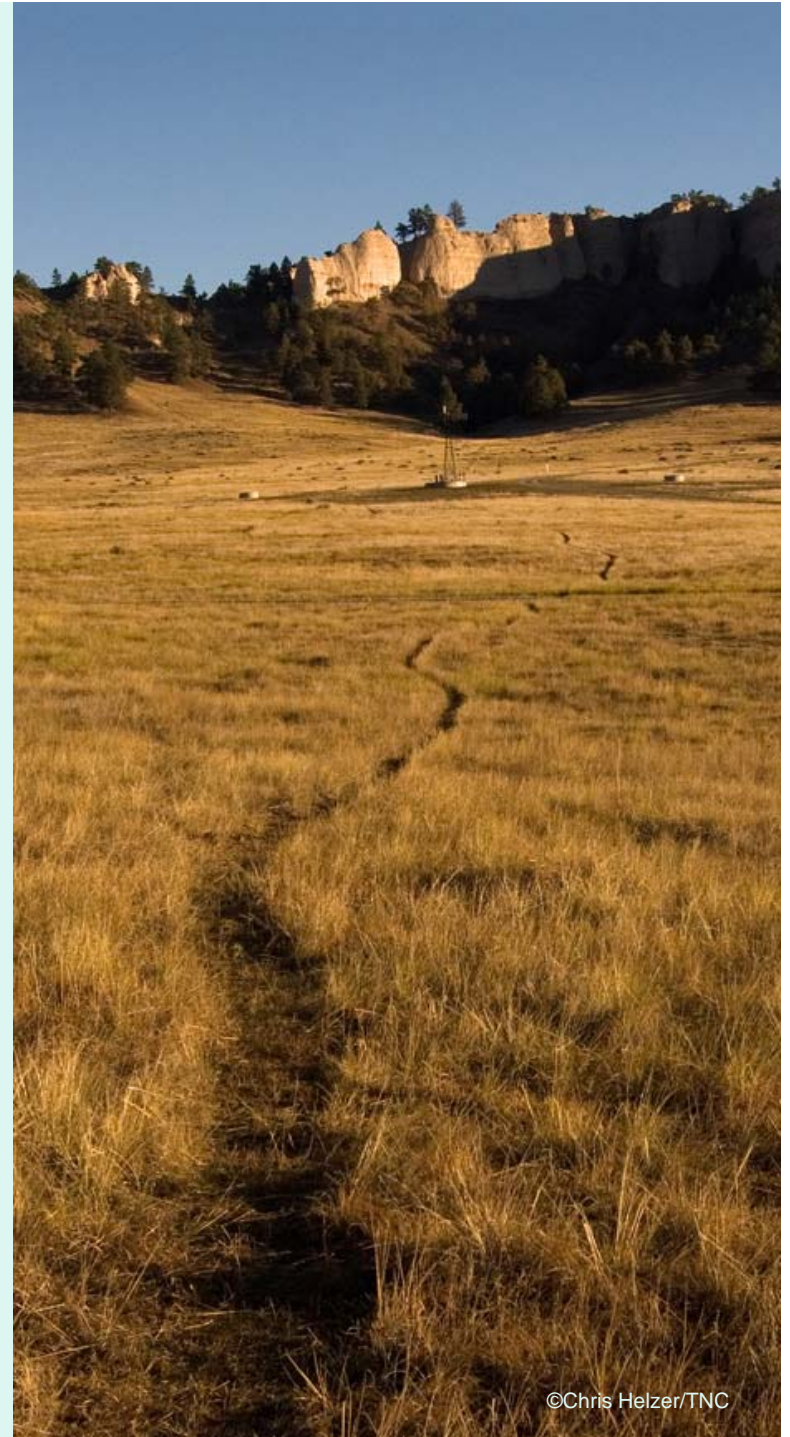


The Next Generation of Mitigation: Linking Current and Future Mitigation with Natural Resources Plans

