



State of Alaska, Department of Natural Resources Resource Development Council

Presented by: Sara Longan, Executive Director, Office of Project
Management & Permitting
November 17, 2016



Emerging Regulatory Interests

What Now????

- Congressional Review Act (5 U.S.C. § 801-808)
- Agency Final Rules Submitted after May 30, 2016, may be Subject to Disapproval or Further Consideration
- APA Compliance
- Re-direct, Better Inform
 - WOTUS
 - Arctic Regs and Policies
 - Stream Protection Rule
 - CERCLA 108(b)
 - Federal Air Quality
 - ESA
 - FLPMA
 - ANILCA, ANSCA



Emerging Regulatory Interests

Presidential Memo on Mitigation

- Issued November 3, 2015
 - “Mitigating Impacts on Natural Resources from Development and Encouraging Private Investment”
 - Departments of Agriculture, Defense, Interior - - the EPA, NOAA
 - To avoid and then minimize harmful effects to land, water, wildlife, and other ecological resources (natural resources) - - no net loss, now net gain
 - To be implemented on a “landscape-level”
 - Alignment with existing mitigation requirements?
 - New definitions, terms subject to multiple interpretation: “Irreplaceable natural resources” “Harmful impacts”
- “Large-scale plan”

Emerging Regulatory Interests

USFWS Revised Mitigation Policy

- Mitigating adverse impacts of land and water developments on fish and wildlife, 1981
- Includes authority under the Endangered Species Act (ESA)
- Goal is to maintain (no net loss) or improve (net gain), landscape-level approach to integrate mitigation planning into broader, regional strategies
- Expansion of scope to include non-federal activities that may overlap with state and tribal authorities
- To mitigate impacts fish, wildlife, plants and their habitats (not just migratory birds, listed species, certain marine mammals, and inter-jurisdictional fish)
- Incompatible with existing federal law, e.g. under ESA Section 7(a)(2) Consultation...no jeopardy findings, possible “incidental take” 50 C.F.R. 402.02
- Questionable authority to require “net gain” under existing federal law

<http://www.fws.gov/home/feature/2016/pdfs/USFWS-ProposedRevisedMitigationPolicyFAQsFinal.pdf>

Emerging Regulatory Interests

BLM NPR-A RMS

- Feb 2015, BLM approved development of GMT-1
- Compensatory Mitigation Required in GMT-1 ROD
- BLM is Developing the NPR-A Regional Mitigation Strategy (RMS)
- Statewide Workshops, Stakeholder Outreach
- Sec. Jewell Issued Order 3330 in October 2013 - Improving Mitigation Policies and Practices, DOI

<http://www.blm.gov/ak/st/en/prog/NPR-A/RMS.html>

Emerging Regulatory Interests

Permitting Sufficiency?

- CEQ Guidelines
- “Agreements” Among Regulatory Agencies
- State’s Assumption of Federal Authorities
- Is there a (



Regulatory Coordination is Key

Increase consistency, transparency, efficiency, defensibility - - encourage collaboration and stakeholder input

OPMP coordinates:

- ▶ Oil & Gas
- ▶ Large Mine Projects Team
- ▶ Transportation
- ▶ Renewable Energy
- ▶ Federal Planning



Permit Coordination, Efficiencies

- ▶ *Executive Order 13580* - Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska
- ▶ *Executive Order 13563* - Improving Regulation and Regulatory Review
- ▶ *Executive Order 13604* - Improving Performance of Federal Permitting and Review of Infrastructure Projects

