



THE SECRETARY OF THE INTERIOR  
WASHINGTON

ORDER NO. 3330

Subject: Improving Mitigation Policies and Practices of the Department of the Interior

**Sec. 1 Purpose.** The Department of the Interior is entrusted with overseeing Federal lands for the benefit of current and future generations. This includes advancing safe and responsible development of our abundant energy resources which bolsters our energy security, and promoting the conservation of our Federal lands and natural resources for generations to come. Development and conservation are both essential to support a vibrant and sustainable economy. The purpose of this Order is to establish a Department-wide mitigation strategy that will ensure consistency and efficiency in the review and permitting of infrastructure development projects and in conserving our Nation's valuable natural and cultural resources.

Central to this strategy will be (1) the use of a landscape-scale approach to identify and facilitate investment in key conservation priorities in a region; (2) early integration of mitigation considerations in project planning and design; (3) ensuring the durability of mitigation measures over time; (4) ensuring transparency and consistency in mitigation decisions; and (5) a focus on mitigation efforts that improve the resilience of our Nation's resources in the face of climate change.

**Sec. 2 Background.** The Department of the Interior (Department) has vast management responsibilities across our Nation's Federal lands, waters, and mineral resources. The Department serves as the steward for 20 percent of the Nation's lands, oversees the responsible development of over 20 percent of U.S. energy supplies, is the largest supplier and manager of water in the 17 Western States, and maintains relationships with over 500 federally-recognized tribes. The Department is responsible for the conservation and management of fish and wildlife resources, including over 800 native migratory bird species and nearly 2,000 federally-listed threatened and endangered species. In addition, the Department is directly or administratively responsible for the stewardship of over 80,000 properties on the National Register of Historic Places, which represents 1.4 million individual resources including buildings, sites, districts, structures, and objects. Over 400 units of the National Park System preserve and protect nearly 27,000 historic structures and more than 700 cultural landscapes as well as nearly 100,000 archeological properties. The Department also oversees national trails, heritage areas, and sacred sites that intertwine public, tribal, and private land ownership.

To fulfill the President's vision for a clean energy economy, the Department of the Interior manages Federal lands not just for balanced oil, natural gas, and coal development, but also to promote environmentally responsible renewable energy development. Solar, wind, biomass, hydro, and geothermal energy from our public and tribal lands are creating new jobs and will power millions of American homes. At the same time, our Federal lands (including "withdrawn lands", e.g. refuges and parks), waters, and natural resources are critically important for ensuring

the long term survival of native plants and animal species and ecosystems; support hunting, fishing, and other types of recreational opportunities; are essential sources of drinking water; sequester significant amounts of carbon; and showcase important cultural, historic, scenic, and natural wonders. These lands also support millions of American jobs and fuel local economies. The many demands placed upon these lands and resources require us to have a clear vision of how to mitigate the impacts of all development and infrastructure activities on the Federal lands and natural and cultural resources the Department is entrusted to manage.

We are in the midst of an unprecedented Government-wide focus on infrastructure permitting and development in the United States. In a May 2013 Memorandum, President Obama directed all Federal agencies to modernize their infrastructure review and permitting regulations, policies, and procedures to reduce the time required by the Federal Government to make decisions about infrastructure projects, while improving environmental and community outcomes. Each Federal agency has been charged with identifying improvements to mitigation policies to provide project developers with added predictability, facilitate landscape-scale mitigation based on conservation plans and regional environmental assessments, facilitate interagency mitigation plans where appropriate, and ensure accountability and long-term effectiveness of mitigation activities.

Development of all types – whether for renewable or conventional energy development, transmission, mineral extraction, or other purposes – has impacts on the Nation's landscapes and natural and cultural resources. The Department of the Interior has significant review and permitting responsibilities over infrastructure development projects both on and off public lands. In executing those duties, the Department seeks to avoid potential environmental impacts from projects through steps such as advanced landscape-level planning that identifies areas suitable for development because of low or relatively low natural and cultural resource conflicts. Where impacts cannot be avoided altogether, the Department must work to ensure that projects minimize impacts to the extent practicable. Finally, for impacts that cannot be avoided or effectively minimized, the Department should seek ways to offset or compensate for those impacts to ensure the continued resilience and viability of our natural resources over time.

Additionally, land and resource managers across the Nation are recognizing the dramatic effects that climate change is having on our Nation's water, land, plant, animal, and cultural resources, as well as tribal lands and resources. In light of these effects, the Department must change the way it manages the resources for which it is the steward. Secretary's Order 3289, dated September 2009 and amended in February 2010, directed the Department's senior leadership to execute a coordinated Department-wide strategy to increase scientific understanding and development of effective adaptive management tools to address the impacts of climate change on our natural and cultural resources. The Order also directed the Department's bureaus and offices to work together, and with other Federal, state, tribal, and local governments, and private landowner partners, to develop landscape-level strategies for understanding and responding to climate change impacts. In response to Secretary's Order 3289, the Department has already developed climate adaptation policies, plans, and strategies and will continue to further develop important climate adaptation tools. As the Department continues to review development projects and identify associated mitigation, it must consider the effects of climate change and incorporate landscape-level strategies to address these impacts into any mitigation framework.

