

From: [Morris, Charisa](#)
To: [Stephen Guertin](#)
Subject: Fwd: SO 3349
Date: Thursday, May 10, 2018 4:21:41 PM
Attachments: [so_3349 -american_energy_independence.pdf](#)

Hi Steve-

Isn't this your bailiwick?

-Charisa :-)

----- Forwarded message -----

From: **Sheehan, Greg** <greg_j_sheehan@fws.gov>
Date: Thu, May 10, 2018 at 5:17 PM
Subject: Fwd: SO 3349
To: Charisa Morris <charisa_morris@fws.gov>

Charisa,

This is along the lines of the email I sent a little earlier. Can you please track this down as well.

Thanks

----- Forwarded message -----

From: **Lawkowski, Gary** <gary_lawkowski@ios.doi.gov>
Date: Thu, May 10, 2018 at 5:13 PM
Subject: SO 3349
To: Susan Combs <susan_combs@ios.doi.gov>, "Paul (Dan) Smith" <paul_smith@nps.gov>, "Sheehan, Gregory" <greg_j_sheehan@fws.gov>

I hate to ask, but I'm working on tracking down where we stand with some past Secretary's Orders. SO 3349 (from last March) (attached) asked the Directors of the National Park Service and Fish and Wildlife Service, respectively, to review the following rules and report to the Assistant Secretary for Fish and Wildlife and Parks on whether the rule is fully consistent with the President's policy:

- NPS: "General Provisions and Non-Federal Oil and Gas Rights," 81 Fed. Reg. 77972 (Nov. 4, 2016); and
- FWS: "Management of Non-Federal Oil and Gas Rights," 81 Fed. Reg. 79948 (Nov. 14, 2016).

Do you know where that assessment stands?

Thank you very much for your time and help!

Sincerely,

Gary Lawkowski
Counselor to the Deputy Secretary
U.S. Department of the Interior
Gary.Lawkowski@ios.doi.gov
202-208-7340

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Greg Sheehan
Principal Deputy Director
US Fish and Wildlife Service
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Charisa.Morris@fws.gov | Chief of Staff, Office of the Director | U.S. Fish & Wildlife Service | 1849 C Street NW, Room 3348 | Washington, DC 20240 | (202) 208-3843 | For urgent matters, please dial cell: 301-875-8937



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. **3349**

Subject: American Energy Independence

Sec. 1 Purpose. This Order implements the review of agency actions directed by an Executive Order signed by the President on March 28, 2017 and entitled "Promoting Energy Independence and Economic Growth" (March 28, 2017 E.O.). It also directs a reexamination of the mitigation policies and practices across the Department of the Interior (Department) in order to better balance conservation strategies and policies with the equally legitimate need of creating jobs for hard-working American families.

Sec. 2 Authorities. This Order is issued under the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and other applicable statutory authorities.

Sec. 3 Background. Among other provisions, the March 28, 2017 E.O. directs the Department to review all existing regulations, orders, guidance documents, policies, and any other similar actions that potentially burden the development or utilization of domestically produced energy resources. A plan to carry out the review must be submitted to the Director of the Office of Management and Budget (OMB) and to certain other White House officials within 45 days of the date of the March 28, 2017 E.O. The objective of the review is to identify agency actions that unnecessarily burden the development or utilization of the Nation's energy resources and support action to appropriately and lawfully suspend, revise, or rescind such agency actions as soon as practicable.

The March 28, 2017 E.O. also directs the Department to promptly review certain specific actions recently taken by the Department, in particular Secretary's Order 3338, "Discretionary Programmatic Environmental Impact Statement to Modernize the Federal Coal Program," and four rules related to onshore oil and gas development.

The March 28, 2017 E.O. also rescinds certain Presidential Actions, reports, and final guidance related to climate change, including:

- a. E.O. 13653 of November 6, 2013 (Preparing the United States for the Impacts of Climate Change);
- b. Presidential Memorandum of June 25, 2013 (Power Sector Carbon Pollution Standards); and
- c. Presidential Memorandum of September 21, 2016 (Climate Change and National Security).

The March 28, 2017 E.O. directs the Department to identify agency actions "related to or arising from" the rescinded Presidential Actions, reports, and guidance, and to initiate a lawful and appropriate process to suspend, revise, or rescind such actions.

The March 28, 2017 E.O. also rescinds the Presidential Memorandum issued on November 3, 2015, entitled "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment." That Memorandum directed the Secretary of the Interior, among other Cabinet officials, to undertake a number of actions to implement a landscape-scale mitigation policy, including specific directions to the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS) to develop mitigation policies that incorporated compensatory mitigation into planning and permitting processes.

Secretary's Order 3330, "Improving Mitigation Policies and Practices of the Department of the Interior," dated October 13, 2013, is directly related to the rescinded Presidential Memorandum on mitigation. Secretary's Order 3330 dovetails with the subsequently issued Presidential Memorandum by directing the development and implementation of a landscape-scale mitigation policy for the Department. As directed by the Order, the Secretary received a report in April 2014 entitled, "A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior." The Strategy set forth a number of "deliverables" by nearly every office and bureau within the Department to advance the stated goal of "landscape-scale mitigation." Given the close nexus between the rescinded Presidential Memorandum and Secretary's Order 3330, a thorough reexamination is needed of the policies set out in that Order.

