

## Other Presidential Documents

You are hereby authorized and directed to publish this memorandum in the *Federal Register*.

BARACK OBAMA

THE WHITE HOUSE,  
*Washington, February 5, 2009.*

### Memorandum of March 3, 2009

#### The Endangered Species Act

##### *Memorandum for the Heads of Executive Departments and Agencies*

The Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.*, reflects one of the Nation's profound commitments. Pursuant to that Act, the Federal Government has long required a process of broad interagency consultation to ensure the application of scientific and technical expertise to decisions that may affect threatened or endangered species. Under that interagency process, executive departments and agencies (agencies) contemplating an action that may affect endangered or threatened species have long been required, except in certain limited circumstances, to consult with, and in some circumstances obtain the prior written concurrence of, the Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS)—the expert agencies that have the primary responsibility to ensure that the ESA is implemented in accordance with the law.

On December 16, 2008, the Departments of the Interior and Commerce issued a joint regulation that modified these longstanding requirements. See 73 *Fed. Reg.* 76272. This new regulation expands the circumstances in which an agency may determine not to consult with, or obtain the written concurrence of, the FWS or NMFS prior to undertaking an action that may affect threatened or endangered species. But under the new regulation, agencies may continue the previous practice of consulting with, and obtaining the written concurrence of, the FWS and NMFS as a matter of discretion.

I hereby request the Secretaries of the Interior and Commerce to review the regulation issued on December 16, 2008, and to determine whether to undertake new rulemaking procedures with respect to consultative and concurrence processes that will promote the purposes of the ESA.

Until such review is completed, I request the heads of all agencies to exercise their discretion, under the new regulation, to follow the prior longstanding consultation and concurrence practices involving the FWS and NMFS.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Agencies shall carry out the provisions of this memorandum to the extent permitted by law and consistent with statutory authorities.

### **Title 3—The President**

The Secretary of the Interior is hereby authorized and directed to publish this memorandum in the *Federal Register*.

BARACK OBAMA

THE WHITE HOUSE,  
*Washington, March 3, 2009.*

#### **Notice of March 3, 2009**

#### **Continuation of the National Emergency With Respect to Zimbabwe**

On March 6, 2003, by Executive Order 13288, the President declared a national emergency and blocked the property of persons undermining democratic processes or institutions in Zimbabwe, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). He took this action to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions. These actions have contributed to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation, and to political and economic instability in the southern African region.

On November 22, 2005, the President issued Executive Order 13391 to take additional steps with respect to the national emergency declared in Executive Order 13288 by ordering the blocking of the property of additional persons undermining democratic processes or institutions in Zimbabwe.

On July 25, 2008, the President issued Executive Order 13469, which expanded the scope of the national emergency declared in Executive Order 13288 and ordered the blocking of the property of additional persons undermining democratic processes or institutions in Zimbabwe.

Because the actions and policies of these persons continue to pose an unusual and extraordinary threat to the foreign policy of the United States, the national emergency declared on March 6, 2003, and the measures adopted on that date, on November 22, 2005, and on July 25, 2008, to deal with that emergency, must continue in effect beyond March 6, 2009. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

BARACK OBAMA

THE WHITE HOUSE,  
*March 3, 2009.*