Similarly, Secretary's Order 3323, dated September 2012, that established the America's Great Outdoors Program within the Department, also supports a landscape-scale approach to mitigation to ensure that development of energy and other projects do not deny Americans access to quality outdoor recreational opportunities. Through the development of a comprehensive mitigation strategy, we can ensure that our national wildlife refuges, national parks, and other Federal lands and waters are managed for conservation purposes with sound stewardship and a commitment to conserve habitat and fish and wildlife migration corridors.

### Sec. 3 **Authorities.**

a. This Order is issued under the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat.1262), as amended.

b. Other statutory authorities for this Order include and are not limited to the following:

- (1) National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*
- (2) The Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.*
- (3) The National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd *et seq.*
- (4) The Migratory Bird Conservation Act, 16 U.S.C. 715 *et seq.*
- (5) The National Fish and Wildlife Foundation Establishment Act, 16 U.S.C. 3701 *et seq.*
- (6) The Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*
- (7) National Historic Preservation Act, 16 U.S.C. 470 *et seq.*
- (8) The Federal Land and Policy Management Act (FLPMA), 43 U.S.C. 1701 *et seq.*

### Sec. 4 **Developing an Effective Mitigation Strategy.**

a. The Department of the Interior's Energy and Climate Change Task Force (Task Force) which includes all Assistant Secretaries and Heads of Bureaus and will now be chaired by the Deputy Secretary, is hereby directed to develop a coordinated Department-wide, science-based strategy to strengthen mitigation practices so as to effectively offset impacts of large development projects of all types through the use of landscape-level planning, banking, in-lieu fee arrangements, or other possible measures. Such landscape-level planning may include the development or adoption of regional mitigation plans that address mitigation for multiple resources, such as biological, ecological, cultural, and scenic resources, as well as socioeconomic factors, as appropriate. The use of such plans should promote permit efficiencies and financial

predictability for developers and also enhance the ability of Federal and state agencies to invest in larger-scale conservation efforts.

b. To facilitate the initial development of the mitigation strategy, the Task Force will first conduct a comprehensive review of the mitigation aspects of existing land and water management practices and procedures, permitting, and environmental review authorities, regulations, and guidance, including but not limited to the National Environmental Policy Act, Fish and Wildlife Coordination Act, the Endangered Species Act, and the National Historic Preservation Act.

(1) As part of this review, the Task Force will assess the role of existing Department-wide and partnership programs, such as Landscape Conservation Cooperatives, in facilitating improvements in mitigation practices.

(2) The Task Force will also seek input from regulatory agencies and partners outside of the Department with experience implementing mitigation programs in infrastructure projects and land management decisions, such as state agencies, the U.S. Army Corps of Engineers, Environmental Protection Agency, Department of Agriculture, Department of Commerce, Department of Defense, and Department of Transportation.

c. Based on this review, the Task Force will identify any new policies or practices, revisions to existing policies or practices, or regulatory or other changes that could be implemented to incorporate landscape-scale planning into mitigation-related decisions. As part of this process, the Task Force will assess the extent to which steps can be taken to harmonize the existing mitigation policies, practices, and regulatory and statutory requirements of the Department's individual bureaus to minimize any redundancy and maximize efficiency in the review and permitting process. The Task Force will also determine what steps can and should be taken to ensure that mitigation opportunities are identified as early in the permitting process as possible, such as at the scoping or pre-application stage, to maximize predictability and transparency in the review and permitting process.

d. The Task Force will draft a strategy for developing additional policies and practices or any regulatory or other changes, including a timeline for implementation with designated agency leads.

e. Within 90 days of the effective date of this Order, the Task Force will provide a report to the Secretary summarizing the above evaluation and the strategy for implementing improvements in the Department's mitigation practices and policies.

**Sec. 5 Implementation.** The Deputy Secretary is responsible for implementation of all aspects of this Order, in coordination with the Department's Energy and Climate Change Task Force. This responsibility may be delegated as appropriate. This Order does not alter or affect any existing duty or authority of individual bureaus.

**Sec. 6 Effect of the Order.** This Order is intended to improve the internal management of the Department. This Order and any resulting report or recommendation are not intended to, and do

not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

**Sec. 7 Effective Date.** This Order is effective immediately and will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded, or revoked, whichever occurs first.



Secretary of the Interior

Date: OCT 31 2013

ARCHIVED