

**From:** [Romin, Laura](#)  
**To:** [Herrmann, Betsy](#)  
**Cc:** [Larry Crist](#)  
**Subject:** Re: Draft Revised Service Mitigation Policy for Review and Comment - due Feb 12  
**Date:** Wednesday, January 21, 2015 2:49:04 PM  
**Attachments:** [Draft Mitigation Policy\\_LR comments\\_01212015.docx](#)

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Betsy - attached are my comments on the Draft Mitigation Policy. Thanks for consolidating comments for the office!

Laura.

Laura Romin, Deputy Field Supervisor  
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On Fri, Jan 16, 2015 at 9:38 AM, Herrmann, Betsy <[betsy\\_herrmann@fws.gov](mailto:betsy_herrmann@fws.gov)> wrote:  
Utah FO biologists -

Attached is the new draft Service Mitigation Policy, replacing the grand old 1981 policy. It is out for internal (FWS-only) review. You may recall this was discussed at the R6 Bio meeting in November. The revision looks at new threats/challenges such as invasive species and climate change, incorporates updated conservation science that developed in the last 30 years, and is not afraid to mention section 7 in the same sentence as mitigation (formerly known as the "M" word in section 7).

I will consolidate our office's comments and submit them to the Region . If you have any comments, please provide them to me by Feb. 12. Put any comments in a Word doc, with page #, section title, and comment as the format.

Thanks -  
Betsy

Betsy Herrmann

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On Thu, Jan 15, 2015 at 3:00 PM, Boroja, Maria <[maria\\_boroja@fws.gov](mailto:maria_boroja@fws.gov)> wrote:  
Good afternoon,

Attached please find the request for review of the draft mitigation policy, please provide your Office's consolidated comments to me here in the Regional Office by 2/17/15.

If you have any questions please don't hesitate to call.

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

From: **Thabault, Michael** <[michael\\_thabault@fws.gov](mailto:michael_thabault@fws.gov)>

Date: Tue, Dec 30, 2014 at 7:56 AM

Subject: Re: DCN: 059114 - Draft Revised Service Mitigation Policy for Review and Comment

To: Annette Nylon <[annette\\_naylon@fws.gov](mailto:annette_naylon@fws.gov)>

Cc: Bridget Fahey <[Bridget\\_Fahey@fws.gov](mailto:Bridget_Fahey@fws.gov)>, Nicole Alt <[Nicole\\_Alt@fws.gov](mailto:Nicole_Alt@fws.gov)>, Maria Boroja <[maria\\_boroja@fws.gov](mailto:maria_boroja@fws.gov)>, Drue DeBerry <[drue\\_deberry@fws.gov](mailto:drue_deberry@fws.gov)>

Maria, can you take the lead. Please work with Drue on consistency with sage grouse mitigation framework. Thanks.

Michael Thabault  
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303-236-4210  
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On Tue, Dec 30, 2014 at 7:54 AM, <[annette\\_naylon@fws.gov](mailto:annette_naylon@fws.gov)> wrote:  
DCN: 059114

ES has the lead to coordinate with all other appropriate programs to collect comments.

Due 2-25-15

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Page #	Section	Comment
Page 4, 1 <sup>st</sup> paragraph	Mitigation Defined	The first sentence in this section states, “In the context of environmental impacts resulting from proposed actions, “mitigation” is a general label for measures that a proponent takes to avoid, moderate, and compensate for such impacts.” Recommend changing the word “moderate” to “minimize” for consistency.
Page 4, 2 <sup>nd</sup> paragraph	Mitigation Defined	This section contains the following sentence: “The Service generally reaffirms this statement in this policy, e.g., we advocate avoiding impacts that critically impair our ability to achieve conservation objectives for affected resources.” Recommend deleting the word “critically” because this sets a very high bar – we should be working to avoid impacts that impair our ability to achieve conservation objectives, regardless of the level of impairment.
Page 6, last sentence	Applicability to the Endangered Species Act	The last sentence on this page states, “Mitigation is an integral component of the section 7 and 10 processes and allows the Service the flexibility to authorize take for actions that would otherwise be likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. “ Please incorporate the concept that mitigation can also reduce impacts and should be used in section 7 consultation regardless of whether a project meets the jeopardy threshold.
Page 7, 1 <sup>st</sup> paragraph	Applicability to the Endangered Species Act	The first paragraph provides a list of ways in which the Service has acknowledged and accepted

