Statement of
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"Federal Mitigation Requirements and Interagency Coordination Related to Economic Development on Federal, State, and Private Lands"

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Thank you for the opportunity to discuss the Bureau of Land Management's (BLM) efforts to facilitate responsible economic development on public lands while protecting the natural and cultural resources that Americans cherish. For decades, the BLM has sought to achieve responsible, balanced development through application of mitigation – seeking first to avoid or minimize the impacts through careful siting and innovative design features, and then to compensate for residual impacts to important resources through corresponding offsets. In partnership with sister agencies and states, the BLM has deployed innovative mitigation programs to solve some of our most significant resource challenges, including large-scale oil and gas development, solar energy generation, and conservation of the greater sage-grouse. The BLM has issued interim policy to ensure that mitigation efforts follow consistent principles and standards throughout our programs and across our lands consistent with Departmental policy and guidance so that we can better support responsible economic development on public lands in compliance with our multiple use and sustained yield mandate.

Background

Nationally, the BLM manages nearly 250 million acres of land and 700 million acres of subsurface estate, which is more than 10 percent of the Nation's surface area and almost one third of its mineral estate. In Alaska, BLM manages approximately 72 million acres of public lands. The BLM manages this vast portfolio on behalf of the American people under the dual framework of multiple use and sustained yield. This means the BLM manages public lands for a broad range of uses, including renewable and conventional energy development, livestock grazing, timber production, watershed protection, hunting, fishing, recreation, wildlife, and natural, scenic, cultural, and historic values for the long term. In so doing, public lands support the production of goods and services that create jobs and promote economic development in communities across all 50 states. In fact, resource production and outdoor recreation activities on lands managed by the Department of the Interior contributed $358 billion to the U.S. economy in 2014, supporting more than two million jobs across the country. The BLM balances these various resources and uses while providing for extensive public input and cooperation with partners, industry, and local communities.

As expressed in the Federal Land Policy and Management Act (FLPMA) of 1976, the BLM has a responsibility to provide for reasonable mitigation for impacts to public lands that are caused by development. In FLPMA, Congress declared it to be the policy of the United States that "the

public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values."[1] In defining multiple use and sustained yield, Congress called for "harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment" and for "achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use."[2]

The BLM works with project proponents and the public to identify and mitigate impacts to the broad range of resources found on public lands. Where Congress has issued explicit direction for the protection of certain resources, including wetlands, endangered species, cultural resources, national parks, and air quality, the BLM works closely with partner agencies to ensure that appropriate mitigation is identified and carried out. For example, because much of the lands in Alaska contain wetlands under the jurisdiction of the Clean Water Act (CWA), the BLM works closely with the U.S. Army Corps of Engineers to ensure mitigation requirements are consistent with CWA permitting. For other resources – such as key subsistence use areas on the North Slope of Alaska – the BLM identifies appropriate mitigation actions during project design based on Departmental and agency policy, Resource Management Plans, Regional Mitigation Strategies, and through public review and engagement with state and tribal governments.

When assessing appropriate mitigation options, the BLM relies upon the mitigation hierarchy – first seeking to avoid impacts, then minimizing them, and then compensating for unavoidable impacts that could impair the productivity of the land and the values it sustains. The BLM works proactively with project proponents to assist them in designing and siting projects so that proposed projects can have fewer adverse impacts to resources of concern. For example, for broad-scale siting, BLM's Rapid Ecoregional Assessments provide a means to identify areas, at a landscape scale, with little to no resource conflicts and resulting in fewer potential impacts. By avoiding adverse impacts in the first place, there is no need to take further action to minimize or compensate for such impacts. Frequently, however, it is not practical or possible to avoid adverse impacts altogether. In these cases, the BLM works with project proponents to minimize impacts by altering design features and implementing best management practices. Finally, the BLM may consider implementing compensatory mitigation to benefit resources of concern when adverse impacts are expected to remain. Together, proactive work with the applicant and the implementation of the mitigation hierarchy can lead to successful development projects with improved outcomes for local communities, the project proponent, and the environment.

Deploying Effective Mitigation

The BLM has for decades used mitigation to allow responsible development to proceed while minimizing damage to important resources. In the 2000s, for example, the BLM worked with oil and gas developers in Wyoming to maximize recovery of natural gas while minimizing impacts to other important natural resources. In permitting development plans for the Jonah gas field, the BLM in 2006 entered into an innovative partnership with the state of Wyoming and developers

[1] Federal Land Policy and Management Act of 1976, Section 102(8).
[2] Ibid., Section 103.

to minimize surface infrastructure, reclaim roads and pads on a rolling basis, and fund compensatory mitigation in nearby high-quality habitat. In New Mexico and Alaska, the BLM has worked with the oil and gas industry to carefully plan for directionally-drilled wells to greatly reduce the number of well pads needed, minimizing surface disturbance while boosting operational efficiencies. Developers in New Mexico also contribute to a cooperative fund for landscape restoration, an effort widely touted by industry, sportsmen, and local governments.

