



## **Testimony for the Record**

### **U.S. House of Representatives Subcommittee on Oversight and Investigations**

#### **Oversight Hearing: Examining the Biden Administration's Efforts to Limit Access to Public Lands**

**May 24, 2023**

The National Mining Association (NMA) is the official voice of U.S. mining, representing all facets of the domestic mining industry and the hundreds of thousands of American workers it employs before Congress, federal agencies, the courts and the public. The NMA's members conduct mining operations throughout the United States that are frequently located on federal lands that are subject to the Bureau of Land Management (BLM) and the U.S. Forest Service's (USFS) jurisdiction under the Federal Land Policy and Management Act (FLPMA). As such, NMA members have extensive experience operating on federal lands and have a longstanding commitment to environmental stewardship on these lands.

#### **Land Access**

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.

The Biden administration's self-sabotage of domestic mineral supply chains through mineral withdrawals like the one in Northern Minnesota, which

locked up more than 225,000 acres of world-class reserves of essential battery minerals for two decades, is completely out of step with the dramatic increase in minerals production that is needed in the coming decades to keep up with new technologies, infrastructure and manufacturing needs, let alone the administration's energy transition goals. Instead of ceding our nation's mineral supply chain security to other countries, the U.S. should utilize its world-class environmental standards to ensure we need not choose between mining and environmental protection.

### **BLM Proposed Rule on Conservation and Landscape Health**

The BLM recently 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 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 the designating Areas of Critical Environmental Concern (ACECs) and avoidance of impacts to federal lands.

Based on the testimony of BLM Director Tracy Stone-Manning before the House Natural Resources Committee on May 16, 2023, the BLM believes that FLPMA provides this authority. Unfortunately, it is more likely open the door to increased conflicts over development activities resulting from the requirement for the BLM to plan for and consider conservation on equal with other multiple uses and identify the practices that ensure conservation actions are effective while also emphasizing restoration across the public land.

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 said would be difficult or impossible to avoid.

The proposed rule also would 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. This would likely lead to the preemptive denial of many mining projects.

The proposed rule also establishes conservation leases, with the opportunity for limitless renewals of essentially unlimited acreage, that would allow the preclusion of other multiple uses, such as grazing, mining and recreation. Further, the creation of conservation leases provides the federal government with the opportunity to pursue *de facto* mineral withdrawals under the guise of allowing concerned citizens and environmental groups to support conservation and the landscape health of highly mineralized public lands.

## **Conclusion**

While mining is certainly not appropriate on all federal lands, unnecessary withdrawals and other land-use restrictions on mining activities threaten access to essential minerals for U.S. economic, national and climate security and should not occur without more informed decisions regarding the mineral potential of the underlying lands or the expressed consent of Congress.

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.