United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510–6150

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February 24, 2016

The Honorable Barack Obama
President
1600 Pennsylvania Avenue
Washington, D.C. 20500-0004

Dear Mr. President:

We write today concerning your *Presidential Memorandum: Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment* (Memorandum). We are uncertain of the intended application of the Memorandum and share the concerns of our constituents who believe that the Memorandum will likely impede rather than advance the salutary goals it asserts: increasing private investment and streamlining federal permitting. We also have questions that were prompted by recent briefings to our staff by officials from the Council on Environmental Quality (CEQ), Bureau of Land Management, Fish and Wildlife Service, and Forest Service.

In a number of respects, the Memorandum notes appropriately that its application is subject to applicable legal authorities, existing missions, or agency objectives. Thus our first question asks, to what extent do agencies' legal authorities prohibit or modify the application of the principles and mandates outlined in the Memorandum? We respectfully request that you direct each agency to provide a timely response to this question and direct a member of your staff to work with us to obtain responses from the agencies. A response that incorporates specific authorities from each of the affected agencies is necessary to evaluate the effect of the Memorandum.

During the staff briefings, the agencies indicated that the Memorandum is intended to streamline processes and establish consistency across agencies while preserving an ability to tailor mitigation efforts to the specific geographic location at hand. Indeed, the Memorandum itself seeks to ensure that "Federal policies are clear…and are implemented consistently within agencies." Given the differing legal authorities of the agencies, how does the Memorandum, with terms that CEQ noted are at times by design subject to interpretation, result in an umbrella of "consistent standards and guidance" for landscape-scale conservation while simultaneously affording "right tailored approaches" in individual instances? Additionally, "best available science" is a metric referenced by multiple agencies as the tool to determine appropriate

mitigation measures. How does your Administration define "best available science"? Please provide citations to this definition.

The foregoing list of questions is by no means exhaustive. However, we look forward to learning, as promptly as possible, more about what you expect the Memorandum to achieve and, more specifically, how its implementation will lead to "Federal policies that are clear, work similarly across agencies and are implemented consistently within agencies."

Thank you for your consideration.

Sincerely,

Lisa Murkowski
United States Senator

John Barrasso
United States Senator

Mike Lee
United States Senator

Cory Gardner
United States Senator

Steve Daines
United States Senator

Jeff Flake
United States Senator

James Risch
United States Senator

Dan Sullivan
United States Senator

Orrin Hatch
United States Senator

Mike Crapo
United States Senator

Dean Heller
United States Senator

Mike Enzi
United States Senator

John McCain
United States Senator

David Vitter
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Shelley Moore Capito
United States Senator

Jerry Moran
Jerry Moran
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Joe Manchin
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James Inhofe
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Bill Cassidy, M.D.
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