

Senate Committee on Energy and Natural Resources
Oversight Hearing on
Presidential Memorandum “Mitigating Impacts on Natural Resources from Development
and Encouraging Related Private Investment”

Testimony of Shaun Sims
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Chairman Lisa Murkowski, Ranking Member Cantwell, and Committee Members, thank you for the invitation to join you today and the opportunity to provide you with my thoughts and input on natural resource conservation, mitigation and multiple use.

I am Shaun Sims, a fifth generation cattle and sheep Rancher from Uinta County located in southwest Wyoming, an elected Supervisor on the Uinta County Conservation District, President of the Wyoming Association of Conservation Districts President and member of the Wyoming Stock Growers Association.

I along with my family, raise cattle, sheep and hay. Our family is committed to sound natural resource management and we practice it every day on our ranch. As part of our operation, we also host 28 wind turbines subsequently providing for alternative energy development. Our ranch operates in four counties, two states and in areas where there is active oil and gas development among many other land uses. We also provide world class mule deer and antelope populations and have large swaths of sage grouse habitat which are considered core area as designated by the state of Wyoming.

We believe multiple use and conservation of our resources works in concert with one another and not independently. We must make a living from our resources and we must take care of our resources in order to make a living.

I am deeply concerned with the November 3, 2015 Presidential Memorandum: Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment and the implications it may have on my family’s ranching operation and others in my state and the west. The underlying principles of avoidance, minimization and compensation are generally sound and are already being practiced at the local, state and federal levels.

The document seeks consistency within and across agencies. That can have merit. However, as we have seen with sage grouse plans, it can also preclude effective, locally-driven conservation.

This Memorandum introduces some new concepts that cause me concern. I will review those and provide some specific examples based on my personal experience on how these types of bargaining concepts can be detrimental and are likely to impede future resource use and development.

First, the memorandum introduces a new concept of “increasing private investment in resource restoration and enhancement.” My sense is that will be accomplished through mandated actions, not through the encouragement of economic activity that could enable resource users to be willing investors. I have witnessed first-hand what I would refer to, and I realize this is a strong word but frankly in my opinion it is accurate, project approval through coercion.

As I previously mentioned our ranch has a wind farm located on our private land acres. In order for the development to occur, federal lands managed by the Bureau of Land Management had to be crossed. As a result this provided a federal nexus and involvement in the permitting as roads would be constructed across Bureau ground. The wind energy company and our ranch through the federal permitting addressed and mitigated for numerous species and resource issues, including a population survey for Black Footed Ferret, mitigation for the Mountain Plover in turbine site selection, mitigation for eagles, raptors and other avian species in turbine design as well as post construction mitigation of infrastructure of roads to minimize visual impacts and surface impacts.

After all of these mitigation factors were addressed and just prior to issuance of the permit, the permitting agency implied the permit would not be issued due to impacts to the view shed from an old cabin, *located on our private land* would be impaired due to the erection of the turbines, also *on our private land*. Only after we reminded them that it was our private cabin, private property and our view shed did they acquiesce and issue the permit. I anticipate under the direction provided in this presidential memorandum this type of scenario will only get worse.

Second, the definition of “advance compensation” as described in the memorandum: “environmental benefits achieved before a project’s harmful impacts occur” is concerning. This language leaves one questioning whether the intent is to go beyond concurrent mitigation which is current standard for most mitigation projects.

Although the definition of “durability” is consistent with current definitions, as needing to be at least equal to the length of the impact, the document later states that agencies should address “the resilience of the measures’ benefits to potential future environmental change”. This appears to establish a lets guess what the future holds for resource changes and mitigate for those unknowns, strategy. Based on a cursory review of the US Fish & Wildlife Service proposed Revisions to the U.S. Fish and Wildlife Service Mitigation Policy published just last week on March 8 to implement the directive of this Presidential Memorandum, it is obvious mitigation for climate change is a major focus. The issue I see with this approach is that there are all sorts of dynamics in a natural environment that can change the face and condition of a resource base, whether its fire, drought, etc. How will anyone ever be able to provide mitigation, of sufficient durability, to account for any “potential future environmental change” when we are talking about a dynamic system that is ever changing?

In addition, the concept of a mitigation to provide for a net environmental gain, at this point is premature. This approach also assumes that baseline resource information exists at a level to provide certainty on how to get to net gain or no net loss. Although there are many efforts aimed at developing those baselines, I am not convinced they are sufficient to begin mandating and

implementation in the time frame contemplated by the memorandum. In Wyoming, there are currently several private and governmental efforts working on this concepts and approaches, with fairly significant investments of time and resources. These should be allowed to be further developed and any changes in federal policy need to coordinate with these state and local efforts.

Also, landscape or watershed level approaches are discussed in the memorandum. Again, this makes sense from a natural resource management perspective, however I question what landscape or watershed level is contemplated.

Lastly, the memorandum discusses “irreplaceable natural resources”. I am concerned that this is basically yet one more land designation designed to limit our productive use of our resource base. There appears to be no shortage of attempts, via “designations” of one sort or another to further limit the ability of farmers and ranchers, as well as other industries, to responsibly develop and utilize our resources.

Thank you Madam Chairwoman and members of the Committee.