Based on a paper by Bob Bendick (TNC) and Jessica Wilkinson (ELI)
September, 2010



Our Hypothesis

- There will be increasing infrastructure development in the U.S.
- The mitigation protocol (avoid, minimize, compensate) when connected to ecosystem-wide thinking represented by Federally recognized plans can provide a more comprehensive approach to making conservation decisions and to spending mitigation dollars effectively
- Mitigation done right can ensure that programs that regulate impacts to species and habitat will result in more successful and durable conservation
- This is particularly important in this time decreasing conservation budgets

Estimated Annual Compensatory Mitigation Costs

<i>Regulatory Program or Authority</i>	<i>Cost Estimate (in millions)</i>
Clean Water Act § 404	\$2,947.3
Endangered Species Act § 10	\$370.3
Federal Natural Resource Damage Programs	\$87.7
Federal Power Act	\$210.3
Northwest Power Act	\$207.1
<i>Total:</i>	<i>\$3,822.7</i>

Environmental Law Institute. October 2007. "Mitigation of Impacts to Fish and Wildlife Habitat: Estimating Costs and Identifying Opportunities." Washington, DC: Environmental Law Institute. Supported by the Doris Duke Charitable Foundation





Existing Mitigation Efforts Are Not Working Well

- Avoidance and minimization decisions made in too narrow a context
- On-site activities can be expensive, temporary, and have little ecosystem value
- Even mitigation banks can be poorly sited to achieve lasting impacts

Existing or Expanded Provisions

- Clean Water Act Section 404
- Endangered Species Act
- NEPA
- Energy Development on public lands
- FERC licensing
- Transportation Act Projects



Overall Recommendations

1. Ensure consistent and rigorous application of the mitigation protocol (avoid, minimize, compensate) for addressing impacts to wildlife habitat under existing, expanded, and future regulatory programs.
2. Use State Wildlife Action Plans, other federally recognized conservation plans, and regional plans as the framework for a more comprehensive approach to making the “avoid, minimize, compensate” decisions required by the protocol.
3. Give priority in the investment of compensatory funds to projects and activities identified by State Wildlife Action Plans and other plans and that are sufficient in scale and strategic in their location to support the long term health of whole ecosystems.





New Opportunities

- New ESA listings—e.g. sage grouse
- On-shore energy development
- Off-shore energy
- The next Transportation bill
- Dealing with sea level rise
- Department of Defense
- Civil Works Projects



Examples Are Already Proliferating

1. Massachusetts Enhanced Mitigation Program
2. The Northern Everglades/Disney Wilderness Preserve
3. TNC/ELI/USACE Section 404 Pilot Projects in Wisconsin and Tennessee
4. Development by Design in Wyoming oil and gas fields
5. BLM and Mojave solar siting



Massachusetts Enhanced Mitigation Program

- Partnership between MA Division of Fisheries and Wildlife and TNC
- Mitigation for loss of critical wildlife habitat—initial focus on box turtles
- Developers/applicants must first try to avoid loss, then have choice of methods
- Can pay fee to TNC and proceed immediately
- TNC pools money to purchase, restore and maintain suitable habitat



The Northern Everglades

- Clearly part of an important larger ecosystem
- In addition to on-site mitigation the Disney Company paid to create a very large mitigation project at a strategic place in the watershed
- Restoration has been successfully completed and durable
- That 13,000 acre site is now the cornerstone in a much larger project including additional mitigation



Why This Approach Can Work

- Substantial progress can be made without legislation or significant additional appropriations
- Initial models possible
 - Section 404/Watershed Regulations
 - Energy siting for Federal lands and waters including transmission corridors
- Plans are increasing and improving



The Next Steps

- America's Great Outdoors should adopt mitigation as a strategy
- CEQ and OMB convene other agencies
- Full implementation of Section 404 Regulations
- Energy siting legislation
- Next Transportation Act
- State actions
- Climate change adaptation





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