



June 15, 2023

The Honorable Bruce Westerman
Chairman
U.S. House of Representatives
Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515

The Honorable Raul Grijalva
Ranking Member
U.S. House of Representatives
Committee on Natural Resources
1332 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Westerman and Ranking Member Grijalva:

We write today in support of H.R. 3397, a bill directing the Bureau of Land Management (BLM) to withdraw a proposed rule titled Conservation and Landscape Health (88 Fed. Reg. 19,583 (April 3, 2023)), that is being considered before the committee today. The undersigned organizations have members that conduct mining operations that are frequently located on federal lands that are subject to the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) jurisdiction under the Federal Land Policy and Management Act (FLPMA). As such, our members have extensive experience operating on federal lands managed according to the multiple use principles under FLPMA and have a longstanding commitment to environmental stewardship on these lands.

Access to federal lands for mineral exploration and development is critical to maintaining a strong domestic mining industry. These lands historically have provided and will continue to provide a large share of the metals and minerals produced in this country. That said, half of these lands are either already off-limits to or under restrictions for mineral development, rendering unknown amounts of resources on adjacent state and private lands inaccessible because of existing federal land restrictions. Further, despite our nation's abundant resources, the U.S. continues to be increasingly reliant on foreign sources of metals and minerals, including from geopolitical adversaries that do not share our values when it comes to environmental, labor and safety standards.

Recently, the BLM issued a proposed rule on Conservation and Landscape Health, contending that it would advance the Bureau's mission to manage public lands for multiple-use and sustained-yield by prioritizing the health and climate resilience of ecosystems across those lands. Alarming, if finalized, the proposed rule would be a dramatic shift in how public lands will be managed and unlawfully signal that conservation is a use on par with other uses of public lands under FLPMA's multiple-use and sustained-yield framework. The proposed rule also prioritizes designating Areas of Critical Environmental Concern (ACECs) and the avoidance of impacts to federal lands.

Based on recent testimony of BLM Director Tracy Stone-Manning, who described the rule as "procedural in nature,"¹ the BLM believes that FLPMA provides for this reinterpretation of authority, overriding more than 50 years of congressional intent and direction. Regrettably, the proposed rule is likely to open the door to increased conflicts for even noncontroversial development activities due to the requirement that BLM plan for and consider conservation on equal footing with other multiple uses, while also identifying practices that ensure conservation actions are effective and emphasizing restoration across the public lands.

Another concerning provision of the proposed rule requires avoidance and mitigation, to the maximum extent possible, to address impacts to important, scarce or sensitive resources, and sets rules for approving third-party mitigation fund holders. This would result in the BLM applying a mitigation hierarchy to avoid, minimize and compensate for impacts to all public land resources, which the BLM has acknowledged would be difficult or even impossible to avoid.

The proposed rule would also require the BLM to consider a precautionary approach for resource use when the impact on ecosystem resilience is unknown or cannot be quantified and provide justification for decisions that may impair ecosystem resilience. In most cases, this would lead to the preemptive denial of many mining projects, further increasing our reliance on foreign sources of minerals vital to our economic and national security.

Additionally, the creation of conservation leases allowed by the proposed rule – with the opportunity for limitless renewals of essentially unlimited acreage – would illegally allow the preclusion of other multiple uses, such as grazing, mining and certain types of recreation. Conservation leases would effectively serve as *de facto* mineral withdrawals under the dubious guise of allowing environmental groups to support the conservation and the landscape health of highly mineralized public lands.

It is also important to note that the BLM failed to fully account for impacts of the proposed rule by choosing not to complete an assessment of how it would affect a wide variety of small businesses under the Regulatory Flexibility Act and the Small Business Regulatory Enforcement and Fairness Act (SBREFA). It is also unconscionable that the Office of Information and Regulatory Affairs (OIRA), which

¹ [House Natural Resources Committee Hearing, BLM FY24 Budget Request – May16,2023](#)

typically reviews all significant rulemakings, allowed the proposed rule to proceed as “not significant,” and therefore not subject to OIRA’s review.

The Biden administration’s self-sabotage of domestic mineral supply chains through a consistent barrage of withdrawals and land-use restrictions, including the proposed rule, is completely out of step with the dramatic increase in minerals production that is needed to keep up with new technologies, infrastructure, manufacturing and national security needs, let alone the administration’s energy transition goals. Instead of putting more of America’s vast mineral endowment off limits and ceding our nation’s mineral supply chain security to other countries, the U.S. must prioritize policies that incentivize domestic mineral production that utilizes our world-class environmental standards to ensure we need not choose between mining and environmental protection.

Continued access to our public lands for responsible mineral development must be allowed if the U.S. is to supply the essential materials necessary for nearly every sector of our economy. For these reasons, we urge your support for H.R. 3397.

Sincerely,

Alaska Miners Association
American Coal Council
American Exploration & Mining Association
Arizona Mining Association
Colorado Mining Association
Idaho Mining Association
Mining Minnesota
Montana Mining Association
National Mining Association
Nevada Mining Association
New Mexico Mining Association
Rocky Mountain Mining Institute
Utah Mining Association
Women's Mining Coalition
Wyoming Mining Association