Sec. 4 Policy. To begin implementing the March 28, 2017 E.O., I hereby order the following:

a. Revocation of Secretary's Order 3330. I hereby revoke Secretary's Order 3330, "Improving Mitigation Policies and Practices of the Department of the Interior," dated October 31, 2013. As set forth below, all actions taken pursuant to Secretary's Order 3330 must be reviewed for possible reconsideration, modification, or rescission as appropriate.

b. Review of Department Actions. As set forth in Sec. 5 below, each bureau and office shall review all existing regulations, orders, guidance documents, policies, instructions, notices, implementing actions, and any other similar actions (Department Actions) related to or arising from the Presidential Actions set forth above and, to the extent deemed necessary and permitted by law, initiate an appropriate process to suspend, revise, or rescind any such actions, consistent with the policies set forth in the March 28, 2017 E.O.

Sec. 5 **Implementation.** The following actions shall be taken pursuant to this Order:

a. Mitigation Policy Review.

(i) Within 14 days of the date of this Order, each bureau and office head shall provide to the Deputy Secretary, through their Assistant Secretary, all Department Actions they have adopted or are in the process of developing relating to (1) the Presidential Memorandum dated November 3, 2015, "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment" and (2) Secretary's Order 3330.

(ii) Within 30 days of the date of this Order, the Deputy Secretary shall inform the Assistant Secretaries whether to proceed with reconsideration, modification, or rescission as appropriate and necessary of any Department Actions they have adopted or are in the process of developing relating to (1) the Presidential Memorandum dated November 3, 2015, "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment" and (2) Secretary's Order 3330.

(iii) Within 90 days of the date of this Order, each bureau and office required to reconsider, modify, or rescind any such Department Action, shall submit to the Deputy Secretary, through their Assistant Secretary, a draft revised or substitute Department Action for review.

b. Climate Change Policy Review.

(i) Within 14 days of the date of this Order, each bureau and office head shall provide to the Deputy Secretary, through their Assistant Secretary, all Department Actions they have adopted, or are in the process of developing, relating to the Presidential Actions, reports, and guidance that are rescinded by the March 28, 2017 E.O., in particular: Executive Order 13653 of November 6, 2013 (Preparing the United States for the Impacts of Climate Change); Presidential Memorandum of June 25, 2013 (Power Sector Carbon Pollution Standards); Presidential Memorandum of September 21, 2016 (Climate Change and National Security); Report of the Executive Office of the President of June 2013 (The President's Climate Action Plan); Report of the Executive Office of the President of March 2014 (Climate Action Plan Strategy to Reduce Methane Emissions); and the Council on Environmental Quality's final guidance entitled "Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews," 81 *Fed. Reg.* 51866 (August 5, 2016).

(ii) Within 30 days of the date of this Order, the Deputy Secretary shall inform the Assistant Secretaries whether to proceed with reconsideration, modification, or rescission as appropriate and necessary of any Department Actions identified in the review required by subsection (i) above.

(iii) Within 90 days of the date of this Order, each bureau and office required to reconsider, modify, or rescind any such Department Action, shall submit to the Deputy Secretary, through their Assistant Secretary, a draft revised or substitute Department Action, for review.

c. Review of Other Department Actions Impacting Energy Development.

(i) As previously announced by the Department, BLM shall proceed expeditiously with proposing to rescind the final rule entitled, "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands," 80 *Fed. Reg.* 16128 (Mar. 26, 2015).

(ii) Within 21 days, the Director, BLM shall review the final rule entitled, "Waste Prevention, Production Subject to Royalties, and Resource Conservation," 81 *Fed. Reg.* 83008 (January 17, 2017), and report to the Assistant Secretary - Land and Minerals Management on whether the rule is fully consistent with the policy set forth in Section 1 of the March 28, 2017 E.O.

(iii) Within 21 days, the Director, National Park Service shall review the final rule entitled, "General Provisions and Non-Federal Oil and Gas Rights," 81 *Fed. Reg.* 77972 (Nov. 4, 2016), and report to the Assistant Secretary for Fish and Wildlife and Parks on whether the rule is fully consistent with the policy set forth in Section 1 of the March 28, 2017 E.O.

(iv) Within 21 days, the Director, FWS shall review the final rule entitled, "Management of Non-Federal Oil and Gas Rights," 81 *Fed. Reg.* 79948 (Nov. 14, 2016), and report to the Assistant Secretary for Fish and Wildlife and Parks on whether the rule is fully consistent with the policy set forth in Section 1 of the March 28, 2017 E.O.

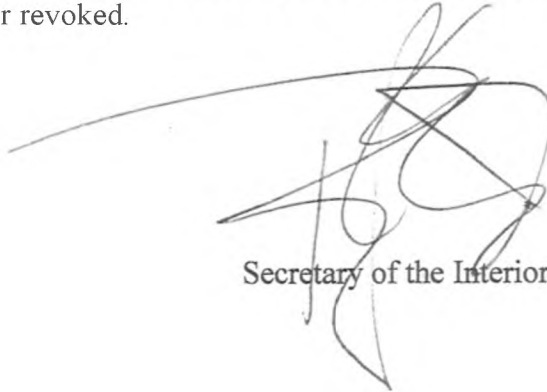
(v) Within 21 days, each bureau and office head shall provide to the Deputy Secretary, through their Assistant Secretary, a report that identifies all existing Department Actions issued by their bureau or office that potentially burden (as that term is defined in the March 28, 2017 E.O.) the development or utilization of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear resources.

(vi) Within 35 days, the Deputy Secretary shall provide to me a plan to complete the review of Department Actions contemplated by Section 2 of the March 28, 2017 E.O. The plan must meet all objectives and time lines set forth in the March 28, 2017 E.O.

Sec. 5 Effect of the Order. This Order is intended to improve the internal management of the Department. This Order and any resulting reports or recommendations are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies,

instrumentalities or entities, its officers or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

Sec. 6 Expiration Date. This Order is effective immediately. It will remain in effect until it is amended, superseded, or revoked.



Secretary of the Interior

Date: MAR 29 2017