		or applied mitigation under section 7. Recommend adding that mitigation can be negotiated and applied in coordination with a project proponent, as part of the Proposed Action.
Page 8	Reasonable and Prudent Measures	Recommend adding the following sentence to the end of this section: "Given these definitions, mitigation can often be used to compensate for project impacts in cases where avoidance or minimization measures would otherwise result in more than minor changes to a project design."
Page 10, 1 <sup>st</sup> full paragraph	Resources	Add wetlands to the list of FWS trust resources.
Page 12	Section IV, Definitions	Recommend moving this to a Glossary section.
Page 14, 3 <sup>rd</sup> full paragraph	Section V, Mitigation Policy of the U.S. Fish and Wildlife Service; A. General Policy	This section includes the following sentence: "Accordingly, in the interest of serving the public, it is the policy of the U.S. Fish and Wildlife Service to seek to mitigate losses of fish, wildlife, plants, their habitats, and uses thereof resulting from proposed actions." Recommend adding the underlined/italicized text: "...to seek to <u>avoid, minimize, and</u> mitigate..."
Page 15, 1 <sup>st</sup> bullet	Section V, Mitigation Policy of the U.S. Fish and Wildlife Service; A. General Policy	The document states that , "The Service's mitigation planning goal is to ensure that, at a minimum, an action results in no net loss toward achieving conservation objectives for the affected resources. " It is not clear how we would determine "no net loss toward achieving conservation objectives." For example, it is not clear if the bar in this case is the permanent loss of important habitat for a

		species, or reaching a jeopardy threshold. Of course, mitigation is more effective for a species or habitat type (e.g. wetlands), if all losses are fully offset prior to reaching a critical threshold such as jeopardy or adverse modification. Please clarify and apply to other relevant sections in the document. Note that you have a more specific definition on page 16 that could be incorporated here.
Page 18	3. Assessment Principles	Recommend adding the following underlined/italicized text: “The goal of Service mitigation planning under this policy is to formulate <u>avoidance, minimization, and</u> mitigation measures that ensure an action will result in no net loss toward achieving conservation objectives for the affected resources. “
Page 18, letter b.	3. Assessment Principles	Add a sentence at the end of letter “b” that states, “Unavoidable permanent impacts will necessitate the formulation of permanent mitigation measures.”
Page 23	6. Resource Categories	This section would benefit from a solid lead-in paragraph, defining resource categories, their use, and importance in the context of the Mitigation Policy.
Page 23	6. Resource Categories	In the last sentence of the first paragraph of this section, change “The single mitigation planning goal...” to “The <u>Service’s</u> mitigation planning goal...”
Page 23	6. Resource Categories	The connection between the valuation parameter and landscape level objectives is not clear in this sentence, “By incorporating the valuation parameter of an affected

		habitat's importance, this policy reinforces that Resource Category determinations are linked to landscape-scale conservation objectives." For example, a habitat of high importance could be site-specific for locally endemic species. Either provide clarifying language or delete.
Page 24	6. Resource Categories, Figure 1	Remove the word "Common" from the first box, "When Rare or Common (not Abundant)." Recommend it reads, "When Rare or Not Abundant" Apply the same recommendation for the text below Figure 1.
Page 25	6. Resource Categories, Category 3	Disagree with the fundamental premise of Category 3 to weight avoidance and compensation as equal mitigation options. Avoidance should always be the Service's preferred strategy.
Page 25	6. Resource Categories, Category 4	Disagree with the fundamental premise of Category 3 to weight compensation as the primary mitigation strategy. Avoidance should always be the Service's preferred strategy.
Page 32	9. Mitigation Means and Measures	Disagree with the statement that, "avoidance...receives equal consideration with compensating for impacts to Category 3 resources, and is a secondary priority for mitigating impacts to Category 4 resources. .." Avoidance should always be the Service's preferred strategy.
Page 32	9. Mitigation Means and Measures	Disagree with the statement that, "minimization should... receive equal consideration with compensating for impacts to Category 3 resources, and is a secondary priority for mitigating impacts to Category 4 resources." This approach is inconsistent with the Service's

		<p>long-term project evaluation and mitigation strategy. Regardless of the resource category, the basic hierarchy framework of avoid, minimize, and compensate should be maintained. It would be preferable to develop a strategy whereby the type and/or amount of mitigation could differ depending on importance of the resource. For example, Category 1 resources may require an offset with easements or conservation banking of equitable habitats (for unavoidable impacts) whereas Category 4 resources might only require avoidance and minimization measures. Note – this comment is also applicable in its intent to the rectify, reduce, and compensate items in this section.</p>
Page 35	i. Proponent-Responsible Mitigation	<p>This section should specify that these types of mitigation sites should only be approved if the project proponent develops and implements a Service-approved habitat/species management and monitoring plan, has a legal mechanism in place to preserve the site for the approved length of mitigation need (including in perpetuity for offsetting permanent impacts), and has an adequate funding mechanism in place.</p>