



**Opening Statement of Chairman Lisa Murkowski
Oversight Hearing on the Presidential Memorandum on Mitigation
Committee on Energy and Natural Resources
March 15, 2016**

Good morning and welcome, everyone. The hearing will come to order.

The focus of our hearing this morning is a Presidential Memorandum issued in November 2015 entitled: *Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment*.

We originally scheduled this hearing in January to continue the committee’s dialogue on mitigation, which began last summer with a joint field hearing that we held with the Committee on Environment and Public Works. We were forced to postpone this hearing when we went to the floor with our broad, bipartisan energy bill, but it has remained a priority for us, and I was eager to return to it today.

That is because mitigation – as a federal practice – has become a tool that all too often causes resource development projects to cost more and proceed slowly, if at all.

For Alaskans seeking *any* form of development, whether a road, a mine, or of any energy resource, *mitigation* has almost become a household word. And this is also true throughout many western states for grazing, timber harvest or, again, *any* development across regions where the federal government owns so much land.

The Presidential Memorandum provides a definition for mitigation, and I quote: “‘Mitigation’ means avoiding, minimizing, rectifying, reducing over time, and compensating for impacts on natural resources. As a practical matter, all of these actions are captured in the terms avoidance, minimization, and *compensation*.”

Now that is a long definition, but I quoted it because, as we know, definitions are important.

Moreover, this definition of mitigation must be taken together with the President’s pronouncement of a new mitigation principle. Again, I will quote the Memorandum: “Agencies’ mitigation policies should establish a net benefit goal or, at a minimum, a no net loss goal for natural resources the agency manages...”

It is true that President George H. W. Bush established a “no net loss” principle for wetlands and that President George W. Bush challenged federal agencies to expand wetlands outside the context of mitigation, but now this Memorandum dramatically asserts that agencies should establish a “net benefit” goal for mitigation and applies that goal beyond wetlands to potentially all natural resources that an agency manages.

For Alaskans – and for the constituents of many senators on this committee – this spells trouble. There is reason to fear that this Memorandum will, at minimum, elongate an already lengthy permitting process, and, at worst, encourage agencies to shut down development completely. Many fear that development will become an exercise in “pay to play.” And only the largest businesses with the most clearly profitable or most highly favored projects will be able to afford that ugly game.

The Administration will deny this and insist that its goal is to facilitate balance, efficiency, inter-agency coordination, and consistency across agencies that manage federal land, especially as they issue permits for development. It discounts, even belittles, our concerns.

The Administration claims to want – to again quote the Memorandum – “strong environmental outcomes while encouraging development and providing services to the American people.” No one would deny the importance of that. But no one can look at this Administration’s actions, either, and believe that to be its true goal.

To provide the Administration the opportunity to clarify its intent and address legitimate concerns, eighteen of my fellow Senators and I sent the President a letter on February 24. I am providing a copy of that letter for the record of this hearing and to each of the Administration witnesses. Our letter asks three basic questions about the Memorandum that we will turn to during this hearing. Through today, we have received no response. Regrettably, the Council on Environmental Quality, the White House agency that apparently took the lead on the preparation of the Memorandum, was unable to provide a witness for today’s hearing.

We’ll hear from two panels of witnesses this morning to help us try to make sense of this Memorandum and what it means for resource development. Our first panel will feature officials from two agencies under the committee’s jurisdiction charged with implementing the Memorandum, and our second panel will feature some of the Americans who stand to be impacted by it.

The Memorandum has already led to confusion, mistrust, and, in Alaska at least, even fear – rather than the clarity and streamlining it advertises. Therefore, we will act swiftly to continue oversight on this topic, and to ensure that it does not become yet another obstacle to responsible development.

Before introducing the first panel, I’ll turn to Senator Cantwell for her opening remarks.