



## Reorganizing the Administration of Public Lands: Zinke's Proposal to Revamp Interior Department

Secretary Ryan Zinke has announced his intention to undertake a major reorganization of the Department of the Interior, although the exact proposal is a moving target, as he has since amended it after pushback from some western governors who urged him to follow state borders. His initial reform would move field personnel into a new regional structure that would be defined by watersheds or other geographic features.

At the same time, he proposed delegating more authority to the field — including, potentially, giving rotating regional heads decisionmaking authority for the department. Other ideas floated in the proposal include moving one or more bureau headquarters to a western city. Some observers also have even discussed moving the department's main offices from Washington to the West.

There are good reasons to reorganize the department. Interior has a number of bureaus with sometimes-conflicting missions and, in years past, was described by some as the “Department of Everything Else.” So it is not surprising that Interior reorganization ideas surface on a recurring basis.

We have asked several experienced hands

to comment on whether, in their view, Congress and the Trump administration should tackle a reorganization effort and, if so, what it might look like. We asked them to respond to the Zinke proposal and make their own suggestions.

As an initial matter, should Congress take steps to clarify the Interior Department's primary roles, and align its bureaus and regional structure accordingly? Is now a good time to address the perennial question of whether the U.S. Forest Service and the National Oceanic and Atmospheric Administration should be part of Interior's natural resources portfolio, rather than being in the Agriculture and Commerce Departments? What have we learned from prior formal reorganizations (such as the break-up of the Minerals Management Service), or from other management efforts to promote joint decisionmaking among the department's many bureaus?

In sum, what is the best management structure for a department that administers vast holdings throughout the United States, with an environmental charge as part of its mandate?

EDITOR'S NOTE: We asked Deputy Secretary of the Interior David Bernhardt to participate in this Debate, but he declined our invitation.



*“With the exception of one bright spot — a common regional structure for all bureaus — it is difficult not to be disappointed in what remains a largely ill-defined plan to meet unclear goals.”*

**David J. Hayes**

*Executive Director*  
NYU LAW SCHOOL STATE ENERGY &  
ENVIRONMENTAL IMPACT CENTER



*“The process for proposal development makes clear that this administration has no real intention of improving Interior but instead hopes to destabilize the department and encourage staff departures.”*

**Amanda Leiter**

*Professor of Law*  
AMERICAN UNIVERSITY



*“Pursuing the goal of respecting local variations, the current plan seems headed toward a one-size-fits-all prescription for the creation of regional administrative units.”*

**Patty Limerick**

*Faculty Director and Chair*  
UNIVERSITY OF COLORADO  
CENTER OF THE AMERICAN WEST



*“These management goals mirror qualities sought after by various secretaries as they strived to better fulfill the department’s mission involving competing goals and strong passions.”*

**Lynn Scarlett**

*Co-Chief External Affairs Officer*  
THE NATURE CONSERVANCY



*“DOI surely would benefit from further organizational efficiencies to reduce longstanding problems stemming from fragmented and slow decisionmaking.”*

**Peter Schaumberg**

*Principal*  
BEVERIDGE & DIAMOND, P.C.



*“A virtual restructuring would encourage agencies and employees to seek common ground with their counterparts in state and local government and the private sector.”*

**Doug Wheeler**

*Senior Counsel*  
HOGAN LOVELLS US LLP

## Don't Just Shuffle Offices: Give Local Officials Teeth

By PETER SCHAUMBERG

Secretary Ryan Zinke's conceptual reorganization proposals inspire cautious optimism, but to be successful the plans need teeth to achieve the presumptive goal: more timely and efficient decisionmaking.

The secretary of the interior must reconcile multiple, often competing, and sometimes mutually exclusive responsibilities when facilitating resource development on public lands. These may range from a large-scale oil-and-gas project, or a plan for development of other leasable minerals, or hardrock claims located under the Mining Law.

Such projects are at the intersection of the secretary's multiple-use mandates, responsibilities under the Endangered Species Act, statutory obligations to protect the nation's parks and wildlife refuges, and trust responsibility to manage resources for the benefit of Native Americans. Layered on these competing demands are the external interests of other federal resource agencies, including the Army Corps of Engineers, and the Forest Service.

DOI organizational changes are not new. Following Deepwater Horizon, Secretary Ken Salazar reorganized the former Minerals Management Service into (forgive the acronyms) BOEM, BSEE, and ONRR, with the last, revenue-collection office reassigned under the assistant secretary for policy, management, and budget. MMS was itself created by the stroke of the secretary's pen in the early 1980s. But the mixed results of these efforts caution that not all organizational reform reduces inefficiency and confusion.

The Bureau of Land Management has seen more modest organizational

changes over the years. In response to the Energy Policy Act of 2005, the department began co-locating staff from BLM and other federal agencies to minimize duplication of effort in environmental reviews and expedite decisions. Congress further mandated inter-agency collaboration under the FAST Act of 2015 to facilitate energy and infrastructure projects, including on federally managed lands.

While these efforts sometimes succeeded in shortening environmental reviews, benefits have been limited, even where only DOI bureaus were involved. For example, if BLM is primarily responsible for completing an environmental impact statement for a major project, but Fish and Wildlife Service biologists are dilatory in completing ESA consultation, BLM lacks supervisory authority over the co-located FWS personnel to avoid protracted decisionmaking delays.

DOI surely would benefit from further organizational efficiencies to reduce longstanding problems stemming from fragmented and slow decisionmaking. As an example, BLM often has several district offices within a single state office, with multiple field offices within each district. As operators on public lands have long experienced, this multiplicity of responsibilities results in inconsistent application of policies and regulations within even a single state. But simply eliminating state offices will not resolve these problems.

The secretary has created a stir in Congress and among the states by suggesting eco-regional administrative boundaries for new DOI offices in the West. This would parallel the administrative boundaries of certain Interior and other agencies, and is attractive from a planning or high-level resource-management perspective. But reducing the role of state-level players could frustrate decisionmaking that is responsive to the needs of the people who most use federally managed natural resources.

States currently play a significant

role in determining how such resources within their borders are allocated and used. They also have a direct stake — via royalties and other economic benefits of development — in just how the federal resources within their boundaries are utilized. States are justifiably concerned that creating multi-state eco-regional decisionmaking bodies superior to state offices would upset the existing balance.

The secretary is also considering moving BLM and other bureau headquarters to the western states. Moving DOI senior managers closer to the public lands they oversee has merit, but presents a somewhat converse risk of making management of nationally owned lands too localized. Because policy governing federally managed lands historically emanates from Washington, those relocated managers risk being cut off from national policy discussion and perspective, even as they are expected to implement Washington's policies on the ground.

Whether these physical moves occur or the current structure is just tweaked, the secretary should ensure that regional or local managers remain closely involved in the formulation of agency policy and, more importantly, are vested with the authority to require that co-located representatives of all DOI agencies are held accountable for timely implementation of their respective responsibilities.

Reorganization holds the promise for beneficial change. But it will take more than simply reshuffling office locations to facilitate timely actions relating to development of the nation's mineral and other resources. While expediency is the end goal, the department and Congress should assess the pros and cons of any reorganization plan slowly and thoughtfully.

**Peter Schaumberg** spent 25 years in DOI's Office of the Solicitor, where he was responsible for providing legal advice to the minerals programs of the BLM, MMS, and other agencies. He currently is a principal in the Washington, D.C., office of Beveridge & Diamond, PC.