



Shaping the future for birds

January 13, 2016

The Honorable Barack Obama
President of the United States of America
The White House
Washington, D.C. 20500

Dear President Obama:

On behalf of American Bird Conservancy, thank you for the Presidential Memorandum promoting appropriate mitigation to protect our natural resources. We believe your administration's mitigation policy has great potential to enable federal managers to foster wildlife and habitat conservation, to avoid the loss of irreplaceable resources, and to encourage private investment in the restoration of natural resources that are affected by development. We look forward to participating in the development of this policy and offer you here our initial thoughts.

We believe that the best way to prevent the loss of wildlife and other natural resources is the maintenance of intact ecosystems. However, when development is deemed necessary, the policies outlined in the Memorandum are likely to have significant benefits for birds and their habitats.

Foremost among these is calling on federal agencies to ensure projects provide a net benefit and no loss of irreplaceable resources by mitigating the impact of development projects on the environment and offsetting any impact those projects have on wildlife and their habitats. We strongly endorse the mitigation hierarchy it proposes to avoid habitat loss on state and federal lands through smart planning, to minimize impacts by requiring best management practices, and, when needed, to compensate for any unavoidable impacts.

The Presidential Memorandum calls on the agencies to have "clear and consistent approaches" to avoid and minimize the harmful effects of current and future development on land, water, wildlife, and other natural resources. However, only the U.S. Forest Service is specifically directed to develop a regulation. To be fully effective, we believe any guidance issued by the U.S. Fish and Wildlife Service and Bureau of Land Management should be followed by the development of regulations that identify irreplaceable values such as endangered wildlife and the critical habitat necessary to maintain and recover listed populations.

This policy is timely and urgently needed because, under current regulations, we are losing irreplaceable resources to development of all kinds on public and private lands at an alarming rate, including endangered species habitat. Rare and endangered habitats such as sagebrush, desert riparian areas, grasslands, and mature forests are all being lost without effective mitigation taking place. As a result, many bird species are now endangered or losing ground, including Northern

Spotted Owls, Marbled Murrelets, California Spotted Owls, Greater Sage-Grouse, Western Yellow-billed Cuckoos, Sprague's Pipits, and Golden Eagles.

To illustrate how we believe this policy could be fully realized we provide the following example relevant to bird conservation: wind energy development and Greater Sage-Grouse conservation. To address impacts to birds from the wind industry, the essential first step is to ensure proper siting and to identify sensitive areas to avoid development. Following this principle, the Greater Sage-Grouse planning initiative, in the final Environmental Impact Statements and Records of Decision, deemed priority sage grouse habitat as an exclusion area from wind development. (Wind turbines and associated power lines are known to lead to displacement of breeding Sage Grouse, reproductive failure and also inhibit movement.)

In the case of migratory birds, wind energy developments should also avoid major migratory corridors and stopover points. Then to minimize any remaining impacts from wind developments, wind turbines in certain sensitive areas should be required to shut down during peak migration and other effective best practices should be adopted to reduce collisions. To compensate or mitigate for unavoidable wildlife losses and the loss of habitat, options include setting aside key habitat elsewhere for affected species and engaging in activities that reduce bird mortality.

A review of the final Greater Sage-Grouse conservation plans finds that the plans identify the most important sagebrush habitat "the irreplaceable resource", but fall short on avoiding future impacts by not designating reserve areas where no further disturbance to grouse habitat would be allowed. Development and use of priority Sage Grouse habitat is allowed to continue with some important exceptions and limitations, provided that any unavoidable impacts will be mitigated. As a result, this mitigation policy is critically important to ensuring that your administration's remarkable Sage Grouse conservation initiative is a success.

When defining "irreplaceable resources" we urge the federal agencies to include designated protected areas such as Critical Habitat for listed species, Wilderness Areas, National Parks and Refuges, National Landscape Conservation System and Areas of Conservation and Environment Concern, Roadless Areas and Late-successional Reserves. In addition, special consideration should be given to species of conservation concern, rare habitat types, important bird areas (IBAs), large blocks of un-fragmented habitat, and areas undergoing restoration.

Further, to ensure avoidance is given a fair opportunity and not rejected without full consideration, it must come first in the process. Landscape-scale analysis under the National Environmental Policy Act is needed prior to development to identify Irreplaceable Resources and avoidance areas, and to assess likely cumulative impacts. This landscape scale planning could incorporate existing programmatic Environmental Impact Statements and ecosystem assessments, and be done on a national or regional basis, or as part of the regular forest planning and resource management planning revision process. In keeping with this concept, American Bird Conservancy has developed a [Wind Risk Assessment Map](#) promoting Bird-Smart wind energy siting by highlighting the locations of important bird areas that should be avoided by wind developers or approached with care.

Pending completion of these broad-scale assessments, determinations of how to consider avoidance, net benefit, specific best management practices, what's required to ensure no net loss, and the amount of compensation that may be needed should be defined in the pending guidance and regulations. In regard to minimizing wildlife impacts, we urge that the U.S. Fish and Wildlife Service

with assistance from the U.S. Geological Survey, be responsible for identifying and assessing the effectiveness of best management practices for minimization and compensation agreements.

American Bird Conservancy agrees with the Department of the Interior Landscape-Scale Mitigation Policy's direction regarding compensatory mitigation, which says, "measures should not be considered until after all appropriate and practicable avoidance and minimization measures have been applied." We further believe that through the creation of a fair and transparent compensation system, significant private resources can be directed to conserving and restoring important bird habitats.

Part of that system requires transparency of the subsequent impacts of that development, whether on public or private lands. For example, bird mortality data at wind energy facilities is now being withheld from the public, even though these are public trust resources being taken. We appreciate that the Memorandum addresses this need where it states, "Agencies should take action to increase public transparency in the implementation of their mitigation policies and guidance."

Lastly, we applaud the Landscape-Scale Mitigation Policy's consideration of greenhouse emissions and carbon storage. America's forests play a critically important role in sequestering carbon emissions, and providing habitat for a vast array of bird species. It is essential that we keep forests as forests, and ensure that federal forests are managed sustainably by accounting for carbon emissions and recognizing the benefits of protecting and restoring habitats and ecosystems that store carbon.

Thank you again for your leadership to advance conservation by protecting irreplaceable resources and better balancing development by mitigating impacts. American Bird Conservancy offers our support and looks forward to discussing these comments with your staff.

Sincerely,

A handwritten signature in black ink, reading "George H. Fenwick". The signature is written in a cursive, flowing style.

George Fenwick
President
American Bird Conservancy

Cc: Ashton Carter, Secretary of Defense
Sally Jewell, Secretary of the Interior
Thomas Vilsack, Secretary of Agriculture
Gina McCarthy, Administrator, Environmental Protection Agency
Dr. Katherine Sullivan, Administrator, National Oceanic and Atmospheric Administration