The BLM has also mitigated project impacts by responsibly siting solar development through the Western Solar Plan, which established focused areas for development, identified key design features, and called for regional mitigation strategies to direct compensatory investments. In March 2014, the BLM released the first of these regional mitigation strategies for the Dry Lake Solar Energy Zone in Nevada. This strategy supported the BLM's first ever competitive offer of public lands for solar energy development, a sale that brought in $5.8 million in high bids from project developers. By identifying mitigation responsibilities upfront, the BLM provided certainty to project developers and increased the efficiency of its public review of these projects. Just recently, the Bureau completed this review and approved the three projects within 10 months, less than half the amount of time approval took under the previous project-by-project system.

Innovative mitigation approaches are also helping the BLM conserve greater sage-grouse habitat and support sustainable economic development on portions of public lands in 10 states across the west. This past May, the BLM released final environmental impact statements for proposed land use plans that outlined a framework for sage-grouse conservation, including the commitment to collaboratively develop mitigation strategies with states and partner agencies. These collaborative strategies will identify and direct mitigation investments to protect and restore sage-grouse habitat in areas of highest value. A similar cooperative partnership in Wyoming has led to the approval of the first greater sage-grouse mitigation bank earlier this year.

Similarly, a recent landmark agreement among the U.S. Fish and Wildlife Service, the BLM, and Barrick Gold of North America in Nevada established a conservation bank that allows the mining company to accumulate credits for successful mitigation projects that protect and enhance greater sage-grouse habitat on the company's private ranch lands. As a result, Barrick gained certainty that the credits can be used to offset impacts to habitat from the company's planned future mine expansion on public lands. The Barrick agreement sets an important precedent for public-private mitigation partnerships and a model for the development of advance mitigation strategies at the federal and state levels. Moreover, the agreement is particularly noteworthy because it uses a transparent and repeatable methodology to measure both project impacts and the benefits of compensatory actions to offset them.

In Alaska, the BLM earlier this year issued a Record of Decision for the Greater Mooses Tooth 1 project, the first oil and gas development project on Federal lands in the National Petroleum Reserve in Alaska. The decision issued by the BLM provided for up to 33 development and injection wells on a single well pad and incorporated a responsible package of mitigation measures, including a suite of best management practices to avoid or minimize project impacts and a voluntary $8 million contribution from the project proponent into a compensatory mitigation fund. Inclusion of this mitigation package helped to solve significant resource issues,

including ensuring that the permitted project minimized impacts to the subsistence use in the project vicinity for local communities. The compensatory mitigation fund provides an important opportunity to help bolster subsistence resources across the landscape. Following approval of the project, the BLM continues to work with local Native communities, industry, state and Federal agencies, and the public to develop a regional mitigation strategy that will increase predictability and certainty for future development while ensuring ongoing protection of important resources in the northeast corner of the 23-million acre reserve.

Ensuring Consistent & Predictable Mitigation Standards

The BLM has worked for the past several years to establish policy to make mitigation for resources across the Bureau more consistent and predictable. The BLM first developed an interim compensatory mitigation policy in February 2005 and released a more comprehensive revised interim policy in September 2008. The 2005 policy focused on the BLM's approach to onsite and compensatory mitigation for the BLM's oil and gas, geothermal, and energy right-of-way programs. The 2008 revision broadened the scope of the 2005 interim policy by including other BLM program areas and further defining the circumstances and methods for considering compensatory mitigation.

The BLM issued a new interim mitigation policy in June 2013. This interim policy provided procedures and instructions for taking a landscape approach to mitigation, which means considering broad trends when analyzing project impacts, determining mitigation standards, and targeting mitigation investments. The policy also provided guidance for developing regional mitigation strategies to solve resource challenges in particular geographic areas and for applying consideration of the full mitigation hierarchy to land-use authorizations. By releasing this policy on a trial basis, the BLM has been able to gather important lessons learned and seek additional input before finalizing a comprehensive manual and handbook.

In the fall of 2013, Secretary Jewell released Secretarial Order 3330, *Improving Mitigation Policies and Practices of the Department of the Interior*. Secretary Jewell directed the Department and each of its bureaus to follow a common set of principles for its mitigation programs while using a landscape-scale approach building on and expanding concepts pioneered in the BLM's 2013 interim mitigation policy. Consistent with Secretarial Order 3330 and incorporating key lessons learned since release of the interim mitigation policy, the BLM is working to revise and finalize our mitigation policy to ensure it is responsive to emerging best practices and compatible with similar policies being developed by sister agencies and states.

Conclusion

Mitigation is important to effective management under the BLM's multiple use and sustained yield mandate. The BLM has a proven track record of applying mitigation to support responsible development while conserving important resources, and we are moving forward with efforts to make mitigation more consistent, predictable, and effective. Thank you for the opportunity to present this testimony, and I would be glad to answer any questions you may have.