

March 27, 2018

Mr. David Bernhardt  
Deputy Secretary  
U.S. Department of the Interior  
1859 C Street, NW  
Washington D.C. 20240

Dear. Mr. Bernhardt,

We would you like thank you and the Department of the Interior (DOI) for recent actions that rescinded and revised mitigation policies that far exceeded statutory authority. The oil and natural gas industry continues to follow the statutory mitigation hierarchy to avoid, minimize, rectify, reduce and compensate for the impacts to lands and natural resources from energy development that powers our Nation. We look forward to working with DOI in developing reasonable mitigation policies that allow for the proper balance of species and habitat conservation with responsible resource development.

The trades represented on this letter collectively represent the oil and natural gas industry across the United States at the national, regional, and state level. Our member companies operate on federal, state, and private lands and interact with various DOI agencies, primarily the Bureau of Land Management (BLM) and the U.S. Fish & Wildlife Service (FWS) as it relates to mitigation policies.

As you know, on March 28, 2017, President Trump issued an Executive Order (EO) on Promoting Energy Independence and Economic Growth. The EO rescinded several orders, memoranda, and reports issued under the previous administration and directed a review of climate change and mitigation policies across the federal government.

We specifically support the EO's rescission of the November 3, 2015 Presidential Memorandum on Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment (Presidential Memorandum). The Presidential Memorandum directed federal agencies to implement a litany of additional policies that introduced regulatory and cost uncertainty that prevent, increase the cost of, or delay responsible resource development.

Pursuant to the EO, DOI has issued two secretarial orders (SO). Secretarial Order 3349, issued in March 2017, overturned a previous SO on mitigation policies at DOI and ordered a broad review of the Department's framework for mitigation. In December, Secretarial Order 3360 rescinded the following policies:

- Departmental Manual Part 523, Chapter 1: Climate Change Policy
- Departmental Manual Part 600, Chapter 6: Landscape-Scale Mitigation Policy
- Bureau of Land Management, Manual Section 1794 – Mitigation
- Bureau of Land Management, Mitigation Handbook H-1794-1.

We wish to reiterate our support for the rescission of these policies, which exceeded statutory authority and placed undue burdens on domestic energy development. In addition, there are mitigation policies in place at DOI that, despite exceeding statutory authority, continue to be used by state and local field offices which are directly impacting the industry's ability to move forward with responsible development. Below we have listed several of these policies that remain in place which we believe are ripe for review and rescission pursuant to the previous SOs.

These documents were not adopted through a formal rulemaking process with attendant notice and comment in the *Federal Register*, so they are subject to immediate withdrawal and replacement where appropriate:

- Landscape-Scale Mitigation in NEPA Analysis, Decision-Making and Implementation Monitoring, Environmental Statement Memorandum No. 16-2, [issued June 21, 2016](#)
- FWS Greater Sage-Grouse Range-Wide Mitigation Framework, [issued September 3, 2014](#)
- Interim Guidance on Implementing the Final Endangered Species Act Compensatory Mitigation Policy, [issued January 17, 2017](#)
- Policy Regarding Voluntary Prelisting Conservation Actions, Director's Order No. 2018, [issued January 18, 2017](#).

Separately, we believe the Joint USFWS and National Marine Fisheries Service Habitat Conservation Planning Handbook, [issued December 21, 2016](#), should be reviewed and revised. The Handbook was enacted under the formal rulemaking process.

Finally, BLM and FWS have announced that the following policies are under review and are likely to be revised. The trades submitted comments on each of the *Federal Register* notices accompanying these announcements, and we look forward to working with the agencies as they develop revised documents.

- FWS Endangered Species Act Compensatory Mitigation Policy, issued December 27, 2016
- FWS Mitigation Policy, issued November 21, 2016
- Revisions to the Regulations for Candidate Conservation Agreements with Assurances, issued December 27, 2016
- BLM's Land Use Plan Amendments for the Greater Sage-Grouse, issued September 24, 2015

The trades are currently working with member companies to develop a document outlining our principles for the future of mitigation. Companies do extensive mitigation work prior to, during, and after project development. In addition, companies employ extensive avoidance and minimization

practices, which in many cases should be regarded as mitigation. We are gathering success stories and approaches to mitigation that we believe would benefit FWS, BLM, and DOI as new policies are developed. We will share this document in a follow-up letter in the near future.

Once again, we greatly appreciate DOI's review and development of mitigation policies as part of its goal of achieving energy dominance. We look forward to continued collaboration on this issue, and we are always willing to discuss mitigation in more detail at your convenience.

Sincerely,



Tripp Parks  
Manager of Government Affairs  
Western Energy Alliance



Erik Milito  
Group Director, Upstream  
American Petroleum Institute



V. Bruce Thompson  
President  
American Exploration & Production Council



Dan Naatz  
Senior Vice President of Government Relations  
and Public Affairs  
Independent Petroleum Association of America



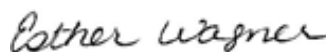
Andrew Casper  
Director of Legal & Regulatory Affairs  
Colorado Oil & Gas Association



Alan Olson  
Executive Director  
Montana Petroleum Association



Kari Cutting  
Vice President  
North Dakota Petroleum Council



Esther Wagner  
Vice President – Public Lands  
Petroleum Association of Wyoming



Mari Ruckel  
V.P. of Government & Regulatory Affairs  
Texas Oil and Gas Association



Peggy Trenk  
Executive Director  
Treasure State Resources Association of  
Montana

Cc:

Todd Willens, Assistant Deputy Secretary, DOI

Joe Balash, Assistant Secretary for Land and Minerals Management, DOI

Katharine MacGregor, Principal Deputy Assistant Secretary for Land and Minerals Management, DOI

Casey Hammond, Deputy Assistant Secretary for Land and Minerals Management, DOI

Jason Larrabee, Principal Deputy Assistant Secretary for Fish, Wildlife and Parks, DOI

Aurelia Skipwith, Deputy Assistant Secretary, Fish, Wildlife and Parks, DOI

Greg Sheehan, Principal Deputy Director, FWS

Brian Steed, Deputy Director for Programs and Policy, Exercising Authority of the Director, BLM

Kathy Benedetto, Senior Advisor, BLM