The following excerpt from the BLM planning handbook clearly indicates BLM already has policy in place to work in close coordination with state agencies to set population goals for wildlife species:

The BLM planning Handbook (H-1610 Appendix C, p. 6) requires field offices to: "Designate priority species and habitats, in addition to special status species, for fish or wildlife species recognized as significant for at least one factor such as density, diversity, size, public interest,

remnant character, or age. Identify desired outcomes using BLM strategic plans, state agency strategic plans, and other similar sources. Describe desired habitat conditions and/or population for major habitat types that support a wide variety of game, non-game, and migratory bird species; acknowledging the states' roles in managing fish and wildlife, working in close coordination with state wildlife agencies, and drawing on state comprehensive wildlife conservation strategies. Identify actions and area wide use restrictions needed to achieve desired population and habitat conditions while maintaining a thriving natural ecological balance and multiple-use relationships." [emphasis added]

We recommend that the Department issue an Instruction Memorandum to all field offices reiterating this planning requirement and instructing them to improve coordination with the states on habitat objectives and management activities, including mitigation approaches that help to meet state agency coordinated population objectives for fish and wildlife. Doing so will increase opportunities for the public and create greater recreation-based economic return to local economies.

Finally, we appreciate concerns about implementation of existing mitigation policies. We also appreciate concerns about circumstances where collaboration may not have met expectations or failed to engage all key stakeholders. We believe, however, that inappropriate mitigation decisions are anomalies rather than the norm. Our organizations view these issues as "implementation" issues rather than fundamental flaws with the concepts of mitigation and broader-scale planning. We welcome the opportunity to discuss our thoughts on how these and other issues might be addressed while sustaining the very important mitigation framework.

Our organizations support multiple uses of the nation's system of public lands and we encourage DOI to improve its land use planning and mitigation policies rather than rescinding or weakening them, which could run counter to the Administration's ability to meet its goals for energy, infrastructure, and other uses of our public lands. Thank you for considering our concerns and recommendations as you move forward with any revisions to the Department's mitigation policies. Many of our groups have extensive expertise with the science, management and implementation of mitigation, and we stand ready to assist you and your staff in enhancing all sectors of the economy while stewarding natural resources for future generations.

Sincerely,

American Fly Fishing Trade Association
American Woodcock Society
Archery Trade Association
Backcountry Hunters and Anglers
Bass Anglers Sportsman Society
Delta Waterfowl
Fly Fishers International
Guy Harvey Ocean Foundation
Izaak Walton League of America
National Bobwhite Conservation Initiative
North American Grouse Partnership

National Deer Alliance
National Wildlife Federation
National Wildlife Refuge Association
Pope and Young Club
Public Lands Foundation
Quality Deer Management Association
Ruffed Grouse Society
Snook and Gamefish Foundation
The Nature Conservancy
The Wildlife Society
Theodore Roosevelt Conservation Partnership
Western Landowners Alliance
Whitetails Unlimited
Wildlife Management Institute

cc: David Bernhardt, Todd Willens, DOI; Greg Sheehan, USFWS; Brian Steed, Mike Nedd, Kathy Benedetto, Karen Kelleher and Gordon Toevs , BLM