

September 15, 2017

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

Dear Secretary Zinke,

As landowners, investors, business owners, sportsmen, conservationists and rural citizens, we write to express our unified support for compensatory mitigation policies that enable economic development while also conserving natural resources for current and future generations. Mitigation is a common-sense approach that provides for multiple uses of our landscapes, stimulates public-private partnerships, allows for market-based approaches and supports jobs and local economies. If well designed and defensible, mitigation can serve as a critical tool in securing certainty and a vibrant future for ranches, rural communities, development and conservation.

Wetlands mitigation, for example, has a proven track record of success. More than 25 years ago, President George H. W. Bush established the “no net loss” policy to dramatically slow the elimination of wetlands. President George W. Bush continued this legacy with the 2008 Wetlands Mitigation Rule, which launched a multi-billion dollar restoration economy. In your home state of Montana, a win-win mitigation partnership between NorthWestern Energy, ranchers and conservationists is revitalizing the ecology and economy of the Madison River valley. Another mitigation project in the Paradise Valley enabled Burlington Northern Santa Fe to make critical track improvements and the Montana Aquatic Resources Services to protect and restore over a mile of the Yellowstone’s dynamic riparian area.

There are numerous economic benefits associated with mitigation, including domestic job growth. A 2015 analysis of the economic contribution of mitigation determined that the domestic ecological restoration sector directly employs approximately 126,000 workers nationwide and generates \$9.5 billion in economic output (sales) annually, with an additional 95,000 jobs and \$15 billion in economic output through indirect (business-to-business) linkages and increased household spending.<sup>1</sup> Compensatory mitigation policies further encourage innovative and market-based solutions like mitigation banks and habitat exchanges that allow dollars to flow quickly and efficiently into projects on the ground, with improved accounting, reporting and monitoring to ensure positive outcomes. As another example, the State of Montana is currently developing a market-based

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<sup>1</sup> BenDor T, Lester TW, Livengood A, Davis A, Yonavjak L (2015) Estimating the Size and Impact of the Ecological Restoration Economy. PLoS ONE 10(6): e0128339.  
<https://doi.org/10.1371/journal.pone.0128339>

mitigation program for the Greater sage-grouse through a stakeholder-supported process. Similar success stories can be found in Colorado, Nevada, Texas, Oklahoma and across the whole of the United States that have been developed through collaborative efforts involving mining, oil and gas, ranching, and conservation interests. Significant collaboration and good-faith effort has gone into the Montana and other state policies – the federal government should not undertake any actions that undermine or impair these local, state-driven mitigation efforts.

The “mitigation hierarchy” provides a sound approach to sustaining our working landscapes and the many values they provide. The hierarchy calls for first avoiding and then minimizing adverse impacts to land, people and natural resources whenever possible. This should be the first and foremost principle of any land-use enterprise in order to secure resources for the future. Where impacts cannot be avoided, compensatory mitigation provides for the restoration and/or conservation of equivalent resources. In the absence of these mitigation principles and practices, as fast as human population and development are growing, it won’t be long before we lose the water and wildlife resources that make our landscapes –and our communities—economically and ecologically viable.

Mitigation policies, are also good for development and landowners; they provide certainty, consistency and help streamline permitting in situations where impacts cannot be avoided. By helping to keep wildlife species from becoming listed as threatened or endangered, mitigation has also helped avert significant ecological and regulatory uncertainty to developers. Finally, mitigation provides economic opportunities for rural landowners who increasingly bear the financial and regulatory burdens of caring for the wildlife and natural resources displaced by human development and activity elsewhere.

One important point that cannot be stressed enough is the importance of certainty and predictability in government regulatory policy. One of the consistent requests from industry is to limit uncertainty. This is true for oil and gas, mining, infrastructure, and other types of development and it is also true for ranchers and investors who are working to provide mitigation solutions in response to current market demands. If the Department of Interior undercuts state mitigation programs, this injects tremendous uncertainty into the marketplace. For oil and gas, mining, and energy developments that are planned on multi-year processes, this raises the question of whether these policies will be reinstated by future administrations or future congresses along with the risk of species listing under ESA such as greater sage-grouse in 3 years. This uncertainty may lead to continued decrease in federal mineral development. For mitigation providers, such uncertainty is already causing reductions in investment and could lead to a tremendous loss of mitigation capacity in the years to come. That, in turn, could cause delays, inconsistent mitigation requirements and increased costs if mitigation requirements are reinstated in the future. Because state mitigation policy has been developed by industry, landowner, and conservation interests working collaboratively and has been embraced at the federal, state, and local level, the Department of Interior should avoid injecting uncertainty and a loss of predictability in this sector.

In the hopes that you will embrace and continue to help refine compensatory mitigation approaches, we offer the following principles in designing sound mitigation policies. Mitigation policies should seek to:

- Provide a system of economic incentives that aligns conservation with the progress of development – structured correctly, mitigation can lead to improved economics for ranching and reduced regulatory uncertainty on industry;
- Support and provide incentives for a free and open compensatory mitigation market which is supported by industry, conservationists, sportsmen and land owners;
- Restore or preserve ecological function and value of the impacted or equivalent resource;
- Establish equal and consistent performance standards for all mitigation mechanisms;
- Establish clear and predictable outcomes and measures and reduce subjectivity to the extent feasible;
- Ensure accountability;
- Complement other private, state and federal conservation programs.

Energy development security is important, as are agriculture, wildlife, outdoor recreation, clean water, clean air and quality of life. Fair and thoughtful compensatory mitigation strategies coupled with positive economic incentives and rewards for voluntary, proactive conservation can help sustain our working lands and natural resources for current and future generations.

Sincerely,

Western Landowners Alliance

The Nature Conservancy

Environmental Defense Fund

Common Ground Capital

KCoe Conservation, LLC